

## KOSOVO:

# **Need to support minority communities to prevent further displacement and allow durable solutions**

A profile of the internal displacement situation

22 January, 2010

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### **Internal Displacement Monitoring Centre**

Norwegian Refugee Council  
Chemin de Balexert 7-9  
1219 Geneva, Switzerland  
Tel.: +41 22 799 07 00  
idmc@nrc.ch  
[www.internal-displacement.org](http://www.internal-displacement.org)

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## OVERVIEW

### **Need to support minority communities to prevent further displacement and allow durable solutions**

***Note:** In February 2008 Kosovo declared independence from Serbia. The UN General Assembly subsequently voted to refer the independence declaration to the International Court of Justice for an advisory opinion. As of December 2009, 64 countries had recognised Kosovo. For the purpose of this overview, references to the situation in “Serbia” since 2008 do not include Kosovo.*

*Kosovo’s declaration of independence in 2008 created new uncertainty for 230,000 IDPs from Kosovo residing in Serbia and the 19,700 displaced within Kosovo; this overview focuses on the latter group. Despite initial fears of the contrary, there have been no major incidents targeting minority communities and no further displacement since 2008. Serbia has not recognised the independence of Kosovo, continuing to regard it as a UN-governed entity within its sovereign territory.*

*Few of those displaced in 1999 have found durable solutions, and prospects are limited: the political, security and economic situation is not conducive to return, and many IDPs face difficulties in repossessing property and obtaining legal documentation. Widespread discrimination against Serbs and Roma people has made it difficult for them to return to areas in which they were in a minority. The rate of return decreased further in 2008 from an already low level, as IDPs waited to evaluate the approach of the Kosovo authorities towards Kosovo Serbs and other non-Albanian communities, and increased only slightly in 2009. Many reconstructed houses remain empty or are being sold as people do not dare to return.*

*National and international actors have developed projects to help minority communities, whether displaced or not, improve their living conditions, and to prevent further displacement. An increasing number of projects are offering permanent housing in the place of displacement.*

### **Background**

In 1999, over 245,000 people fled from or within Kosovo in fear of reprisals from the majority Albanian population after NATO air strikes had forced the withdrawal of Yugoslav troops and ended years of oppression of ethnic Albanians. UN Security Council Resolution 1244 established the UN Interim Administration Mission in Kosovo (UNMIK), but did not rule on the final status of the Serbian province, instead reaffirming the commitment of the UN to the territorial integrity and sovereignty of the Federal Republic of Yugoslavia.

UNMIK’s mandate was to provide a transitional administration pending a final settlement, support the development of provisional democratic self-government institutions and create an environment in which refugees and internally displaced people (IDPs) could return home. UNMIK established a constitutional framework which included parliamentary, executive and judicial bodies known as Provisional Institutions of Self-Government or collectively the PISG. In October 2005, the UN Secretary-General appointed Martti Ahtisaari to lead negotiations between teams from Kosovo and Serbia over the final status of Kosovo.

In 2007 the resulting “Ahtisaari plan” proposed Kosovo’s independence under international supervision with numerous obligations regarding the respect of minority rights. After the Serbian government rejected the plan, and the Security Council did not adopt it, the Kosovo parliament unilaterally proclaimed independence in February 2008. The constitution of the Republic of Kosovo, based on the Ahtisaari plan, entered into force in June. UNMIK’s role and administrative

capacity was drastically reduced, and the Kosovo authorities began asserting control of an increasing number of structures and functions (USDoS, February 2009). They invited the International Civilian Representative (ICR), in charge of overseeing the implementation of the plan, the European Union Rule of Law Mission (EULEX) and NATO to assume responsibilities set out by the Ahtisaari plan. The ICR also assumed a role as the EU's Special Representative, providing advice to Kosovo authorities on the European integration process.

As of January 2009, 64 countries have recognised Kosovo's independence. However, the UN Security Council has not taken a position and resolution 1244, affirming the territorial integrity of Serbia, is still officially in force. Not all EU states recognise Kosovo but all have supported the deployment of EULEX to assist Kosovo's authorities develop police, judicial and customs capacity (ICG, February 2009). Backed by Russia, Serbia has rejected Kosovo's independence and continues to regard the area as the Autonomous Province of Kosovo and Metohija. The government of Serbia only liaises with UNMIK under the terms mandated to it by UNSCR 1244, refusing to recognise institutions which have emerged from the Ahtisaari plan and supporting parallel institutions in majority-Serb areas of Kosovo.

Albanian-speakers represent the overwhelming majority of the population in Kosovo, but are a minority in the northern part of Kosovo. Serbs are concentrated in northern areas of the northern district known to Serbs as Mitrovica and to Albanians as Mitrovicë where they constitute an overwhelming majority. The main minorities in Kosovo are Serbs, Roma, Ashkalis, Egyptians (a term of self-identification based on a belief they originate from Egypt), Gorani, Bosnians and Turks. Members of the Roma, Ashkali and Egyptian communities are collectively referred to as RAE.

### **Displacement patterns and figures**

The main wave of displacement took place in 1999, with most of those displaced internally (i.e. who did not leave the region to become refugees) fleeing Kosovo to central and northern Serbia, and around 19,700 being displaced within Kosovo. In 2004, ethnic violence against non-Albanians (mainly Kosovo Serbs and Roma) displaced another 4,200 people, who mostly sought refuge in mono-ethnic areas within Kosovo. In Kosovo, with the exception of Mitrovicë/a, almost all urban Serbs left towns to join rural enclaves. At the same time internally displaced Roma joined other Roma communities on the edges of towns and cities (DRC, June 2009). Kosovo's declaration of independence has not led to significant new displacement.

*More information on IDPs in Serbia can be found in the [Serbia overview](#).*

In 2009, the UN High Commissioner for Refugees (UNHCR) estimated the number of Kosovo IDPs at 19,700. Slightly over half of IDPs are Serbs, followed by Albanians (39 per cent), RAE, (8.5 per cent), and others (0.5 per cent). Most IDPs in Kosovo are in the Mitrovicë/a region (14,400). 7,000 Serb IDPs from South Mitrovicë/a and other municipalities are displaced in towns in the north of Mitrovicë/a district such as Zubin Potok, Leposaviq/Leposavic and Zveqan/Zvecan; there are 2,000 Serb IDPs in the towns of Pristina and Gracanica and in surrounding Serb villages, and some 1,200 in Gnjilane/Gjilan. Over 98 per cent of Albanian IDPs (7,400 people) were displaced from the northern to the southern suburbs of Mitrovicë/a. Roma and Ashkali IDPs are mainly located in Pristina and Gjilan/Gnjilane, and Egyptian IDPs in Peja/Pec. (UNHCR Statistical overview, November 2009).

### **Minority rights and living conditions**

People who belong to a minority community have limited access to rights and livelihood opportunities. Discrimination affects all areas of daily life, including access to jobs, health

services, education, justice and property restitution. The lack of integration of minority groups into Kosovo society is the major obstacle to durable solutions for those who are displaced.

Security concerns have a strong impact on minority communities, whether or not they are displaced. While there has been relative calm since the declaration of independence, minority communities continue to face threats, harassment and violence. Kosovo Serbs are particularly affected (UNHCR, 9 November 2009), but also those from RAE communities (UNSC, 30 September 2009). In the majority-Serb northern part of Kosovo, antagonism towards Kosovo institutions and the presence of Kosovo Albanians has been demonstrated by incidents related to the installation of border posts and an UNMIK court in North Mitrovicë/a in 2008 and clashes against Kosovo Albanians trying to rebuild their houses in 2009.

IDP's feeling of insecurity is reinforced by difficulties in persuading the authorities to prosecute perpetrators of violence. A widespread lack of trust in the judiciary, due to the large backlog of cases, the ethnic bias displayed by court officials and the weak representation of minority groups in the judiciary and the police (CoE HRC, 2 July 2009; OSCE, March 2009), has led to under-reporting of inter-ethnic incidents (UNHCR, 9 November 2009).

Accordingly, members of minority communities generally only move within areas where they represent the majority (USDoS, February 2009). Freedom of movement has been further restricted by the introduction of Kosovo license plates which are not permitted in Serbia or in northern areas of Kosovo. In 2007 UNMIK sought to facilitate movements between villages inhabited by minority groups by establishing bus services which later came under the control of Kosovo authorities (Ombudsperson Institution, July 2008). Limitations on freedom of movement affect access to health services, education, employment, land and the farming activities which are often the only livelihood opportunities for minority communities.

Widespread discrimination has heightened the lack of employment opportunities for minority communities (UNHCR, 9 November 2009); this is particularly true for Serbian and RAE IDPs (DRC, June 2009). The unemployment rate for Kosovo Serbs is 70 per cent but reaches 100 per cent in some returnee villages. An unemployment rate among RAE communities of up to 98 per cent, as a consequence of low levels of education and widespread discrimination, has forced RAE IDPs to rely mainly on social welfare and work in the informal sector such as collection and recycling of scrap material (Ombudsperson Institution, July 2008). Many Serb IDPs rely on employment with parallel institutions and social welfare, often from both Serbian and Kosovo institutions (UNHCR, 9 November 2009; DRC, June 2009). Only ten per cent of state employees in Kosovo come from minority populations, below the 16 per cent government target (USDoS, February 2009). Livelihoods of minorities in rural areas have also been imperiled by numerous land occupations and theft of agricultural equipment (UNHCR, 31 October 2008; IDMC interviews in Vushtri/Vucitrn, Mqy 2009).

Despite the adoption in 2006 of a law intended to support public and private use of minority languages and prohibiting discrimination based on language, non-Albanian communities face difficulties obtaining services in their own language. There are two parallel school systems, with schools in majority-Serb areas run by the Serbian authorities and following the Serbian curriculum. The Kosovo curriculum does not provide schooling in Serbian. The need for children to access education in their mother tongue represents a significant obstacle to the return of displaced families to areas in which they would be in a minority (OSCE, April 2009). The Council of Europe's Commissioner for Human Rights has called for an independent Commission on Education and the development of a Serbian language curriculum in Kosovo (CoE CHR, July 2009). According to an IDP profiling survey undertaken by the Danish Refugee Council (DRC), school attendance is over 90 per cent for both Serb and Albanian displaced children, but is only 57 per cent in the case of displaced children from RAE communities, who are also affected by a high drop-out rate. The major barriers include poverty, lack of appropriate clothing and the

need for the child to augment household income (DRC, June 2009). Discrimination in schools, lack of teaching in the Romani language and RAE children's sometimes limited knowledge of Serbian or Albanian has further undermined their success at school (ROK, 31 December 2008; Ombudsperson Institution, 21 July 2008).

Members of RAE communities are particularly affected by social exclusion and discrimination. During the conflict many Albanians asserted that Roma people sided with the Serbs. All members of RAE communities suffer from discrimination, but the marginalisation of those who are displaced is more pronounced. They face extreme housing conditions, often living in slums without access to water and electricity. Members of RAE communities have their participation in public life limited by the fact that many do not exist administratively since their birth was never recorded in civil registries. In the absence of a birth certificate, it is impossible to obtain further documentation, thus barring members of RAE communities from voting, health care, education, social assistance and from repossessing property. The process for subsequent registration of births and application for ID cards is cumbersome and costly. UNHCR estimated in 2006 that 10,000 of the 35 to 40,000 RAE people in Kosovo lacked documents attesting to their civil status and recognised place of residence. This puts them at risk of becoming stateless now that Kosovo has declared independence. Recovering property is particularly difficult for RAE IDPs, who may have lived for generations in informal settlements without title deeds. This seriously limits access to programmes providing assistance with reconstruction or property restitution.

In order to address the chronic lack of personal documentation for Roma people, the PISG issued an instruction in 2006 exempting members of RAE communities from fees for late registration of births. In December 2008, the Government of Kosovo adopted the Strategy for the Integration of Roma, Ashkali, and Egyptian Communities which includes provisions regarding documentation, education, employment and housing. Since 2006, UNHCR has initiated several legal assistance and civil registration programmes, implemented by the Civil Rights Project Kosovo, a local NGO, which between 2006 and 2009 led over 9,000 people from RAE communities to be registered (UNHCR, 30 November 2009).

Non-Roma IDPs also face difficulties renewing or replacing documents, due to the lack of mutual recognition of documents issued by the Kosovo and Serb parallel authorities. The fact that many personal identification and property records have been relocated to Serbia, destroyed or lost complicates the verification of evidence and encourages forgery.

When it comes to housing, IDPs are particularly disadvantaged. Most are accommodated privately, sometimes occupying other displaced people's property. About half the household expenditure of displaced Kosovo Serbs and Albanian-speakers is spent on rent. Most RAE IDPs live in informal settlements (DRC, June 2009). Over 2,000 IDPs (around 1,200 Serbs, 750 Roma, and 160 Albanians) are currently accommodated in 45 collective centres in Kosovo, of which 17 are run by the Serbian Commissioner for Refugees (UNHCR statistics, April 2009; information from Serbian Commissioner for Refugees, 30 September 2009). Many residents of collective centres are particularly vulnerable, and a high proportion are elderly. They live in very harsh conditions and receive minimal and intermittent assistance at best. Most residents are unemployed and depend on meager pensions or social welfare.

Over 120 Roma IDPs still live in the lead-contaminated camp of Cesmin Lug in North Mitrovicë/a, and 400 in the nearby camp of Osterode (interview with KAAD, May 2009). In 2000 and 2004, the World Health Organisation reported alarming rates of lead contamination (which has serious health impacts, particularly for children and pregnant women) in Roma IDPs living in the three camps in North Mitrovicë/a. This contamination is the result of the proximity of IDP camps to industrial toxic waste but also the unsatisfactory living and hygienic conditions and poor diet (and smelting activities by IDPs in Cesmin Lug camp) which expose Roma IDPs more than other residents of the area to the toxic dust (OSCE, February 2009). NGOs have sought to raise

awareness among IDPs of the risks of lead contamination and the importance of personal hygiene, nutrition and sanitation. In 2008 blood tests revealed that the situation had improved for returnees but grave concerns for the health of IDPs living in Osterode and Cesmin Lug continued (CoE CHR, July 2009). With international and national support, some 125 families (around 570 people) have returned to Roma mahalla in South Mitrovicë/a, the neighbourhood of origin of 70 per cent of the displaced families (UNSC, 30 September 2009).

### **Property issues facing IDPs**

As noted, a key obstacle to durable solutions is the difficulty in repossessing property. There has been widespread illegal occupation and expropriation of houses and land left behind by displaced (mainly Kosovo Serb) people. The restitution process has been slow and is far from complete. Out of 40,000 claims submitted to the Kosovo Property Agency (KPA), the institution in charge of addressing property claims, some 18,000 had been decided as of September 2009 (COE CHR, 2 July 2009) and 6,700 of these decisions had been acted upon. Of those, almost 4,000 properties have been put under KPA administration by owners who do not yet want to return. Over 2,400 of these owners have expressed their intention to join a rental scheme under which the KPA lets property on their behalf.

However, fewer than 900 rental agreements have been signed and little rent has been collected (CoE CHR, July 2009). This relative failure is due to the fact that flats are usually run-down and (particularly in North Mitrovicë/a) because failure to evict occupants and tenants does not encourage them to pay. Out of 360 properties under KPA administration in North Mitrovicë/a, rent has only been collected in eight cases, while rents have been collected from 105 of those living in the 242 KPA-administered properties in the southern part of the town (Ombudsperson Institution, July 2008).

Only 770 of the decisions handed down by the KPA have resulted in physical repossession by legitimate owners (EC Kosovo, 14 October 2009). This reflects the reluctance of IDPs to return and the difficulty in ensuring KPA decisions are implemented through police-supervised evictions. According to the KPA, there were 850 cases pending eviction as of May 2009, of which 630 were in Mitrovicë/a.

After evictions, properties have often been looted and vandalised by departing occupants. Very few of those who have ransacked property have been prosecuted (IDMC field mission, May 2009). Some properties have been re-occupied, forcing owners to embark on time-consuming litigation (Praxis, 10 June 2009).

Lack of access to the property registries which moved from Kosovo to Serbia has slowed down the KPA's restitution and decision-making processes. This has worsened since the Serbian authorities closed KPA offices in Serbia after the declaration of independence, preventing the KPA from verifying the ownership status of many disputed properties and putting on hold 3,500 cases (Praxis, March 2009). A memorandum of understanding signed in August 2009 between the KPA and UNHCR could improve the situation by allowing the opening of UNHCR property offices in Serbia. [*For more information see [Serbia overview](#)*]

The limited access to records kept in Serbia and the destruction of some registries in Kosovo, have combined with an ethnic bias against Kosovo Serbs to result in numerous procedural irregularities. Occupants have forged documents to show in court that they have legitimately bought properties from displaced people, and the courts have often been insufficiently diligent in locating and identifying the alleged sellers (OSCE, 6 April 2009 *and* August 2009; Praxis, March 2009; Ombudsperson Institution, July 2008). IDPs may not be informed of claims against their property, and so may be unable to defend their rights. In the absence of a written contract, courts have been using the doctrine of positive prescription, whereby an individual can acquire rights to

property after a certain number of years of occupation (OSCE, 6 April 2009). Some courts have tended to attach more value to witness testimonies than to written documents. KPA decisions can, in theory, be contested by appeal to a proposed special chamber of the Supreme Court, but this body was still not functional in mid-2009 (CoE CHR, July 2009).

Some 20,000 compensation claims submitted before Kosovo courts in relation to destruction of property during 1999 and 2000 have been temporarily suspended by UNMIK. These now represent half of the civil courts' backlog (CoE CHR, July 2009). In addition, numerous illegal expropriations and constructions have been reported, where IDPs find on visits to their places of former residence that their house has been demolished and replaced by a new building.

### **Durable solutions**

Ten years after the conflict, some 19,700 people have returned to areas where they represent a minority in Kosovo, of whom 15,000 were IDPs in Serbia (12,200) and Kosovo (2,800) (UNHCR, November 2009). Up to 2008, over half of returning IDPs were Serbs and 32 per cent were from RAE communities (USDoS Kosovo, February 2009). Since independence, RAE IDPs have shown more willingness to return than Serbs: in 2008, RAE communities represented 48 per cent of returnees and Serbs only 32 per cent. In general, programmes have focused on return to rural areas, rather than more politically contentious returns to urban areas (Ombudsperson Institution, July 2008).

Since the violence against Kosovo Serbs and Roma people in 2004, despite the subsequent stabilisation of the security situation, the rate of return of IDPs and refugees to Kosovo has continued to fall (CoE CHR, July 2009). Returns reached their lowest level in 2008, after Kosovo's declaration of independence, when there were only 680 minority returns from within the Balkans region, compared to 1,800 in 2007 (UNHCR, June 2007; UNHCR, 31 October 2009; UNSC, June 2009). This trend was slightly reversed in 2009, with some 1,000 minority returns from within the region as of November 2009. Of the IDPs among them, 540 had been displaced in Serbia and 215 within Kosovo (UNHCR, 31 October 2009).

The sustainability of returns, and hence the validity of return statistics, have been contested (OSCE, June 2009). According to the Government of Serbia and to UNIJA, an umbrella organisation of Kosovo Serb IDP associations, only around 5,000 IDPs have returned sustainably (IDMC interview with UNIJA and Ministry for Kosovo and Metohija, May 2009). Returns to mono-ethnic villages and the return of displaced RAE people have proved the most sustainable (interviews with UNHCR and UNDP Pristina, May 2009).

The main reasons behind these low return figures and the lack of sustainability stems from the daily difficulties faced by minority communities. These include the volatile security situation, their limited freedom of movement, restricted access to public services, lack of economic prospects in the area of return and difficulties repossessing property or rebuilding houses. Donors have often been reluctant to provide funds for return and reconstruction due to prolonged non-occupation and the sale of reconstructed houses by beneficiaries (interviews with UNDP and UNHCR Kosovo, May 2009). Another reason for the limited number of returns is the fact that, after a decade of displacement, some IDP families have decided not to return and would rather integrate in their place of displacement.

IDPs' preferred durable solutions varies depending on the place of displacement and their ethnicity. The DRC survey found that IDPs from Kosovo in Serbia prefer local integration (only 24 per cent of Serbs and six per cent of people from RAE communities favour return). IDPs within Kosovo also prefer local integration but their interest towards return is higher (34 per cent of Serbs and 48 per cent of RAE IDPs in Kosovo prefer return), possibly in relation with the relatively stable security situation. However, the overwhelming majority of Albanian speakers

prefer the return option. When asked about their assistance needs, IDPs mentioned support for housing, house reconstruction, legal assistance to contest property expropriation, and income-generating programmes (DRC, June 2009). Their testimonies confirmed the need to diversify support to durable solutions beyond mere facilitation of return.

## **National and international responses**

### *Government of Serbia*

Despite Kosovo's declaration of independence, Serbia is still active in Kosovo, particularly in Mitrovicë/a and the municipalities north of the town. Soon after the declaration of independence, Serbia took several initiatives to assert its role and presence in Kosovo, and prevent further Serb displacement by reinforcing its parallel municipal institutions directly competing with those of the Republic of Kosovo in areas such as health, education, welfare and infrastructure (ICG, 12 May 2009). These actions do not only confirmed the Serbian authorities' role and presence in Kosovo but have provided jobs which have helped Kosovo Serbs remain in Kosovo.

The Serb strategy of creating parallel institutions has had limited impact in areas outside the northern part of Kosovo, where Serbs, displaced or not, are more scattered. Many of them have adopted a pragmatic attitude, approaching Kosovo institutions for documentation or social assistance (ICG, May 2009; IDMC interviews of Kosovo Serbs, May 2009). While many Serbs employed by the PISG stopped going to work after the declaration of independence, most heeded a deadline from the Kosovo authorities and returned to work by the end of June 2008 (UNSC, September 2009). The participation of Kosovo Serbs in November 2009 municipal elections, which set up decentralised municipalities with wider responsibilities, was higher than anticipated. The decentralisation process was one of the key elements of the Ahtisaari plan to engage Serbs in Kosovo institutions and convince them that they have a future in Kosovo (ICG, 12 May 2009).

The Serbian Ministry for Kosovo and Metohija is also active in the area of return. [See *Serbia overview*]. Like the return projects supported by Kosovo institutions and the international community, Serbian government programmes also support "return to locations in Kosovo" other than the former place of residence. This reflects the fact that many Kosovo Serbs previously living in areas where they constituted a minority would prefer to settle in areas mainly inhabited by Serbs (interviews with Kosovo Serb IDPs, May 2009).

### *Kosovo Ministry for Communities and Return*

The Ministry for Communities and Return (MCR), led by a Kosovo Serb, is the main national body supporting minority communities, IDPs and returnees through community development activities, return, social housing and local integration projects. An Office for Communities also exists within the Prime Minister's Office. In 2009, the MCR budget was €7.5 million (\$10.8 million) of which €3 million was dedicated to community development, and the rest to return and local integration in Kosovo (UNSC, September 2009). This represents a greater emphasis on economic support to facilitate the social integration of minority communities and should indirectly encourage the return of displaced populations. This emphasis is in line with an ongoing revision of the *Manual for Sustainable Return* a document previously drafted by UNMIK and the PISG describing Kosovo's return policy and procedures. The revised version puts more focus on community stabilisation and should simplify the cumbersome procedures required to finalise and implement return projects.

In 2009, MCR supported return and local integration projects for 181 families (UNSC, September 2009). MCR also supported return projects with the international community, notably with UNDP which is the agency leading the rebuilding of houses for returnees. UNDP's main return programmes are: Return and Reintegration in Kosovo (RRK), supporting return through the strong involvement of municipal and central government, and strengthening of administrative and

accountability mechanisms; Sustainable Partnership for Assistance to Minority Returns to Kosovo (SPARK), which supports both spontaneous and organised returns; and the Rapid Response Return Facility (RRRF) which supports only spontaneous return. The RRK (UNDP, 24 July 2009; UNDP website, accessed 28 October 2009). In 2009, MCR was due to assist 180 displaced families through the RRF programme. In 2009, 88 returnee families were selected for assistance through RRRF (UNSC, September 2009). A return and IDP database was created in 2009 (UNSC, September 2009).

#### *International community*

Following the declaration of independence, the international community and both Serbian and Kosovo authorities, have increased their support to minority communities in Kosovo to address their social and economic marginalisation and allow them to stay in Kosovo. In parallel, and in view of the limited number of returns to place of origin, more projects have supported construction and social housing projects to facilitate local integration of those displaced within Kosovo, or settlement in new localities for IDPs returning to Kosovo.

In addition to return projects, UNDP supports the Roma Regional Project which involves capacity building of local and central government bodies and civil society. A UNIJA project on prevention of displacement seeks to respond to the challenges faced by minority communities and IDPs since the declaration of independence. In municipalities considered at risk of displacement, Community Councils have been established, bringing together IDP associations and municipal officials to plan and implement projects to realise economic empowerment of returnees, small public infrastructure works and the construction of community resources such as cultural centres.

UNHCR facilitates go-and-see visits for IDPs to give them a better idea of the environment in their place of origin, supports monitoring of return and capacity-building of municipal authorities through KAAD, a local NGO, and leads a regional programme of civil registration to address the RAE communities' lack of documentation and mitigate the threat of statelessness.

UNMIK now focuses on monitoring of returns, confining its contacts with minority communities and authorities to issues related to this.

The Organisation for Security and Cooperation in Europe (OSCE) Mission in Kosovo monitors human rights and legal issues affecting return. These include housing and property rights, non-discriminatory access to public services and employment, issuing of civil documentation, security, freedom of movement, and access to justice (OSCE, 19 June 2009).



# CAUSES AND BACKGROUND

## Background

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### **The conflict in Kosovo (1981-1999): International community finally imposes autonomy of the province to Yugoslav authorities**

- Autonomous Republic of Kosovo, populated by a large majority of ethnic Albanians, remained part of Serbia following the dissolution of the Socialist Federal Republic of Yugoslavia in 1991
- The autonomy of the province was further limited by constitutional changes in 1989 and state of emergency declared shortly afterwards
- For some years the Albanian struggle took the form of peaceful resistance that saw the creation of a parallel society
- When Kosovo's status was excluded from the agenda of the Dayton peace talks (1995), the struggle took a violent turn between the Kosovo Liberation Army (UCK) guerrillas and Serb police forces
- Yugoslavia agrees to a cease-fire and a partial pull-out of Yugoslav forces from Kosovo under the pressure of NATO following increased violence against Kosovo Albanians (October 1998)
- Following the resumption of violence during the winter of 1998, the United States sponsors talks in Rambouillet designed to get Yugoslav and Kosovo Albanian leaders to accept a peace plan (January-March 1999)
- Failure of talks in Rambouillet prompts the NATO to launch air strikes against Yugoslavia to end Serb violence in Kosovo (March-June 1999)
- UN Security Council Resolution 1244 (10 June 1999) upholds sovereignty of the Federal Republic of Yugoslavia over Kosovo but places the province under UN authority (UNMIK)

#### **ICG 2000, p. 48:**

"Prior its dissolution in 1991, the Socialist Federal Republic of Yugoslavia (SFRY) was made up of six constituent republics (Serbia, Montenegro, Macedonia, Croatia, Slovenia and Bosnia and Herzegovina) and two autonomous provinces (Kosovo and Vojvodina). The SFRY Constitution of 1974 granted the two provinces very similar rights to those of the republics, providing them with their own parliamentary assemblies and seats in the collective Federal Parliament and on the Federal Presidency, despite the fact that they were considered as parts of the Republic of Serbia. However, when the SFRY broke up, the international community recognised only the claims to statehood of the republics. Kosovo and Vojvodina thus remained within Serbia, which, with Montenegro, formed a 'rump' federal State, the Federal Republic of Yugoslavia (FRY)."

#### **ICG, 2000, footnote 74:**

"The total population of Kosovo is difficult to assess, as the Kosovo Albanians boycotted the most recent census in 1991. According to the previous census, in 1981, of a total of 1,585,000 inhabitants, 1,227,000 were Kosovo Albanian and 210,000 Kosovo Serb. Prior to the 1998 and 1999 conflicts, it is estimated that the total population was between 1,800,000 and 2,100,000, of which around 85-90% were Kosovo Albanian."

#### **UNHCR, February 2000, paras. 25-29:**

"In many ways, the Kosovo conflict represents a classic secessionist struggle. The 1981 uprising of Albanians demanding the separation of the Autonomous Province of Kosovo from the Republic

of Serbia was followed in 1989 by constitutional changes that limited the autonomy of the province. Shortly afterwards, the Yugoslav government declared a state of emergency and assumed direct rule. For some years the Albanian struggle took the form of peaceful resistance that saw the creation of a parallel society, including government structures, an education system and tax collection, which unofficially existed alongside Belgrade's repressive rule.

When Kosovo's status was excluded from the agenda of the Dayton peace talks, the struggle took a violent turn and, two years later, accelerated when anarchy in neighbouring Albania gave Kosovo Albanian militants ready access to arms through a porous mountain border. Communal violence became commonplace in areas of Kosovo that harboured Kosovo Liberation Army (Ushtria Clirimtare e Kosoves – UCK) guerrillas and were targeted by police forces.

Widely publicized massacres of Kosovo Albanians in February-March 1998 led to growing international concern and pressure to regulate the conflict. Following government military operations against the guerrillas and their population base during the summer, the second half of 1998 saw NATO moving down a path of military confrontation with Belgrade. In a policy of graduated threat articulation, NATO issued progressively stronger signals to Belgrade that military force might be used to secure the withdrawal of government forces and promote a political solution.

An increasingly assertive Western policy towards the conflict was above all the result of US initiatives. Following its role in the war in Bosnia and Herzegovina and the Dayton peace process, the USA took the lead in encouraging NATO involvement and in negotiating a cease-fire, with Serb force withdrawals in October 1998 (Holbrooke-Milosevic Accord). When violence resumed during the winter months, the USA orchestrated the Rambouillet peace talks of January-March 1999 designed to get Yugoslav and Kosovo Albanian leaders to accept a peace plan promoted by the State Department. When this failed, the USA provided the core of the NATO force that carried out air strikes against Serb targets throughout Yugoslavia. The forces of NATO member countries that had earlier been deployed to the neighbouring FYR Macedonia were reinforced as the conflict escalated.

The NATO air strikes that began on 24 March 1999 were intended to end Serb violence in Kosovo and make the Yugoslav authorities accept the terms of the Rambouillet peace plan. The expectation was that this would be quickly achieved. Instead, the NATO strikes were accompanied by escalating violence on the ground and a large refugee outflow that included organized expulsions. The sequence of violence and displacement underlined the importance of the Western powers in the events that produced the refugee emergency, and made the same states take a direct interest in the humanitarian operation. At the same time, the allied campaign against Yugoslavia was premised on co-operation from Albania and FYR Macedonia, the two countries that also received most of the refugees. Humanitarian and strategic concerns thereby became further intertwined."

**U.S. DOS, 25 February 2000, "Kosovo":**

"Kosovo, came under the authority of the United Nations Interim Administrative Mission in Kosovo (UNMIK) in June following the NATO campaign in Kosovo, which began on March 24. U.N. Security Council Resolution 1244 upheld FRY sovereignty over Kosovo, but it also called for 'substantial autonomy and meaningful self-administration for Kosovo.' Although the peace settlement respects FRY territorial integrity, the Milosevic regime had no authority in the province after June 10. Dr. Bernard Kouchner, the Special Representative of the U.N. Secretary-General, became the chief administrator of UNMIK. Within UNMIK, the OSCE was given the responsibility for institution-building, democracy-building, and human rights. At year's end, there were also two other local ethnic Albanian established shadow governments operating in Kosovo, neither of which were recognized by the U.N. The leader of the 'provisional government' and former political head of the Kosovo Liberation Army was Hashim Thaqi; Dr. Ibrahim Rugova headed the

Democratic League of Kosovo (LDK) and was named the 'President' of the self-proclaimed 'Republic of Kosova' after shadow elections in 1991."

***For a detailed review of the historical and political background of the conflict in Kosovo, see OSCE Kosovo/Kosova: As Seen, As Told, 2000, chapter "[Kosovo: The Historical and Political Background](#)" [Internet]***

### **Kosovo under international administration (2003)**

- Transfer of responsibilities from international administration to local provisional institutions continues
- UNMIK releases set of standards which need to be met before status talks can begin
- First high level talks between Kosovar and Serb officials end without results

#### **U.S. DOS, 31 March 2003:**

"Kosovo continue[s] to be administered under the civil authority of the U.N. Interim Administrative Mission in Kosovo (UNMIK), pursuant to U.N. Security Council Resolution 1244. This resolution called for "substantial autonomy and meaningful self-administration" for the persons of Kosovo "within the Federal Republic of Yugoslavia." UNMIK and its chief administrator, the Special Representative of the Secretary General (SRSG), established a civil administration in June 1999, following the conclusion of the NATO military campaign that forced the withdrawal of Yugoslav and Serbian forces from the province. Since that time, the SRSG and UNMIK, with the assistance of the international community, have worked with local leaders to build the institutions and expertise necessary for self-government.

In May 2001, UNMIK promulgated the Constitutional Framework for Provisional Self-Government in Kosovo (the "Constitutional Framework"), which defined the Provisional Institutions of Self Government (PISG). The PISG replaced the UNMIK-imposed Joint Interim Administrative Structure. In accordance with the Constitutional Framework, certain areas of governance, including that of foreign affairs and justice, were retained by the SRSG. The November 2001 general election created a 120-member Assembly with 100 seats filled by elected officials of all ethnicities and 20 reserved specifically for minorities. On December 10, 2001, the Central, or Kosovo Assembly held its inaugural session, with Nexat Daci heading the Assembly Presidency. On March 4, the Assembly, under Daci's leadership, selected Ibrahim Rugova as President of Kosovo and Bajram Rexhepi as Prime Minister. On October 26, municipal elections were held in all 30 municipalities, although Serbs living in Mitrovica effectively boycotted. International and local election observers concluded that the election was well organized, peaceful, and met international standards.

UNMIK Regulation 1999/24 established that applicable law in Kosovo included UNMIK regulations and those laws in effect in Kosovo as of March 22, 1989, the date Slobodan Milosevic abolished Kosovo's political autonomy. This created a complex, and in some cases, incomplete set of codes. Since its establishment, UNMIK periodically has issued regulations to address the civil and legal responsibilities of governmental entities and private individuals. UNMIK regulations bind all public officials, including judges, to respect international human rights law. The Constitutional Framework provides for an independent judiciary; however, both the international and local judiciary continued to be highly inefficient. As a result, defendants were often detained for lengthy periods pending trial.

The U.N.-authorized, NATO-led peacekeeping force for Kosovo, known as the Kosovo Force or KFOR, continued to carry out its mandate to maintain internal security and defend against external threats. [...]

Economic underdevelopment, in terms of employment, investment, manufacturing capabilities, and markets for goods, continued to plague Kosovo, which has approximately 2 million inhabitants. The post-conflict period has seen a dual struggle to repair the massive war damage to infrastructure and enterprises while facilitating the transition from a centrally directed economy to a market-based one. Construction became the strongest economic sector in the post-conflict period; the agrarian sector improved but did not reach prewar levels. Major industries had not reopened and the economy remained stagnant. Unemployment estimates for the predominantly ethnic Albanian population ranged between 40 and 60 percent. Unemployment among Kosovo Serb and other ethnic communities was higher, although some Kosovo Serbs continued to receive stipends or pensions from Yugoslavia. International organizations and donors continued their programs to improve the infrastructure and provide a regulatory climate conducive to enterprise and investment. Significant criminal economic activity took place, particularly in the fuel sector, and smuggling was widespread.”

**UN SC, 15 October 2003:**

“The transfer by UNMIK of non-reserved responsibilities listed in chapter 5 of the Constitutional Framework to the Provisional Institutions of Self-Government continued. Following a decision in May by the Transfer Council - set up by UNMIK and the Provisional Institutions to oversee, monitor and coordinate the transfer process - 19 of those responsibilities have now been transferred, and 17 more have been identified for transfer, in a gradual and controlled manner and in cooperation with the Provincial Institutions. It is anticipated that the remaining eight non-reserved competencies will be completely transferred by the end of 2003.”

***UNMIK transferred the final [set of responsibilities](#) to local provisional institutions as part of its commitment to gradually introduce self-government to Kosovo in December 2003.***

***On 10 December 2003, UNMIK launched the “[Standards for Kosovo](#)”, which set out goals for preparing Kosovo for final status.***

***For the first time since the war, high-level [talks](#) were held between Kosovar and Serb officials in Vienna on 14 October 2003. The talks ended without concrete results.***

**UN SC, 15 October 2003:**

“The start of direct talks on practical matters of mutual interest between Pristina and Belgrade has dominated the political agenda in Kosovo. My Special Representative has been actively engaged in preparations for the dialogue since his arrival in August. Following extensive rounds of consultations with the Kosovo Albanians, Kosovo Serbs, and the political leaders of Serbia and Montenegro and the Republic of Serbia, the dialogue was launched on 14 October in Vienna, with the participation of the President of Kosovo and the Speaker of the Kosovo Assembly, and the Prime Minister and Deputy Prime Minister of the Republic of Serbia. Following the dialogue’s initial plenary session, working groups of experts are to discuss four key areas on the agenda, namely, energy, the missing, returns, and transport and communications.”

**Uncertainty around final status issue has a negative impact on displacement and return (2005)**

- The unresolved status of Kosovo encourages departures from Kosovo and acts as a deterrent to return
- March 2004 violence have been analysed by some as a result of frustration with the unresolved status

- Further to the March events, the PISG made significant efforts to progress on implementation of the Standards for Kosovo
- UN Secretary General appointed a Special Envoy to carry out a comprehensive review for Kosovo

**The unresolved status of Kosovo has a negative impact on displacement and return:**

**UNHCR, 15 September 2004:**

“With the United Nations Interim Administration Mission in Kosovo’s (UNMIK) delegation of power and transfer of competencies, Kosovo’s elected Provisional Institutions of Self-Government (PISG) are gradually gaining more responsibility and more accountability. As this trend accelerates, Kosovo’s unresolved status is increasingly becoming an issue that is contributing to general frustration and tension, both in Kosovo and in the region. The complex process leading to the determination of Kosovo’s future status will depend on numerous factors, including how well PISG institutions are performing against the eight benchmarks elaborated in the ["Standards for Kosovo"](#) document adopted in December 2003. Joint Implementation Working Groups focused on achieving these standards have begun to meet following the launching of the Implementation Plan (KSIP) by the SRSG in April 2004. The first Implementation Review is planned for mid-2005 and its conclusions will condition the start (or not) of final status discussions.

Whereas it is accepted that full implementation of the eight standards is not a realistic expectation, the PISG will have to demonstrate progress and engagement in priority areas – notably, security, law and order, decentralisation, freedom of movement, returns and functioning institutions. UNHCR is a strong participant in the Working Groups on Freedom of Movement and Sustainable Returns and also contributes to the Working Group on Property Rights.”

**UNHCR, 1 June 2005:**

“Overall, Kosovo is still in a state of political and institutional flux (e.g. in anticipation of the review in 2005 of implementation of the Standards for Kosovo aimed at creating a democratic, law abiding, and multi-ethnic society). Displaced minority populations are therefore unlikely to show much interest in returning in 2005.” (UNHCR, 1 December 2004, p.283)

“The March violence, limited freedom of movement, unresolved property issues, and the persistent lack of economic opportunities were key factors limiting progress on minority return. Furthermore, uncertainty about the final status of the province makes it difficult to argue that IDP communities are able to make an informed choice about their future.”

**UNHCR, 15 September 2004, p.1:**

“Given the continued tensions and hostility between the majority population and ethnic minorities (the Kosovo-Serb minority especially), contingency planning for population displacements resulting from possible renewed violence is necessary. With current levels of volatility and unpredictability in the security and political environment in Kosovo, severe social unrest could develop at any time notably when the results of the Implementation Review are announced or when discussions over the status of Kosovo take place..”

**IHF, 25 May 2005:**

***The March 2004 violence as a sign of frustration with unresolved status***

“Given the persistent, latent inter-ethnic and political tensions, coupled with the frustration of Albanians due to the unresolved status of Kosovo for which Albanians generally blame Serbs and Belgrade, the situation became volatile and susceptible to manipulation by extremist Albanian circles. The tensions [in March 2004] erupted in massive protests by Albanians and violent riots against the Kosovo Serb community, which soon swept across Kosovo. (...)

The KHM [Kosovo Helsinki Monitor] noted that the uncertainty over the final political status of Kosovo has continued to undermine the readiness of both Albanians and Serbs to reconcile and look forward toward a common future in Kosovo. While Albanians continued to fear political developments and arrangements that could lead to any form of return of Serb rule, Serbs have continued to cherish hopes and carry out political initiatives aimed at the return of the Serbian state in Kosovo-or alternatively, aimed at the partitioning of at least the northern and even some of the eastern parts, including other Serb enclaves.”

**See also, on partition and decentralisation:** *The Lausanne Principles: Multiethnicity, Territory and the Future of Kosovo's Serbs*, ESI, 7 June 2004

**IHF, 25 May 2005:**

***Progress on the Standards:***

“Despite positive developments in 2004, a multitude of problems remained in Kosovo. These included the continuation of the de facto partitioning of northern Kosovo across the river Ibar, which was overwhelmingly Serb-populated and remained under the effective control of Belgrade. Another issue was the fate of missing persons, which was still not fully clarified by the end of 2004 despite progress achieved during the year. The lack of security and freedom of movement, primarily for Serbs, persisted as well as the problems related to property rights. Of deep concern were also the latent tensions and occasional waves of inter-ethnic intolerance and violence.”

**SG, 23 May 2005:**

“2. My Special Representative, Søren Jessen-Petersen, has provided a technical assessment of progress against the standards for Kosovo, which is contained in annex I to the present report. His findings show continuing progress in the implementation of the standards and a continued commitment by the leaders of Kosovo to standards implementation. While there was a lull in some aspects of the standards implementation process during the change in the Government of Kosovo, the overall forward momentum begun in the prior reporting period was maintained. More remains to be done, however, as none of the eight standards has been entirely fulfilled and deficiencies remain in key priority areas. (...)

21. In my recommendations to the Security Council of 17 November 2004 (S/2004/932, annex II), I stressed that achieving progress on the eight standards remains the basis of our policy and must be carried out in a dynamic and priority based way within the overall framework of a comprehensive and integrated strategy, in order to give momentum and direction to the political process. Progress in all aspects of this strategy is essential for the success and sustainability of any future status process. Bearing this in mind, and having taken into careful consideration the efforts made thus far by the Provisional Institutions in the implementation of the standards, I believe that a comprehensive review should be initiated this summer. It will be carried out in accordance with resolution 1244 (1999) and the relevant presidential statements of the Security Council. I intend to appoint a Special Envoy to conduct this review in the near future.

22. The comprehensive review should consist of consultations with the parties and the international community, and have a broad scope in order to assess the current situation and the conditions for the possible next steps in the process. It should look at the actual political realities as well as the formal preconditions for launching the future status process on the basis of continuing and effective progress towards implementation of the standards.

23. It should be clearly understood that the outcome of the comprehensive review is not a foregone conclusion. During and beyond the comprehensive review, the representatives of the Provisional Institutions and the political leaders of Kosovo will be expected to pursue and strengthen their efforts to implement the standards, and will continue to be assessed on this basis. Ongoing implementation of the standards now and in the future will be a crucial element of a smooth and orderly political process leading to the determination of the future status of Kosovo

whenever that process may begin, and will be central to the sustainability of an eventual political settlement."

***On June 2005, the Secretary General appointed Ambassador Kai Eide of Norway as his Special Envoy to undertake a comprehensive review of Kosovo***

**SG, 3 June 2005:**

"The comprehensive review, which will be initiated this summer, will be carried out in accordance with resolution 1244 (1999) and the relevant presidential statements of the Security Council. It will consist of consultations with the parties and the international community, and be broad in scope in order to assess the current situation and the conditions for the possible next steps in the process. It will look at the actual political realities, as well as the formal preconditions for launching the future status process on the basis of continuing and effective progress towards implementation of the Standards for Kosovo, which are to be achieved in order to establish in Kosovo a multi-ethnic, stable and democratic society founded on the rule of law"

**Ahtisaari's comprehensive proposal for Kosovo status settlement and displacement-related issues (2007)**

- UN SG's Envoy Martti Ahtisaari declared independence with international supervision as the only viable option
- The return of internally displaced persons, protection of property and rights of communities were among major provisions foreseen by this settlement proposal

*UN SG's Envoy, Martti Ahtisaari, found that the reintegration of Kosovo into Serbia is not a viable option, nor is the continued international administration of Kosovo sustainable. The uniqueness of Kosovo's situation, he concluded, called for a unique solution, that is independence with international supervision:*

**UN SC, S/2007/168, 26 March 2007, paragraph 5:**

"The time has come to resolve Kosovo's status. Upon careful consideration of Kosovo's recent history, the realities of Kosovo today and taking into account the negotiations with the parties, I have come to the conclusion that the only viable option for Kosovo is independence, to be supervised for an initial period by the international community. My Comprehensive Proposal for the Kosovo Status Settlement, which sets forth these international supervisory structures, provides the foundations for a future independent Kosovo that is viable, sustainable and stable, and in which all communities and their members can live a peaceful and dignified existence."

*The main provisions of the Settlement Proposal concerned governance, rights of communities, decentralization, justice system, protection and promotion of religious and cultural heritage, economy, security, future international presence as well as returns and protection of property. In the context of the latter returns and property protection, the Proposal stated:*

**UN SC, S/2007/168, 26 March 2007, Annex, paragraph 7:**

"All refugees and internally displaced persons from Kosovo shall have the right to return and reclaim their property and personal possessions based upon a voluntary and informed decision. The Settlement reaffirms the principle that displaced persons shall be able to return to a place of their choice in Kosovo, and not only to their original place of residence. The Settlement also calls upon Kosovo and Serbia to cooperate fully with each other and the International Committee of the Red Cross to resolve the fate of missing persons."



*The detailed comprehensive proposal for the Kosovo Status Settlement provided for the rights of refugees and IDPs:*

**UN SC, S/2007/168/Add.1, 26 March 2007:**

“Article 4 Rights of Refugees and Internally Displaced Persons

4.1 All refugees and internally displaced persons from Kosovo shall have the right to return and reclaim their property and personal possessions in accordance with domestic and international law. Each individual shall have the right to make a free and informed decision on his/her place of return.

4.2 Kosovo shall take all measures necessary to facilitate and to create an atmosphere conducive to the safe and dignified return of refugees and displaced persons, based upon ' their free and informed decisions, including efforts to promote and protect their freedom of movement and freedom from intimidation.

4.3 Kosovo shall cooperate fully with the United Nations High Commissioner for Refugees, who will assist the competent authorities in extending protection and assistance to returnees, and who will, *intra alia*, undertake periodic assessments and issue public reports on the conditions of return and the situation of the internally displaced within Kosovo, and shall also extend the cooperation to other organizations involved in the return process.”

*For more on the developments leading to Ahtisaari's supervised independence plan and on the plan itself see ICG's [Kosovo: No Good Alternatives to the Ahtisaari Plan](#) of 14 March 2007*

**Decentralisation: building confidence and self-governance for minority groups while avoiding segregation (2007)**

- Decentralisation remains a contentious political issue and faces practical difficulties
- Decentralisation as proposed by Ahtisaari focuses in particular on the specific concerns of Kosovo Serbs and gives them a high degree of control over their own affairs
- The provisions include the creation of more and expanded Serb-majority municipalities, with extended competencies and the right to link with one another and benefit from Serbian government assistance
- Within a year of approval of the Settlement, decentralisation provisions are to be reviewed and a population census is to be carried out in Serbia and other neighbouring countries to estimate the number of refugees and IDPs wishing to return to Kosovo
- While it aims at accomodating minority communities in Kosovo , decentralisation can have negative effects and, contribute to segregation rather than multi-ethnic society

**UN SC, 9 March 2007, paragraphs 11 and 12:**

“Decentralization continues to be a contentious issue in the context of the status process. Although the Kosovo negotiating team has improved outreach to municipalities to explain their proposals for new municipalities, it has faced criticism from those living in affected areas and others who perceive decentralization as a means of establishing the territorial control of Belgrade over Kosovo Serb-majority areas. Decentralization is not only problematic politically. Practical difficulties have also become evident in the establishment of Pilot Municipal Units foreseen at present, including the recruitment and training of qualified staff and obtaining necessary funding. In a recent assessment of their performance, the Government decided that, owing to challenges faced by the Units in the exercise of additional competencies, their conversion to fully fledged municipalities should be postponed until July 2007.



In addition, the establishment of new municipalities should be synchronized with the holding of new municipal elections, which were postponed because of the status process. The Government is carefully monitoring the performance of Pilot Municipal Units in the exercise of newly acquired competencies with a view to preparing them for additional transfer of competencies. The difficulties encountered by the Government and host municipalities in establishing the Units indicate that further decentralization, such as that proposed in the Settlement Proposal, will require considerable time and resources, as well as much international support, to be implemented.”

**UN SC, S/2007/168, 26 March 2007, Annex, paragraph 4:**

“Decentralization. The extensive decentralization provisions are intended to promote good governance, transparency, effectiveness and fiscal sustainability in public service. The proposal focuses in particular on the specific needs and concerns of the Kosovo Serb community, which shall have a high degree of control over its own affairs. The decentralization elements include, among other things: enhanced municipal competencies for Kosovo Serb majority municipalities (such as in the areas of secondary health care and higher education); extensive municipal autonomy in financial matters, including the ability to receive transparent funding from Serbia; provisions on inter-municipal partnerships and cross-border cooperation with Serbian institutions; and the establishment of six new or significantly expanded Kosovo Serb majority municipalities.”

**UN SC, S/2007/168/Add.1, 26 March 2007, Annex III:**

“To address the legitimate concerns of the Kosovo Serb and other Communities that are not in the majority in Kosovo and their members, encourage and ensure their active participation in public life, and strengthen good governance and the effectiveness and efficiency of public services throughout Kosovo, an enhanced and sustainable system of local self-government in Kosovo shall be established...”

*The provisions underlying decentralisation process as foreseen by Ahtisaari are to be reviewed and a population census is to take place, including in the Republic of Serbia, to register IDPs wishing to return to Kosovo:*

**“Article 14 Population Census and Review of Decentralization Provisions**

14.1 One year after the entry into force of this Settlement, Kosovo, in consultation with the ICR [international civilian representative], shall call a population census, which shall be carried out in accordance with international standards and subject to international observation. In this context, the Republic of Serbia and other neighboring countries should authorize the registration by an international agency of refugees and internally displaced persons (IDPs) wishing to return to Kosovo.

14.2 The provisions of this Annex related to the establishment of new municipalities, including their boundaries, may be reviewed, and revised as necessary, by the ICR, in close coordination with the Government of Kosovo and the Community Consultative Council, within six months of the submission of final results of the Kosovo census. The review shall consider demographic developments in, and, in particular, refugee and IDP returns to municipalities, as well as the functionality and sustainability of municipal authorities and their activities.”

**ICG, 14 May 2007, pp.8-9:**

“Ahtisaari’s Proposal provides minority rights for Kosovo Serbs which go far beyond European standards. [] They include the creation of more and expanded Serb-majority municipalities, with extended competencies and the right to link with one another and benefit from Serbian government assistance; special protection zones and prerogatives for the Serbian Orthodox Church; and additional parliamentary seats and double-majority rules to prevent Serbs from being outvoted on vital interest questions. The provision of even more rights would clearly undermine

the functionality and survival of a future state, and create a highly unusual environment in which a small minority would have significantly greater rights than the majority.

Decentralisation is the main tool suggested to guarantee multi-ethnicity. Ahtisaari's Proposal brings most of Kosovo's remaining Serbs under the roof of Serb-majority municipalities. It formalises the decentralisation of a host of governing powers to Kosovo's municipalities. There are currently 30, plus three pilot municipalities. Ahtisaari adds five new Serb-majority municipalities (and expands another), bringing the projected total to 38. Consistent with decentralisation's first airing in 2002, its principal rationale is "to address the legitimate concerns of the Kosovo Serb and other Communities that are not in the majority in Kosovo and their members, encourage and ensure their active participation in public life". [] A more general aim of "strengthen[ing] good governance and the effectiveness and efficiency of public services throughout Kosovo" is secondary. []"

*However, decentralisation can have negative effects and, leading to segregation, can be counterproductive to attempts at creating multi-ethnic society:*

**MRG, 6 July 2006, pp.29-30:**

"• Decentralization should not be seen as the main way of protecting minority rights, nor should it lead to segregation. The rights of all people and all communities in Kosovo to practise and use their language should be fully protected in every municipality. Decentralization should be legally subject to the constitutional and legal prohibition on discrimination and segregation.

- Artificially designed municipalities, intended to create local ethnic majorities, should be avoided.
- There should be fully integrated police and justice systems, and public services. Decentralization must not lead to *de facto* segregation of these. Discrimination in the public services, and particularly the idea that a community can only be served by members of its own community, should be vigorously tackled.
- The public education system in Kosovo, including all schools and institutes of tertiary education, should be fully integrated. There should be no 'ethnic' schools or universities. Provision of education in all the languages of Kosovo should be guaranteed in law and in practice. All languages, religions and cultures should be taught. There should be a common curriculum across Kosovo, particularly in the teaching of history, in different languages where necessary."

**Final status of Kosovo may have a destabilizing effect in Southern Serbia and neighbouring areas (October 2007)**

- The developments in Kosovo are likely to have a direct impact on the situation in the whole region, in particular in Presevo Valley in Southern Serbia
- The majority of the population in Presevo Valley is Albanian
- Further to the Ahtisaari plan, many Kosovo Albanian politicians accepted the idea that following Kosovo's independence the valley would remain in Serbia
- However, in case partition of Kosovo, the Presevo Valley could become a negotiating element
- Unification of Presevo to Kosovo would compensate for the loss of Northern Kosovo
- The risk of displacement following a unilateral declaration of independence by Kosovo and possible conflict will increase if Kosovo receives no international support
- NATO increases control in north Kosovo to prevent incidents

**ICG, Europe Report No. 186, 16 October 2007, p.i:**

“Southern Serbia’s Albanian-majority Presevo Valley is one of the rare conflict resolution success stories in the former Yugoslavia. Outwardly, it is increasingly normal, with no major incidents in over three years. Yet, tensions linger: massive unemployment is still the single largest problem but the shadow of Kosovo’s future status darkens the political landscape. How Kosovo’s final status is determined in the next months will have a profound impact. If formal partition or large-scale violence accompanies independence, the peace could unravel; in a worst case scenario, ethnic cleansing in southern Serbia would be accompanied by significant, cross-boundary, two-way refugee flows.”

**p.10:**

“The southern Serbia question involves more than the fate of three small municipalities. There is a potential for wider regional instability stemming from events in and around Presevo. Spillover from the southern Serbia conflict was a key factor in the outbreak of the 2001 crisis in Macedonia and again in the brief September 2003 clash in the northern Macedonian town of Vaksince.[] In 2001 the then UN Special Envoy for the Balkans, Carl Bildt, warned that any escalation of fighting in the valley could lead to renewed ethnic cleansing of non-Albanians from Kosovo and drag in the ethnic Albanian regions of northern Macedonia[]...”

...After the Kosovo Assembly members unanimously adopted the Ahtisaari plan on 5 April 2007,[] many Kosovo Albanian politicians tended to agree that the valley would have to remain in Serbia. Yet, many of them see it as a chess piece in the larger game. If formal partition occurs, Presevo could become a national cause for Kosovo Albanians. Their parties would likely then compete with each other to champion compensation for the loss, while Presevo Albanian politicians would likely respond by asserting unification with Kosovo[].”

*For more on Ahtisaari plan, see "Comprehensive proposal for Kosovo status settlement and displacement-related issues" also in this section.*

**p.12:**

“Should there be a formal partition of Kosovo following a declaration of independence, or if the small Albanian communities in north Mitrovica and the three Kosovo municipalities above it are expelled, it is possible Kosovo Albanians may try to drive inhabitants of the Serbian enclaves south of the Ibar out of Kosovo. In February 2007 the influential Serbian Academy of Arts and Sciences released a book entitled *Kosovo and Metohija: Past, Present and Future*.[] It contains a large article with maps discussing partition and desired population flows, including the movement of the Serb enclaves’ inhabitants to the Presevo Valley.[] A senior figure close to Premier Kostunica told Crisis Group “a humanitarian exchange of populations” was desirable.[] Very few Kosovo Serbs would wish to move to Presevo but such an artificially directed movement would face the valley’s Albanians with a new, radicalised and far larger Serb population.”

**ICG, Europe Report No. 185, 21 August 2007, p.i:**

“The preferred strategy of the European Union (EU) and the U.S. to bring Kosovo to supervised independence through the United Nations Security Council has failed, following Russia’s declared intention to veto. With Kosovo Albanians increasingly restive and likely soon to declare unilateral independence in the absence of a credible alternative, Europe risks a new bloody and destabilizing conflict. To avoid chaos on its doorstep, the EU and its member states must now accept the primary responsibility for bringing Kosovo to supervised independence.

The risks to Europe of inaction are substantial. Before the end of the year, Kosovo Albanian leaders will be under what is likely to be irresistible internal pressure to declare independence, with or without external support. If they act and are not supported, Kosovo would fracture: Serbia reclaiming the land pocket north of the Ibar River, Serbs elsewhere in Kosovo fleeing, and eight years of internationally guided institution-building lost. The implosion would destabilise neighbouring countries, increasing pressure for further fractures along ethnic lines. The EU would

quickly experience refugee flows and feel the impact of the boost that disorder would give to organised crime networks in the Balkans that already distribute most of Europe's heroin, facilitate illegal migration and are responsible for nearly 30 per cent of women victims of the sex trade worldwide."

**BIRN, 19 November 2007:**

"NATO and the UN police in Kosovo are reportedly planning to tighten their control over the predominantly-Serb north, if Kosovo declares its independence after talks on its future end next month.

The action would be aimed at preventing Serb-run areas from joining Serbia, in case Kosovo's ethnic Albanian-dominated parliament proclaims independence, once the current phase of talks on the UN-administered territory's status are concluded on December 10, an international diplomat told Balkan Insight on Monday.

The UN police and the NATO-led KFOR peacekeepers "are planning to take over Serb-run Kosovo police stations" in the ethnically-divided city of Mitrovica, the neighbouring municipality of Zvečan and the towns of Zubin Potok and Leposavic, the Belgrade-based diplomat said on condition of anonymity.

"KFOR will also gradually seal the border between Kosovo's north and Serbia. After completing that action, KFOR will mount a series of raids aimed at discovering weapons caches in Serb communities and at arresting potential troublemakers," the source said.

Referring to the planned moves, the diplomat said that "through this action, KFOR will also send a message to Serbia's leadership to stay out of meddling in Kosovo's affairs."

According to the diplomatic source, UNMIK and KFOR believe that "the pacification of northern Kosovo will also serve as a warning to Serbia not to try to flex its muscles" in its southern, predominantly-ethnic Albanian municipalities along the boundary with Macedonia and Kosovo.

[...]

The volatile region comprising the municipalities of Presevo, Bujanovac and Medvedja is still recovering from a year-long ethnic-Albanian insurgency that ended in 2001 with a NATO-brokered peace deal that secured the rebels' disarmament and their integration into society.

The situation in Serbia's south remains, at times, tense, marked by occasional flare-ups in violence.

Dragan Sutanovac, Serbia's Defence Minister, recently pledged swift action in case of a spill-over of potential violence from Kosovo or from Macedonia where police and armed ethnic Albanians clashed earlier this month."

**Reactions to the Ahtisaari plan of status settlement (2007)**

- Approximately 96% of Kosovo Albanians opt for independence while 77% of Kosovo Serbs opt for Kosovo being an autonomous province within Serbia
- Approximately 68% of other minorities support independence within present borders
- Some 50% of K-Albanians and other minorities are favourable to the Ahtisaari plan (57 and 47% respectively) whereas the majority of K-Serbs have a negative attitude to this proposal, to an extent due to influence by Belgrade
- In case of the approval of the Ahtisaari plan by the UN SC, 12% of K-Serbs said they would leave Kosovo
- Further extension of negotiations over the status of Kosovo might begin a new period of uncertainty and aggravate interethnic relations
- Following the resolution of Kosovo's final status mass migration among K-Serbs may occur as a sign of protest, most probably orchestrated by extreme opponents of the status resolution based in Belgrade

**UNDP, April-June 2007, pp.18-19**

“Approximately 89% of total respondents<sup>5</sup> (Table 1.3) indicated that independence for Kosovo would be the best option for Kosovo’s political status. As in March 2007, some 5% of respondents indicated that an autonomous province within Serbia would be the best solution and approximately 3% said that unification with Albania would be the best solution. Looking at the responses by ethnicity, 96% of K-Albanians consider independence as the best choice for Kosovo. Approximately 77% of K-Serbs consider the status of an autonomous province within Serbia to be the best option which is a decrease of some 12 % compared to March 2007. The majority (68%) of other minorities have indicated that the best option for the future of Kosovo would be its independence within present borders, which also represents a decrease of some 12 percentage points compared to March 2007.

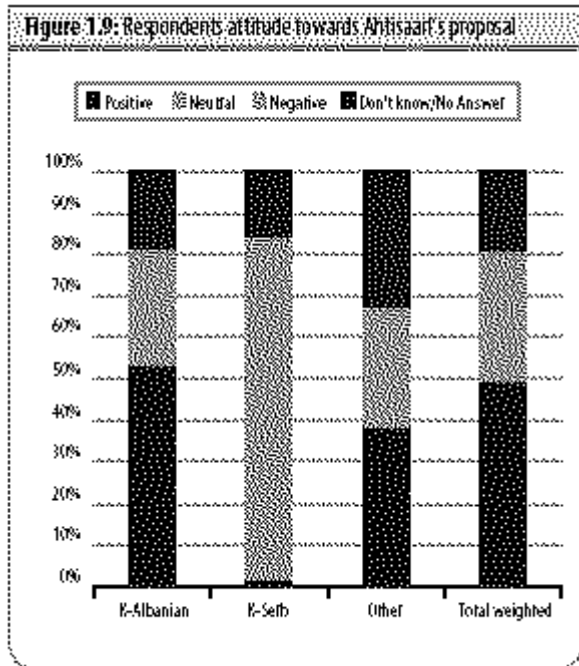
**Table 1.1:** Best solutions for Kosovo based on Ethnicity

| Which solution do you think is the best for the future political status of Kosovo? | K-Albanian | K-Serb | Other |
|--|------------|--------|-------|
| In dependence of Kosovo within present borders                                     | 95.3%      | 1.0%   | 68.0% |
| Partition of Kosovo  | 0.1%       | 0.5%   | 0.2%  |
| Same as now (International protectorate)   | 0.1%       | 5.9%   | 11%   |
| Unification with Albania   | 8.5%       |        | 0.6%  |
| Confederate state within Serbia, such as Montenegro                                | 0.2%       | 0.5%   | 0.6%  |
| Autonomous province within Serbia  |            | 76.8%  | 1.1%  |
| Don't Know   | 0.3%       | 4.4%   | 14.0% |
| No Answer  | 0.3%       | 9.9%   | 4.4%  |
| Total (%)  | 100%       | 100%   | 100%  |

*Respondent's attitude towards Ahtisaari's proposal*

"While in March 2007 some 57% of K-Albanian respondents and 47% of respondents from other minorities (except K-Serb) respondents stated that they have a positive attitude towards Ahtisaari's proposal, in the June 2007 just 49% of K-Albanians and 37% other non-Serb respondents reported having a positive attitude towards the proposal. The strongest support for Ahtisaari's proposal among K-Albanians comes from the Prizren/Prizren region, where 77% of respondents view the proposal positively, whereas the least support for the proposal comes from Mitrovicë/Mitrovica where some 59% of K-Albanians do not support or strongly oppose this movement.

The majority of K-Serb respondent's (41%) have a "negative" attitude towards Ahtisaari's proposal, with another 52% stating to have a "very negative" attitude towards the plan, the remainder are unsure of their stance towards the proposal. The attitude of K-Serbs towards the plan has thus become more negative since March 2007, when some 82% of K-Serbs had a negative attitude with respondents from Mitrovicë/Mitrovica having the worst attitude towards the plan. Some 16% of K-Serb respondents stated that they cannot assess the plan, which represents an increase of some seven percentage points compared to March 2007 in this regard (Figure 1.9)."



*Reaction scenarios to decisions on Ahtisaari's proposal*

**p.21**

"For the majority of survey respondents, the eventual approval of Ahtisaari's proposal by the United Nations Security Council (UNSC) would be considered a positive event, worth celebrating. Some 53% of K-Albanians said they would celebrate the approval of Ahtisaari's proposal, and the rest stated that they would not do anything, or didn't know how they would react. Most K-Serbs stated that they are unsure of their reaction or they would not do anything, whereas some 17% declared that they would protest peacefully and another 12% said they would leave Kosovo if Ahtisaari's proposal is approved by the UNSC."

*Possible alarming scenarios*

**p.25**

"With the further extension of negotiations over the status of Kosovo, a new period of uncertainty might begin. According to experts this may aggravate interethnic relations and negatively affect stability in Mitrovicë/Mitrovica region and other areas of Kosovo that are affected by the Ahtisaari proposal and have been identified as possible hot-spots."

**p.43**

"Expert group participants have identified the potential massive migration of the K-Serb population after Kosovo's final status has been determined as an alarming scenario. Although opinion poll results show that only some 10% have declared that they may leave Kosovo if it becomes independent, Experts consider that mass migration among K-Serbs may occur as a sign of protest, most probably orchestrated by extreme opponents of the status resolution based in Belgrade."

**UN SC, 9 March 2007, paragraph 7**

"To a large extent, reaction by Kosovo Serbs to the status proposal depends on the reaction of Belgrade. The political leadership of the three Kosovo Serb municipalities in the north of Kosovo continued to boycott most contacts with Prishtinë/Priština. After cutting off political links, they are

now fully dependant on Serbian state financial support, with minor exceptions for Kosovo Albanian staff and projects, funded by the Provisional Institutions."

*For other reactions and possible scenarios following the resolution of Kosovo's final status, see "Final status of Kosovo may have a destabilizing effect in Southern Serbia and neighbouring areas" in this section as well as "Unresolved status of Kosovo a cause of security incidents" in Physical Security & Freedom of Movement section of the profile.*

### **Failure of negotiations over final status of Kosovo may lead Kosovo Albanians to declare unilateral independence (2007)**

- Lack of consensus on Kosovo's internationally supervised independence is likely to have serious consequences
- On the one hand, it may directly trigger violence and, on the other hand, the lack of solution leaves no room for economic development
- The developments which have followed Ahtisaari Proposal have brought no constructive results in securing a deal on final status
- Both Serbs and Albanians pledged to the mediators to refrain from violence, threats or intimidation
- It almost certain the ethnic Albanian majority in breakaway Kosovo will go ahead with plans to declare independence early next year
- As the outbreak of violence cannot be excluded, NATO nations pledged troops to put it down if necessary

*The resolution of Kosovo status different from the one proposed by Ahtisaari or the lack of final status settlement would have diverse effects, including on neighbouring regions (see also Final status of Kosovo may have a destabilizing effect in Southern Serbia and neighbouring areas in the same section)*

#### **ICG, 14 May 2007, p.1:**

"The alternative is bleak. Forcing Kosovo Albanians back into a constitutional relationship with Serbia would reignite violence. Belgrade has offered little beyond proposing that Kosovo remain an integral part of the Serbian state. It has done nothing over the past eight years to try to integrate Kosovo Albanians or to offer them meaningful and concrete autonomy arrangements. Instead it has tried to establish the basis for an ethnic division of Kosovo and partition along the Ibar River, which runs through the northern city of Mitrovica. It has done so by trying to delay the adoption of a Security Council resolution in the expectation that this would trigger a Kosovo Albanian overreaction, including violence, and so create the conditions for such partition. Partition, however, would not only destroy the prospect of multi-ethnicity in Kosovo but also destabilise neighbouring states."

#### **RFE/RL, 23 July 2007:**

"RFE/RL: On the ground in Kosovo, do you think that patience is running a little thin?  
Moore: It certainly is. This is one reason why Kai Eide and Ahtisaari made the recommendation that it's time to move forward. This doesn't have only to do with fulfilling nationalist aspirations, but until they have a clear future, a clear status set down, there's no legal framework, there's no framework for people to know what to do about investments -- and until you get the economy working a little better than it is now, or a lot better than it is now, including through investments from Albanians living and working in Switzerland, Germany, and the United States, you're going

to have this high unemployment rate, particularly among young males, and that's a recipe for disaster anywhere."

See also "[Top UN Envoy in Kosovo says clarity on status is vital for future stability](#)" of 15 November 2007.

*Ahtisaari plan was approved by Kosovo political institutions, disputed by Serbian authorities. At the international level, it was presented to the UN Security Council which failed to approve the text mainly due to Russia's opposition. Further to this a series of multilateral negotiations - led by the Contact Group - followed and were due to report to the Security Council on the 10th December. The Contact Group announced on 28 November 2007 that negotiations had not succeeded. The new Kosovo Prime Minister, Hashim Thaci, whose party won the November 2007 elections, announced he was willing to declare independence of Kosovo should negotiations failed.*

**UN SC, 29 June 2007, paragraphs 2-5 and 33:**

"Martti Ahtisaari, submitted a draft comprehensive proposal for the Kosovo status settlement to the political leaderships in Belgrade and Prishtinë/Priština. My Special Envoy and his team then held further, intensive consultations with Belgrade and Prishtinë/Priština from 21 February to 2 March. A meeting of the Serbian and Kosovo leaders was held on 10 March in Vienna to discuss the settlement proposal, at which the parties were unable to make any additional progress. Following this meeting, my Special Envoy presented me with his report on Kosovo's future status (S/2007/168), containing his recommendation of independence for Kosovo supervised initially by the international community, and his settlement proposal (S/2007/168/Add.1). On 26 March, I conveyed both his future status report and his settlement proposal to the Security Council, with my full support.

Following my Special Envoy's briefing to the Security Council on his future status report and settlement proposal on 3 April, the Council undertook a mission to Kosovo and Belgrade from 25 to 28 April. The objective of the mission was to gain first-hand information on progress made in Kosovo since the adoption of resolution 1244 (1999). The Council met with the leaders of Serbia and of Kosovo's Provisional Institutions of Self-Government, with representatives of Kosovo's ethnic minority communities and with my Special Representative, Joachim Rucker, and UNMIK staff. A comprehensive and balanced programme enabled the Security Council to further its understanding of the political, social and economic situation in Kosovo, as reflected in the report of the mission (S/2007/256).

The future status of Kosovo continued to be the main political issue for Kosovo's political establishment and for representatives of all of its communities throughout the reporting period. Expectations remained high among Kosovo Albanians that Kosovo would become independent in the near future. The Kosovo unity team, which represents Kosovo Albanian political parties from both the Government and the opposition, continued its work in three priority areas. It participated in the negotiations held in Vienna with the Belgrade negotiating team; it continued its outreach activities to all of Kosovo's communities to explain the settlement proposal; and it undertook efforts aimed at garnering international support for Kosovo's independence.

On 5 April, the Assembly of Kosovo met in an extraordinary session and approved a declaration in support of my Special Envoy's future status report and settlement proposal. No Kosovo Serb member of the Assembly was present at the session. The declaration welcomed the report's recommendation on status, stating that it represented "a fair and balanced solution in accordance with the will of the people of Kosovo". The Assembly also committed itself to full implementation of the settlement proposal, adding that, if endorsed by the Security Council, it would be considered "legally binding" for Kosovo. Assembly members also welcomed, and pledged



cooperation with, the future international civilian and security presences envisaged in the settlement proposal. On 14 April, unity team members signed a "declaration" in which they agreed to remain united during the 120-day transition period envisaged in the settlement proposal.

While Kosovo's overall progress is encouraging, if its future status remains undefined there is a real risk that the progress achieved by the United Nations and the Provisional Institutions in Kosovo can begin to unravel. Sustaining and consolidating the progress made by Kosovo will require concrete prospects for the conclusion of the future status process and the active and constructive cooperation of all involved."

**ICG, 21 August 2007, p.1:**

"The preferred strategy of the European Union (EU) and the U.S. to bring Kosovo to supervised independence through the United Nations Security Council has failed, following Russia's declared intention to veto. With Kosovo Albanians increasingly restive and likely soon to declare unilateral independence in the absence of a credible alternative, Europe risks a new bloody and destabilizing conflict. To avoid chaos on its doorstep, the EU and its member states must now accept the primary responsibility for bringing Kosovo to supervised independence."

**pp.1-2:**

"UN Secretary-General Ban Ki-moon has requested that the Contact Group report back to him on the Belgrade-Pristina talks in four months, by 10 December. This is the point at which, assuming, as seems overwhelmingly likely, that no agreed solution emerges from those talks, the EU, U.S. and NATO need to be ready to start coordinated action with the Kosovo government to implement the essence of the Ahtisaari plan, including the 120-day transition period it envisages. That transition period should be used to accumulate statements of recognition of the conditionally independent state from as many governments as possible; to adopt and set in place the state-forming legislation and related institutions foreseen by the Ahtisaari plan; for the Kosovo government (the present one or, depending on the date of elections, its successor) to invite the EU and NATO to take up their responsibilities and for those organisations to do so; and for the UN Interim Administration Mission in Kosovo (UNMIK) to withdraw in an orderly fashion. At the end of this period – in April/May 2008 – Kosovo would be conditionally independent, under EU and NATO supervision."

**UN, 7 December 2007:**

"Secretary-General Ban Ki-moon has received the report of the 'Contact Group' of countries working to address the status of Kosovo, the Serbian province which has been run by the United Nations since 1999.

A spokesperson for Mr. Ban said the Secretary-General would transmit the report to the Security Council on Sunday.

The Contact Group, comprised of France, Germany, Italy, Russia, the United Kingdom and the United States, had promised to report by 10 December on the progress of negotiations between Pristina and Belgrade.

The Group's report is expected to cover talks led by the so-called Troika of the European Union, Russia and the US, which began after a stalemate emerged over a proposal by Mr. Ban's Special Envoy, Martti Ahtisaari, for a phased process of independence for the province, where ethnic Albanians outnumber Serbs and others by nine to one.

Kosovo's Albanian leadership supports independence but Serbia is opposed."

*However, the negotiations brought no desired result and no deal on the final status of Kosovo was secured*

**Reuters, 7 December 2007:**

“Mediators on Kosovo's future dumped the problem on a divided international community on Friday, saying that rigid positions on sovereignty over the Serbian province had foiled agreement in four months of talks.

Their report to U.N. Secretary-General Ban Ki-moon made no recommendations on a way forward, making it almost certain the ethnic Albanian majority in breakaway Kosovo will go ahead with plans to declare independence early next year.

Key Western countries are expected to accept that move, but it is vigorously opposed by Serbia and by its ally Russia, which holds a veto in the Security Council. The council will discuss the mediators' report on Dec. 19.

In their report, made available to Reuters by diplomats, the so-called "troika" of mediators from the United States, Russia and the European Union said the talks between the Kosovo Albanians and Serbia's government had been useful. Both sides had pledged to refrain from violence, threats or intimidation.”

*See also "[Kosovo report says sides didn't cede on sovereignty](#)" and "[NATO nations pledge tough force for Kosovo](#)"*

**Increasing role of the EU in Kosovo (2007)**

- The 2004 Kosovo Standards Implementation Plan has been replaced by the European Partnership Action Plan, approved by the Government in 2006
- All 109 standard goals, updated and revised, have been incorporated into the Action Plan and will be preserved and promoted beyond the life of UNMIK
- The European Partnership Action Plan has thus become the main guiding tool for Kosovo's European integration process
- Kosovo's independence as foreseen by the Ahtisaari plan fits within the EU's project for the Western Balkans
- Kosovo is and will remain until resolved a European issue and problem
- The EU is the largest donor in Kosovo and plans to assume a significant role in the post-status Kosovo civilian mission

**UN SC, 9 March 2007, paragraph 10:**

"During the reporting period, the Government has continued to make progress on standards implementation. The basic reference document on standards implementation, the 2004 Kosovo Standards Implementation Plan, has been replaced by the European Partnership Action Plan, approved by the Government in August 2006. The 109 standards goals contained in the original Implementation Plan are all incorporated into the Action Plan, but the actions agreed in 2004 have been updated and revised to reflect current challenges and to respond to both the standards goals and the European partnership priorities. As a result, the Agency for European Integration is now the main coordination mechanism within the Provisional Institutions on standards, and the European Partnership Action Plan is the main guiding tool for Kosovo's European integration process. It is expected that the European integration process will remain a Kosovo Government priority for the foreseeable future, which will ensure that the principles underlying the standards programme will be preserved and promoted beyond the life of UNMIK."

**UN SC, 29 June 2007, paragraph 18:**

"Work on standards implementation continued to progress within the framework of the European Partnership Action Plan. A technical assessment on progress in the implementation of the standards for Kosovo, prepared by my Special Representative, is contained in the annex to the present report. Standards implementation continues to strengthen Kosovo's institutions and helps to improve the delivery of public services to the people of Kosovo. It is particularly important that the principles underlying the standards have been incorporated into the Action Plan. Fulfilling the requirements of the Action Plan remains a priority for the Kosovo institutions."

*In terms of provisions related to internal displacement, [Kosovo Action Plan for the Implementation of European Partnership 2006](#) foresees, inter alia, creating a climate for inter-ethnic tolerance and sustainable multi-ethnicity which is conducive to returns (European Partnership Priority No 4), enabling internally displaced persons and refugees to participate in elections even if their ability to return to Kosovo is curtailed (EPP No13) or regularising informal settlements and finding sustainable repatriation solutions for the integration of Roma minority communities that are living in hazardous living conditions in camps and for IDP groups living in informal centres (EPP No31).*

**ICG, 14 May 2007, p.1:**

"The Ahtisaari plan is a compromise that offers Kosovo Albanians the prospect of independence, Kosovo Serbs extensive rights, security and privileged relations with Serbia, and Serbia the chance to put the past behind it once and for all and realise its European future. It is the best recipe for the creation of a multi-ethnic, democratic and decentralised society and fits within the European Union's multi-ethnic project for the Western Balkans, which ultimately offers the prospect of accession. The EU is already the largest donor in Kosovo and plans to assume the lion's share of responsibility for the post-status Kosovo civilian mission. Ultimately, Kosovo is, and will remain until resolved, a European problem."

**ICG, 21 August 2007, p.1:**

"The preferred strategy of the European Union (EU) and the U.S. to bring Kosovo to supervised independence through the United Nations Security Council has failed, following Russia's declared intention to veto. With Kosovo Albanians increasingly restive and likely soon to declare unilateral independence in the absence of a credible alternative, Europe risks a new bloody and destabilising conflict. To avoid chaos on its doorstep, the EU and its member states must now accept the primary responsibility for bringing Kosovo to supervised independence."

*On the EU's need for engagement in the resolution of the stalemate and supervision of the situation following possible unilateral declaration of independence by Kosovo see "[L'Europe n'a plus d'autre choix que l'indépendance du Kosovo](#)" and on Europe's ambiguous policy towards Serbia see "[Serbia: 'Double Trouble'](#)."*

**Kosovo's unilateral declaration of independence (2009)**

- On 3 April 2007, the UN SG submitted the Comprehensive Proposal for the Kosovo Status Settlement (CSP), elaborated by Martti Ahtisaari, to the Security Council, which did not endorse it.
- In August 2007, the UN SG took a new initiative and proposed direct negotiations, mediated by a "Troika" formed by the European Union, the United States and the Russian Federation. However, by the end of the year, Serbia and Kosovo were unable to reach an agreement on the status of Kosovo.

- On 18 February 2008, the Kosovo Assembly declared unilaterally the independence of Kosovo
- The Security Council took no position following the declaration of independence. The Security Council resolution 1244 is still in force.
- On 9 April 2008, the Kosovo Assembly passed a constitution which entered into force on 15 June 2008. The Constitution envisages a significant role of the European Union and provides for the international civilian representative as ultimate supervisory authority regarding the interpretation of the civilian aspects of the CSP.
- With the entrance into force of the constitution, the UNMIK role in the administration was supplanted by other international mechanisms as established in the Ahtisaari Plan (International Civilian Office and EULEX). The UN and the EU agreed on a reconfiguration of the international presence, which involves a reduced UNMIK presence and an increased EU role. UNMIK no longer has the executive power it once exercised.
- Belgrade and the Kosovo Serbs insist that UNMIK remains the authority under UN SC resolution 1244 and refuse to recognize the ICR and EULEX.
- Since the adoption of the Constitution, the Kosovo authorities have asserted control on an increasing number of state structures and functions

#### **AI, May 2009:**

"In the absence of a decision by the UN Security Council on the Comprehensive Proposal for the Kosovo Status Settlement (Ahtisaari Plan), Kosovo unilaterally declared independence from Serbia in February [...]

In June, the Kosovo Assembly adopted a constitution which fails to establish effective human rights institutions or guarantee the rights of women and non-Serb minorities. It also passed legislation assuming legal control over competencies previously reserved to UNMIK, as set out in the Ahtisaari Plan. UNMIK remained in Kosovo under UN Security Council Resolution 1244/99, although it was unable to discharge its administrative functions.

In November, following negotiations with Pristina and Belgrade, the UN Security Council approved a "status-neutral" plan to reconfigure UNMIK. This enabled a European Security and Defence Policy mission (EULEX), envisaged by the Ahtisaari Plan and authorized by the EU in February, to take over in December responsibilities for international policing and the investigation and prosecution of outstanding war crimes. In northern municipalities, where Serbia had opposed the EU mission's authority, police, justice and customs remained in theory under UNMIK jurisdiction. The were fears that this would result in the de facto partition of Kosovo."

#### **ICG, February 2009:**

"On 17 February 2008 the new state pledged complete implementation of the [Ahtisaari plan](#), inviting the International Civilian Representative ([ICR](#)), [EULEX](#) and NATO ([KFOR](#)) to assume their responsibilities under the plan. Although not all 27 EU states recognised Kosovo, all did support the deployment of EULEX. On 18 February it took common note of the independence declaration and committed to play a leading role in helping the new state. Several EU states and the U.S. later took the lead in establishing an International Steering Committee to supervise independence.

In April Kosovo's parliament adopted a new constitution, which came into force on 15 June. Kosovo authorities have been quick to assert control over an increasing number of state structures and functions. While a much reduced UN Mission (UNMIK) remains, it no longer has the executive powers it once exercised. The UN and the EU concluded technical talks on

reconfiguration of the international presence in July 2008, which enabled the deployment of EULEX.[...]

Kosovo declared independence on 17 February, confirming its acceptance of the Ahtisaari plan, its agreement to the deployment of new missions and to the continuation of NATO 's force. In Serbia, there were mass demonstrations and street violence. Independence has been vigorously opposed by Serbia, supported by Russia. [...]

In addition to EULEX, the EU approved the appointment of EU special representative (EUSR), appointing Dutch diplomat Pieter Feith, double-hatted as the ICR. The UN and EU agreed a reconfiguration of the international presence, involving a drawdown of UNMIK and an increased EU role. Italian Lamberto Zannier was appointed as UN Special Representative in June 2008. As a result of the reconfiguration of international missions in Kosovo, UNMIK retains a limited political role. The reconfiguration was complicated by the fact that, on the one hand, Belgrade and the Kosovo Serbs insisted that UNMIK remained the key international factor, under UN Security Council resolution 1244, while Prishtina wanted to downplay UNMIK, seeing it as part of the pre-independence international set-up that had been superseded by the Ahtisaari plan. For their part, Belgrade and the Kosovo Serbs refused to deal with the ICR/ EUSR, seeing that office as tainted by association with Ahtisaari, and the Kosovo Serbs, especially in the north, regarded EULEX with deep suspicion."

**U.S. DoS, February 2009:**

"Kosovo declared independence from Serbia on February 17. The country has a population of approximately 2.2 million. The UN Interim Administrative Mission in Kosovo (UNMIK) administered Kosovo under the authority of UN Security Council (UNSC) Resolution 1244 of 1999 until June 15, when the country's constitution entered into effect. The constitution establishes a parliamentary democracy and incorporates international human rights conventions and treaties. Multiparty elections in November 2007 for the Assembly generally reflected the will of the voters. Prior to February 17, Kosovo was administered under the civil authority of UNMIK, led by a special representative of the UN secretary-general (SRSG). The government gradually assumed authority and responsibilities in most areas during the year. With the promulgation of the constitution in June, the UNMIK role in the administration of Kosovo was supplanted by other internationally-sponsored mechanisms envisioned under the Ahtisaari plan, including the International Civilian Office and the EU Rule of Law Mission (EULEX), which replaced UNMIK police on December 9. The government, UNMIK international civilian authorities, and the UN-authorized North Atlantic Treaty Organization peacekeeping force for Kosovo (KFOR) generally maintained effective control over security forces. [...]"

**EU (Kosovo), November 2008:**

"In March 2007, the UNSG forwarded the Comprehensive Proposal for the Kosovo Status Settlement (CSP) prepared by his special envoy, Martti Ahtisaari, to the United Nations Security Council (UNSC). The CSP envisaged an international civilian representative (ICR) with a dual mandate as EU Special Representative and an ESDP rule of law mission. The UNSG fully supported Mr Ahtisaari's recommendation for the supervised independence of Kosovo.

In August 2007, and in the absence of UNSC agreement on the CSP, the UNSG endorsed a new initiative to determine Kosovo's future status. He proposed direct negotiations, to be mediated by EU-US-Russia troika. Direct talks between Priština/Prishtinë and Belgrade started in New York in September 2007. On 10 December 2007, the UNSG forwarded the troika report to the UNSC, confirming that the two parties had been unable to reach an agreement. It confirmed that the negotiating process had been exhausted. On 17 February 2008, the assembly of Kosovo declared Kosovo an independent and sovereign state. To date, Kosovo's independence has been recognized by a total of 51 countries, of which 22 are EU Member States. The assembly also

adopted a flag and an anthem. Following the declaration, the security situation remained relatively calm, with the exception of two serious incidents in northern Kosovo. [...]

On 9 April, the assembly adopted the Constitution of the Republic of Kosovo, which entered into force on 15 June 2008. The constitution is based on the CSP and envisages a significant role of the European Union in Kosovo. It also provides for the international civilian representative as ultimate supervisory authority as set out in the CSP. In his June report to the UNSC, the UNSG acknowledged that the declaration of independence and the entry into force of the constitution had created a new reality in Kosovo. This reality posed significant challenges to UNMIK's ability to exercise its administrative authority and perform the majority of its tasks, and necessitated the reconfiguration of the international civil presence in Kosovo. In July, the UNSG instructed UNMIK to cooperate with the EU in order for it to assume an enhanced operational role in Kosovo in the area of the rule of law under a 'UN umbrella'.

The constitution is based on the Comprehensive Proposal for the Kosovo Status Settlement (CSP) prepared by UNSG special envoy, Martti Ahtisaari. The constitution explicitly confirms that the provisions of the CSP take precedence over all other legal provisions in Kosovo. It also confirms the CSP as the key reference to verify compliance of the constitution itself and other laws and legal acts. It confirms the ICR as the final authority in Kosovo regarding the interpretation of the civilian aspects of the CSP. The constitution does not include references to the UN or UNMIK other than in the context of the termination of its mission in Kosovo.[...]"

**UNSC, 24 November 2008:**

"With the entry into force of the "Constitution of the Republic of Kosovo" on 15 June, the Kosovo authorities have continued to take steps towards asserting Kosovo's statehood. Following the establishment of a Ministry of Foreign Affairs, the Kosovo authorities announced the opening of diplomatic missions and the appointment of mission heads to 10 countries. As at 31 October, Kosovo had been recognized as an independent state by 52 countries. In its ongoing efforts to assume the prerogatives and responsibilities of a sovereign state, Kosovo applied for membership in the International Monetary Fund and the World Bank Group, decided to undertake a census of the population, established a Ministry for Security Forces and appointed a new, 11-member Central Election Commission. The Assembly of Kosovo continues to pass legislation, which is now adopted without reference to the powers of my Special Representative under resolution 1244 (1999) or the Constitutional Framework.

The Government of Serbia and a majority of Kosovo Serbs continue to recognize UNMIK as their sole and legitimate civilian international interlocutor under resolution 1244 (1999). This has had significant implications, including in the police, customs and judicial sectors, where UNMIK continues to play a prominent role. [...]

The Kosovo Serb political leadership in northern Kosovo continued to express opposition to the deployment to the north of the International Civilian Office, foreseen in the Comprehensive Proposal for the Kosovo Status Settlement (S/2007/168/Add.1), which was not endorsed by the Security Council. It also continued to oppose the deployment of the European Union Rule of Law Mission in Kosovo (EULEX). The northern Kosovo Serb leaders claim that they will not change their stance, regardless of Belgrade's approach. "

**OSAR, août 2008:**

"Conformément au plan Ahtisaari, la nouvelle Constitution n'accorde plus aucun rôle à l'administration des Nations Unies (MINUK) au Kosovo depuis 1999. Elle prévoit que les pouvoirs de cette mission seront transmis aux autorités de l'Etat nouvelle-ment créé, agissant lui-même de concert avec une mission de l'Union européenne. Considérant la Constitution comme illégale et sans bien-fondé, la Serbie et la Russie font leur possible pour empêcher cette mise en place.

Même après la déclaration d'indépendance et l'entrée en vigueur de la Constitution, on ne sait pas vraiment comment interagissent la Constitution et la résolution du Conseil de Sécurité de l'ONU. L'art. 84 de la Constitution prévoit que toute loi adoptée par le Parlement entre en vigueur dès sa proclamation par le Président. Mais selon le plan Ahtisaari, accepté par le gouvernement de Pristina, le haut représentant des Nations Unies pour le Kosovo est la seule instance disposant de cette prérogative. Enfin, la résolution 1244 du Conseil de Sécurité de l'ONU, qui définit le Kosovo comme faisant partie de la Serbie, est actuellement encore en vigueur."

**UN SC, June 2008:**

"On 3 April 2007, I submitted to the Security Council the Comprehensive Proposal for the Kosovo Status Settlement (S/2007/168/Add.1), prepared by my Special Envoy for the Future Status Process for Kosovo, Martti Ahtisaari. The Council did not, however, endorse the proposal. Thereafter a "Troika", comprising the European Union, the United States of America and the Russian Federation, facilitated additional intensive negotiations between the parties at the end of 2007. Those talks also ended without a consensual resolution of the status of Kosovo. On 17 February 2008, the Assembly of Kosovo held a session during which it adopted a declaration of independence in which it declared Kosovo an independent and sovereign State. The declaration received the support of 109 of the 120 members of the Assembly; the 10 Kosovo Serb members did not attend.

I immediately drew this development to the attention of the Security Council for its consideration. In doing so, I reaffirmed that, pending guidance from the Council, the United Nations would continue to operate on the understanding that resolution 1244 (1999) remained in force and that UNMIK would continue to implement its mandate in the light of the evolving circumstances. The Council took no position following the 17 February declaration. To date, 42 States Members of the United Nations have recognized the independence of Kosovo [...]

A new reality and challenges to UNMIK authority are also emerging on the ground in Kosovo Albanian majority areas. On 9 April, the Assembly of Kosovo passed a constitution for Kosovo that is scheduled to come into force on 15 June. The constitution is designed in such a way that it would effectively remove from UNMIK its current powers as an interim civil administration. In this regard, the government of Kosovo has indicated that it would welcome a continued United Nations presence in Kosovo provided that it carries out only limited residual tasks."

**ICG. March 2008:**

"On Sunday 17 February 2008 Pristina produced a smooth and joyful independence celebration. It was preceded the day before by the EU's decision to dispatch a special representative (EUSR) and a rule-of-law mission (EULEX) and was followed a day later by a supportive statement of the EU foreign ministers. These paved the way for France and the UK, as well as the U.S. to recognise the new state. The celebrations and diplomatic moves were well choreographed. The independence declaration included positive words to the Serb minority expressed in Serbian by the prime minister and president, a pledge to implement the Ahtisaari plan and an invitation to the Europeans to deploy an International Civilian Representative (ICR) to oversee that implementation. Albanian flags were everywhere; so too were those of the EU and countries supportive of independence."

**Recognition of Kosovo's unilateral declaration of independence (as of September 2009)**

- The Kosovo unilateral declaration of independence was quickly recognized by the United States and most European Union Countries
- As of November 2009, 63 States have recognized Kosovo's independence
- However, Serbia, backed by Russia and China, refuse to recognize the independence stating that it is violating UN SC resolution 1244
- The resistance by Russia and China ensures that Kosovo will not gain membership in the UN or other international organizations
- The Security Council has taken no position following the declaration of independence. The Security Council resolution 1244 is still in force.
- The lack of UN Security Council resolution means that Kosovo independence lacks international legal standing and it hinders the functioning of the International Civilian Office, which was meant to be the ultimate supervisory authority regarding the interpretation of the civilian aspects of the Comprehensive Proposal for the Kosovo Status Settlement (CSP).
- On 8 October 2008, the UN General Assembly passed a resolution submitted by Serbia requesting the advisory opinion of the International Court of Justice on the legality of the declaration of independence. The opinion is still pending.
- As of September 2009, Pristina and Belgrade continue to maintain opposing views on the status of Kosovo

**New Kosova Report, 9 November 2009:**

New Zealand becomes the 63rd country that recognizes Kosovo's independence.

**UN SC, 30 September 2009:**

"My Special Representative, Lamberto Zannier, has operated against a political background in which decision-making by the authorities in Pristina and Belgrade is influenced by concerns over how the International Court of Justice might interpret their actions in its consideration of the request of the General Assembly to the Court for an advisory opinion on whether Kosovo's declaration of independence is in accordance with international law. Belgrade and Pristina continued to maintain and present opposing views on the status of Kosovo. [...] Since my last report to the Security Council of 10 June 2009 (S/2009/300), two additional States have recognized Kosovo, bringing the total to 62."

**COE Commissioner for Human Rights, 2 July 2009:**

"60 States have to date recognised Kosovo, of which 33 are Council of Europe Member States. On 8 October 2008, the General Assembly of the United Nations adopted Resolution 63/3 which requested the International Court of Justice to render an advisory opinion on the following question: "Is the declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?". The opinion is still pending."

**Freedom House (Kosovo), 16 July 2009:**

"The Assembly formally declared Kosovo's independence from Serbia on February 17, 2008. It was quickly recognized by the United States and most European Union (EU) countries. However, important countries including Russia, China, Brazil, India, and Indonesia refused to follow suit. By the year's end, Kosovo had been recognized by less than 30 percent of the international community. Moreover, the resistance by Russia and China ensured that Kosovo would not gain membership in the UN or other international organizations, and UNSCR 1244, which recognized Serbia's sovereignty in Kosovo, had not been superseded. "

**UN SC, June 2009:**

"Kosovo authorities continued to act on the basis of the "Constitution of the Republic of Kosovo" and made a series of public statements requesting UNMIK to conclude its mission, asserting that



Security Council resolution 1244 (1999) is no longer relevant and that they had no legal obligation to abide by it. Since my last report to the Security Council (S/2009/149), four additional States have recognized Kosovo, bringing the total to 60.

The International Court of Justice received written statements by 36 Members of the United Nations, as well as by the Kosovo authorities, on the question "Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?". On 8 October 2008, by General Assembly resolution 63/3, the Court was requested to issue an advisory opinion on this question."

**UN SC, March 2009:**

"During the reporting period, the Kosovo authorities continued to act on the basis of the "Constitution of the Republic of Kosovo". The Assembly of Kosovo, in plenary sessions held on 15 and 16 December, passed laws on the Constitutional Court, on the Foreign Service and on the Consular Service of Diplomatic and Consular Missions in Kosovo. These laws make no reference to the powers of my Special Representative under resolution 1244 (1999) or to the Constitutional Framework. Since my last report to the Security Council, of 24 November 2008 (S/2008/692), four additional States have recognized Kosovo, bringing the total to 56."

**ICG, February 2009:**

"However, difficulties remain. The lack of a UN Security Council resolution has handicapped the International Civilian Office (ICO) which was meant to be the pre-eminent international organization in Kosovo following independence. While the plan of former UN envoy Martti Ahtisaari represents the Kosovo government's program for implementing independence, the lack of a Security Council resolution means that it lacks international legal standing. The number of states recognizing the new republic has been disappointingly low for Prishtina."

**UN SC, 24 November 2008:**

"As at 31 October, Kosovo had been recognized as an independent state by 52 countries. In its ongoing efforts to assume the prerogatives and responsibilities of a sovereign state, Kosovo applied for membership in the International Monetary Fund and the World Bank Group, decided to undertake a census of the population, established a Ministry for Security Forces and appointed a new, 11-member Central Election Commission. [...]"

On 8 October, the General Assembly adopted a resolution submitted by Serbia requesting the International Court of Justice to issue an advisory opinion on the following question: "Is the unilateral declaration of independence by the Provisional Institutions of Self-Government in Kosovo in accordance with international law?". The Kosovo authorities expressed regret over the adoption of the resolution, stressing that Kosovo's independence was irreversible and that the review by the International Court of Justice of the legality of the declaration of independence would not prevent other countries from appreciating the constant progress in Kosovo or recognizing it as an independent state."

**EU (Kosovo), November 2008:**

On 8 October, the UN General Assembly passed a resolution requesting the advisory opinion of the International Court of Justice on the legality of the declaration of independence of Kosovo.[...]"

**OSAR, août 2008:**

"Après la déclaration d'indépendance, la Russie qui s'était toujours prononcée contre un Etat du Kosovo, bloqua toutes les dispositions en cours. Un de ses reproches les plus importants à l'égard du Kosovo est d'avoir déclaré unilatéralement son indépendance, sans l'accord de la partie serbe, ce qui, selon elle, viole la résolution 1244. De plus, les Nations Unies n'auraient pas donné leur feu vert. La Russie n'a pas de voix, ni au sein de l'OTAN ni de l'UE, mais elle peut exercer une certaine pression sur le Conseil de sécurité. C'est ainsi qu'elle a pu se déclarer en

faveur de la poursuite de la mission de l'ONU au Kosovo et qu'elle menace aujourd'hui le Conseil de sécurité de son veto à une mission européenne adoptée par l'ONU. De son côté, le gouvernement kosovar revendique la fin de la mission onusienne, considérant qu'elle ne correspond plus à une structure adéquate dans un Etat indépendant et que par ailleurs, le plan Ahtisaari qu'il avait adopté prévoyait de toute façon la fin de cette mission. Il est actuellement encore impossible de dire comment ce blocage pourrait être surmonté. On peut craindre qu'en raison de l'incompatibilité des intérêts des différents acteurs en présence, le Kosovo ne devienne le théâtre des rivalités entre missions internationales concurrentes."

**UN SC, 12 June 2008:**

Following the declaration of independence, Serbia adopted a decision stating that the declaration represented a forceful and unilateral secession of a part of its territory. [...]

**ICG, 18 March 2008:**

A month later 28 states have recognised independent Kosovo, including sixteen of the 27 EU member states, and six of the UN Security Council's fifteen members. The dignified demeanour of the government and the Albanian majority of citizens persuaded states such as Sweden and the Netherlands, which initially had planned to withhold recognition until Kosovo adopted its constitution, to act quickly. More recognitions are still needed, especially from neighbours, of whom only Albania and Slovenia have taken the step (Croatia may do so this month). One of the most problematic may be Macedonia. It insists on a definitive demarcation of the common border as a precondition, its president has made negative statements, and it has only a minority government after the walkout of its Albanian junior coalition partner. Montenegro and Bosnia and Herzegovina are also unlikely to recognise soon. Recognitions are coming in from further afield but not as fast as expected. Pristina has sent requests to all UN member states and on 12 March belatedly dispatched a junior delegation to the Organisation of the Islamic Conference (OIC) summit in Senegal. Lobbying of influential countries such as Canada, Brazil and India, however, has yet to begin. [...]

Kosovo's independence has split the international community. The Ahtisaari plan, the ICO and the EULEX mission lack UN Security Council backing due mainly to Russian opposition. The UN Secretariat, UNMIK and NATO feel that they cannot advance far beyond a "status neutral" position. The U.S. and a growing number of EU states are Kosovo's main support, the core of the International Steering Group formed on 28 February, and of the 28 countries that have so far recognised the young republic. But they are struggling to agree on the strategies and operations needed to ensure Kosovo's stability in an unsettled and partly hostile neighbourhood.

Russia is not backing down from its opposition to Kosovo independence, implementation of the Ahtisaari plan and deployment of the EU missions. President Putin has chided EU states for applying "double standards in settling one and the same issue in different parts of the world [in different ways]". But Moscow has not honoured threats to recognise Abkhazia, South Ossetia and Transdniestria as independent states. It also has not taken any express action against a country that has recognised Kosovo. By continually arguing that Kosovo independence is against international law and that recognition will set an international precedent, however, it has caused numerous states to back away from recognition and has encouraged Serbia's hard line. Its de facto Security Council veto on the Ahtisaari plan has also hampered the UN's ability to coordinate effectively with the EU. Holding the Security Council presidency in March, Russia is maintaining pressure on the Secretary-General to keep UNMIK well budgeted and staffed and resist UNMIK-EULEX transition.

**Asil, 29 February 2008:**

"On February 17, Kosovo's parliament declared Kosovo's independence from Serbia. Following that declaration, the U.S. and several European states officially recognized the independence of

Kosovo. An examination of Security Council Resolution 1244, which set forth the international oversight of Kosovo following the 1999 NATO intervention, and the international law of self-determination, secession, and recognition demonstrates that while Kosovo's declaration of independence and its recognition by various states can be justified under existing international law, it is not a clear case. Rather, Kosovo presents a quintessential "tough case," demonstrating the ways in which political interests of states affect how the international law is given effect. How and whether it will be considered a unique case in international law or a precedent for other secessionist movements may depend on how various states interpret the law and facts that gave rise to the declaration. [...]

Serbia and Russia have argued that Resolution 1244 would not allow the secession of Kosovo without the agreement of Serbia. In particular, they refer to the resolution's preambular language "[r]eaffirming the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia ."

The EU has taken the position that Resolution 1244 is not a bar to Kosovo's independence. In a memorandum written prior to approving the EULEX legal assistance mission to Kosovo, it found that "[a]cting to implement the final status outcome in such a situation is more compatible with the intentions of 1244 than continuing to work to block any outcome in a situation where everyone agrees that the status quo is unsustainable." Moreover, the EU contends that 1244 did not predetermine the outcome of final status talks.

On balance, it appears that Resolution 1244 neither promotes nor prevents Kosovo's secession. Although operative paragraph 1 of Resolution 1244 states that a political solution shall be based on the principles of Annexes 1 and 2, those annexes are silent as to the governmental form of the final status. The annexes only state that an "interim political framework" shall afford substantial self-governance for Kosovo and take into account the territorial integrity of Federal Republic of Yugoslavia. Paragraph 11(a), states that the international civil presence will promote "the establishment, *pending a final settlement*, of substantial autonomy and self-government in Kosovo..." The substantial autonomy language is thus addressed to the interim status of Kosovo. Moreover, the references to the territorial integrity of Serbia are only in the preambular language and not in the operational language. The document is therefore silent as to what form the final status of Kosovo takes."

### **Belgrade's strategy to assert control over Kosovo Serb majority municipalities (2009)**

- Following the declaration of independence, Belgrade has further developed its framework of parallel structures in the Kosovo Serb - majority municipalities, funding fields such as education, healthcare, welfare and infrastructure.
- This strategy serves a number of purposes: to provide evidences of Serbia's continued presence, to encourage Kosovo Serbs to remain in Kosovo and to maintain control over the area.
- In May 2008, Kosovo Serbs held elections in enclaves and Kosovo Serb-majority municipalities to establish parallel municipal government. UNMIK and the Kosovo government declared this elections to be illegal and invalid, but the new parallel authorities are operational.
- As of September 2009, the three Kosovo-Serb majority municipalities in the north continue to function with few links to the authorities in Pristina and to cooperate only with UNMIK

### **UN SC, September 2009:**

The three Kosovo Serb-majority municipalities in the north continued to function with few links to the authorities in Pristina, with whom they interact rarely and almost exclusively through UNMIK.

The political leadership in northern Kosovo continues to consider UNMIK and the Kosovo Force (KFOR) as the only legitimate international presence under Security Council resolution 1244 (1999), and maintains its firm non-acceptance of any institutions or symbols, real or perceived, of the Kosovo authorities. The deployment or operations in the north of any structures affiliated with Pristina, including customs, courts and railways, continued to be met with Kosovo Serb opposition.

**ICG, May 2009:**

The rejection of Kosovo's independence by the vast majority of its Serb inhabitants has been encouraged by Belgrade, which has developed and, since February 2008, extended a framework of parallel structures that provide Serbs with tangible evidence of the continued presence of the Serbian state and hope that one day Kosovo's independence may be overturned. This hope is also kept alive by Belgrade's diplomatic activities, above all through the case it brought at the International Court of Justice in October 2008 seeking to have the independence declaration ruled illegal. It is encouraged by the support of Russia and by five EU member states that have not recognised Kosovo.

By supporting Serbian institutions, Belgrade has sought to provide for the needs of the Kosovo Serbs in fields such as education, healthcare, welfare and infrastructure. Its aim has been to improve Serbs' prospects in Kosovo and so to encourage them to remain there, despite the many difficulties they have faced. This report examines the effectiveness and wisdom of the policy.

The picture is complicated, and varies considerably among the scattered Serb communities in different parts of the country. In four northern municipalities, adjacent to Serbia itself, the Kosovo state is barely present. In the north, Serbian parallel municipalities elected after the independence declaration function much as municipalities in Serbia. They are recognised neither by most of the international community in Kosovo nor by the Kosovo government. In the southern Serb enclaves, the picture is different. In general, the parallel municipalities function to a much more limited extent. Surrounded by Albanians, Serbs in the south have, to a greater or lesser extent, had to find ways of reaching a pragmatic accommodation with the Kosovo state.[...]

Belgrade's funding for the Kosovo Serbs serves a number of purposes: to encourage them to remain in Kosovo; to provide visible evidence of the Serbian state's continued presence; and for politicians to maintain control through patronage networks. Key services funded are healthcare, education, social welfare and local governance, as well as infrastructure investment. Most of this comes from the budget of the relevant ministries in Belgrade. Kosovo Serbs see such support as tangible evidence of the Serbian state's continuing presence and that Serbia has not abandoned them. They often assert that these services are essential to their remaining in Kosovo. They trust Serb doctors and teachers and are suspicious that Albanians want to take over "our hospitals and schools". The large majority of Kosovo Serbs, from pensioners to educated professionals, directly benefit from Belgrade's largesse. Kosovo Serbs have long been highly dependent on the Serbian state. Under communism, full employment was kept up in inefficient factories, and under Milosevic, almost all state jobs went to Serbs. That dependency has been further entrenched since 1999, ensuring that Kosovo Serbs look to Belgrade for political guidance.

**ICG, February 2009:**

The Belgrade government identified as its two greatest priorities retaining Kosovo and integration with the EU. It demonstrated its commitment to a more pro-EU path by arresting former Bosnian Serb leader and war criminal Radovan Karadzic. It also reinstated ambassadors previously withdrawn from EU states recognizing Kosovo's independence. On the other hand, Serbia continues its policy of undermining Kosovo's statehood through supporting parallel institutions, such as hospitals and schools in Kosovo Serb areas. In a new departure, Serbian local elections

in May 2008 were held also in Serb areas of Kosovo. Although UNMIK declared this to be illegal, no steps were taken to prevent it. Serbs withdrew from Kosovo institutions following anti-Serb riots in March 2004, and since 2006 Kosovo Serbs have been forbidden to accept funding or salaries from Prishtina.

**US DOS, February 2009:**

On May 11, Kosovo Serbs held elections in enclaves and in Kosovo Serb-majority municipalities to establish parallel municipal governments, and began to establish these parallel authorities in June. On April 9, UNMIK stated that organizing elections for these parallel structures was a violation of UNSC Resolution 1244. On May 14, UNMIK declared that the parallel municipal structures arising from these elections were illegitimate, and that UNMIK would not cooperate with them. The government also declared that parallel institutions to be illegal and invalid.

**OSAR, Août 2008:**

Les institutions parallèles mises en place en 1999 au nord du Kosovo sont indépendantes de Pristina. Elles sont subventionnées par les caisses de l'Etat serbe. Ces organismes implantés dans les régions habitées par des Serbes du Kosovo existent depuis la fin de la guerre. Et depuis la déclaration d'indépendance, la Serbie y a encore renforcé son influence, en particulier dans le nord et dans la ville coupée en deux de Mitrovica. Deux tiers de la population serbe vit au sud du fleuve Ibar, dans des enclaves isolées. Là aussi la vie quotidienne est réglée au rythme de Belgrade, qu'il s'agisse des écoles, des plaques minéralogiques, du système de santé ou encore des fournisseurs d'accès à la téléphonie mobile. Néanmoins, on constate que les représentants serbes dans les enclaves sont de plus en plus enclins à collaborer avec le gouvernement kosovar. Depuis les élections législatives et communales du 11 mai 2008, le gouvernement serbe tente de former unilatéralement de nouvelles communes serbes en territoire kosovar et de créer ainsi un fait accompli. Elles ne sont cependant reconnues ni par le gouvernement kosovar ni par la MINUK. Les nouveaux élus de la ligne dure ont écarté leurs prédécesseurs, provoquant ainsi des conflits, des occupations de locaux par la force et même des déplacements de population, notamment en juin 2008, à Klina et à Strpce.

Le 28 juin 2008, les Serbes du Kosovo ont créé leur propre Parlement au nord de Mitrovica, en présence du Ministre en charges des Affaires du Kosovo de l'époque, M. Samardzic. Ce Parlement se veut représentatif des vingt-six communes serbes sur territoire kosovar. Il est dominé par les membres des radicaux serbes (SRS) et du DSS, dirigé par l'ancien Premier ministre Vojislav Kostunica. Il ne compte en revanche aucun membre du parti démocrate qui forme entre-temps une coalition avec les socialistes au nouveau gouvernement de Belgrade.[...]

La position immuable du gouvernement de Belgrade et de la plupart des partis politiques serbes, qu'ils soient nationalistes ou pro-européens, est et reste que le Kosovo est une province serbe. Pendant l'ère Kostunica, toute attitude qui ressemblait de près ou de loin à un compromis était considérée comme une trahison. Le nord du pays et les enclaves serbes sont pratiquement entièrement administrés par Belgrade, ce qui signifie de facto une partition du Kosovo. Celle-ci correspond de toute façon à la réalité puisque les communes du nord ne sont pas véritablement séparées de la Serbie et en revendiquent l'appartenance."

**UN News Service, 25 July 2008:**

"Meanwhile, the Kosovo Serbs have continued to oppose cooperation with the authorities in Pristina, stressing that they will only cooperate with UNMIK, said the Special Representative. As a result of the Serbian local elections held on 11 May, new parallel municipal authorities are now operating in all Serb-majority municipalities in Kosovo. "

**ICG, 18 March 2008:**

"Serbia is implementing a sophisticated policy to undermine Kosovo statehood by strengthening parallel institutions in Kosovo Serb areas, intimidating or buying off any inclined to cooperate with Pristina. Nationalist politicians in Belgrade hope at a minimum to secure partition into Albanian

and Serbian entities, or to incite Kosovo Albanians to react violently and so do great damage to the international standing of their statebuilding project. The situation is made more complicated by Russia's continued firm support of Serbia, efforts to discourage recognitions and resistance to UNMIK downsizing.[...]

Belgrade continues to consider Kosovo part of Serbia. Prime Minister Kostunica and the DSS determine Kosovo policy at least until a new government is formed, which could be several months after the May elections, and have a clear if unvoiced desire to partition Kosovo in order to retain full control of Serb areas. Belgrade is entrenching its parallel local administrations, schools and healthcare in Serb areas, both in the north and in the scattered patchwork of enclaves south of the Ibar where the majority of Kosovo's Serbs live. The aim is to enforce loyalty and obedience in return for the state resources it provides.[...]

Belgrade's strategy appears to have two thrusts: first to beef up the parallel institutions and ultimately to gain a free hand at least in the north by preventing the EU from deploying and replacing the UN administration with a Serb administration. The end-goal is to regain international recognition of Kosovo as sovereign Serbian territory and then carry out an internal partition of that territory into Serb and Albanian entities. Nationalist politicians seem to believe that as long as Russian support is forthcoming, such a policy can succeed. They assert that the higher wages and superior organisation of the parallel institutions and additional investment from Serbia will eclipse the Kosovo institutions and bring Albanians to realise that the salaries and services they can offer are too paltry, and that independence is blocking their access to international institutions, regional cooperation and the benefits of the Serbian state, such as good passports, pensions, education and healthcare."

#### **Decentralisation: an increasing number of Kosovo Serbs south of the river Ibar engage with the Kosovo authorities (2009)**

- Many Kosovo Serbs, especially in the Northern Serb enclaves, continue to reject the authority of Kosovo institutions, placing in question the decentralisation process planned in the Athisaari plan, which foresees the creation of Kosovo Serb-majority municipalities with enhanced competencies in education, healthcare and culture.
- Although the participation of Kosovo Serbs in the decentralization process and the elections planned for mid-November remains uncertain, an increasing number of Kosovo Serbs engage pragmatically with the Kosovo authorities in order to facilitate their daily life
- Out of the 325 Kosovo Serb police officers who had stopped working after the declaration of independence, 317 returned to work by the 30 June deadline set by the authorities.
- The isolationist strategy put in place by Belgrade has limited success south of the Ibar River, where parallel Serbian municipalities operate only to a limited extent and have been unable to meet the needs of Serb communities
- However many Serbs hesitate to participate in the decentralisation process because they fear this would implicitly acknowledge Kosovo's independence

#### **UN SC; 30 September 2009:**

"The three Kosovo Serb-majority municipalities in the north continued to function with few links to the authorities in Pristina, with whom they interact rarely and almost exclusively through UNMIK. The political leadership in northern Kosovo continues to consider UNMIK and the Kosovo Force (KFOR) as the only legitimate international presence under Security Council resolution 1244 (1999), and maintains its firm non-acceptance of any institutions or symbols, real or

perceived, of the Kosovo authorities. The deployment or operations in the north of any structures affiliated with Pristina, including customs, courts and railways, continued to be met with Kosovo Serb opposition. [...]

On 16 June, the Kosovo authorities announced that municipal elections would be held on 15 November, and called on the Central Election Commission to begin the necessary preparations for their organization. The refusal of Kosovo Serbs in the north to recognize or accept the forthcoming elections will make it difficult for the Commission to organize elections there, except in the few non-Serb enclaves in the north. The Commission is prepared to hold elections in all other areas populated by Kosovo Serbs and other communities.[...]

So far, of the 76 political entities that have applied to participate in the elections, 35 are Kosovo Albanian entities, 23 Kosovo Serb, 7 Kosovo Bosniak, 4 Kosovo Turkish, 2 Kosovo Montenegrin, 2 Kosovo Ashkali and 1 entity each from the Kosovo Roma, Kosovo Egyptian and Kosovo Gorani communities.[...]

The Assembly of the Association of Serbian Municipalities unanimously approved on 28 June in Graçanicë/Graëanica the Vidovdan [Saint Vitus day] Charter, which called on all political parties in Serbia to oppose the participation of Kosovo Serbs in these elections and appealed to all Serbian institutions and the Serbian Orthodox church to boycott the elections. In July, the Government of Serbia officially declared that conditions for the participation of Kosovo Serbs in the elections did not exist and that the elections were not in line with resolution 1244 (1999).

However, the level of participation of Kosovo Serbs in the decentralization process, and in the upcoming elections, is far from certain and there is no decision yet whether elections will be held for the envisaged municipal assemblies in the five municipalities mentioned above plus in an "enlarged" Novobërdë/Novo Brdo municipality. The "Vetëvendosje" movement has launched a campaign against the establishment of the new municipalities, which may also negatively affect the support of the Kosovo Albanian population for the local governance reform process.

[...] Of the 325 Kosovo Serb police officers who had stopped reporting to their duty stations after Kosovo declared independence on 17 February 2008, 317 returned to work by the 30 June deadline set by the Kosovo authorities in coordination with EULEX."

**UN SC, 10 June 2009:**

"Although many Kosovo Serbs reject the authority of Kosovo institutions derived from the "Constitution of the Republic of Kosovo", as does the Government in Belgrade, increasing numbers continue to apply for Kosovo identity cards, driver's licences and other Kosovo documentation, and sign contracts with the Kosovo Energy Corporation in order to facilitate their daily lives in Kosovo.(...)

The reluctance of the Kosovo Serbs to engage with the Kosovo authorities continues to place in question the creation of the new Kosovo Serb-majority municipalities planned by the Kosovo authorities. In March 2009, the Kosovo authorities initiated a process of establishing municipal preparatory teams that would carry out preliminary work on the creation of new municipalities and opened job vacancies for these bodies. Some Kosovo Serbs have expressed interest in applying for the jobs, primarily attracted by the salaries which are three times higher than the average salary in the Kosovo civil service. In the light of the upcoming municipal elections, the Kosovo authorities intensified their exhortations to Kosovo

Serbs to take part in the decentralization process."

**ICG, 12 May 2009:**

"More than a year after Kosovo declared independence, integration of its Serb minority remains a key challenge. For Belgrade, isolating Serbs from Kosovo institutions is a main plank in its policy of undermining the independence of its former province. A further crucial goal is to stem the Serb exodus, by providing for their needs there. Belgrade has devoted significant resources to this end, but with only limited success, especially south of the Ibar River, where the majority of Kosovo Serbs live. Parallel Serbian municipalities there operate only to a limited extent and have largely been unable to meet the needs of Serb communities. The Kosovo government and international bodies are pressing ahead with decentralisation as the best way to engage Serbs in the institutions of the new state and persuade them they have a future in it. They need to show sensitivity towards Serb concerns.(...)

Contrary to Belgrade's boycott calls, Serbs have in increasing numbers found ways of engaging pragmatically with Kosovo institutions, relying on them for services, applying for Kosovo official documents and accepting Kosovo (as well as Serbian) salaries. Belgrade's policy of opposing all engagement has proved unrealistic for Serbs in the south, who, living among Albanians, have found there is no choice but to deal with the society around them.(...)

The planned decentralisation offers the best way to integrate Serbs in Kosovo, while enabling them to retain cherished links with Serbia. According to the blueprint laid out in the Ahtisaari plan, new Serb-majority municipalities should be created, with enhanced competencies in education, healthcare and culture. Belgrade would continue to provide technical and financial support to the Kosovo Serbs, but this should be transparent and coordinated with the Kosovo authorities. The Serbian government should not hinder decentralisation and should, at least tacitly, encourage Kosovo Serbs to engage in the process.

There is considerable Serb interest in decentralisation, especially south of the Ibar. However, many hesitate to participate in a process they fear would implicitly acknowledge Kosovo's independence. Belgrade's stance is critical, as most Serbs would be reluctant to take part in the face of its opposition. It is unrealistic to demand that decentralisation be neutral regarding Kosovo's status, as Belgrade would wish. Pristina's Ministry of Local Government Administration (MLGA) will have to be involved. But there is scope for meeting Serb concerns, while playing down the status issue.

The picture is complicated, and varies considerably among the scattered Serb communities in different parts of the country. In four northern municipalities, adjacent to Serbia itself, the Kosovo state is barely present. In the north, Serbian parallel municipalities elected after the independence declaration function much as municipalities in Serbia. They are recognised neither by most of the international community in Kosovo nor by the Kosovo government. In the southern Serb enclaves, the picture is different. In general, the parallel municipalities function to a much more limited extent. Surrounded by Albanians, Serbs in the south have, to a greater or lesser extent, had to find ways of reaching a pragmatic accommodation with the Kosovostate. Many have hedged their bets. Officials often accept salaries from both Belgrade and Prishtina/Pristina."

**UN SC. 17 March 2009:**

"In line with Belgrade's official policy, many Kosovo Serbs continue to reject the authority of Kosovo institutions derived from the "Constitution of the Republic of Kosovo", although increasing numbers are applying for Kosovo identity cards, driver's licences and other Kosovo documentation that facilitates their ability to



live, work and move about freely in Kosovo. In the north, four municipal structures in Kosovo Serb-majority areas continue to function on the basis of Serbia's law on local self-governance. However, those northern municipalities have not objected to UNMIK's good offices in providing a link to Pristina and to municipal authorities in the southern part of Mitrovicë/Mitrovica. It is expected that municipal elections will be held in Kosovo towards the end of 2009. (...)

The reluctance of the Kosovo Serb community to participate in the implementation of the new framework on local governance adopted by the Kosovo authorities continues to hinder the creation of Kosovo Serb-majority municipalities and progress in decentralization throughout Kosovo. At this stage, the number of Kosovo Serb civil servants on the municipal payrolls remains low in most cases, despite variations by sector. The exceptions are in the three northern municipalities, where all local officials and almost all civil servants are from the Kosovo Serb community."

*For more information see, ICG, 15 October 2009: Kosovo, Strpce, a Model Serb Enclave?*

## **Causes of displacement**

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### **Displacement before and during NATO intervention (1998-1999)**

- Violence during 1998 forced about 350,000 persons to internal displacement, including 180,000 Kosovo Albanians
- Only 100,000 internally displaced returned following the signature of the October 1998 Holbrooke-Milosevic agreement (as of end 1998)
- Human rights reports between October 1998 and June 1999 show a pattern of organized and systematic human rights violations perpetrated by Yugoslav and Serb forces against the Kosovo Albanian population
- Violations of human rights and humanitarian law include: summary and arbitrary killing of civilians, arbitrary arrests and detentions, torture, rape and other forms of sexual violence, forced expulsion, extortion, destruction of properties and looting
- Between March and June 1999, several hundred thousand Kosovo Albanians were displaced within the province by the conflict while 863,000 Kosovo Albanian were expelled from the province

#### Displacement in 1998

##### **USCR, 1999, p. 247:**

"In late February and early March 1998, a wave of violence swept through Kosovo [...]. The early spring violence caused about 44,000 persons to flee their homes, including about 20,000 ethnic Albanians from the Drenica area, which bore the brunt of a Serb police crack down. Fighting and displacement continued to ebb and flow throughout the year."

##### **USCR, 1999, p. 247:**

"Although the numbers changed rapidly during [1998], and estimates varied widely, UNHCR estimated that some 257,000 people were displaced within Yugoslavia at the end of 1998, of whom 180,000, almost entirely ethnic Albanians, were displaced within Kosovo, 50,000, predominantly ethnic Serbs from Kosovo, were displaced into Serbia, and 27,000, both ethnic Serb and Albanian, were internally displaced from Kosovo into Montenegro. The year-end figure

for internal displacement reflected the return of more than 100,000 internally displaced people after the signing of the October 13 agreement between U.S. Special Envoy Richard Holbrooke and Federal Republic of Yugoslavia (FRY) President Slobodan Milosevic and the cease-fire that shakily held through year's end."

Causes of displacement between October 1998 and June 1999 as identified by the OSCE Kosovo Verification Mission (OSCE-KVM)

**OSCE 1999, "Executive Summary":**

"The OSCE-KVM's findings are presented by the OSCE/ODIHR from three perspectives. Approaching this data from any of these perspectives, the analysis reveals clear patterns and strategies of human rights violations.

The first perspective is an analysis of the nature of the human rights and humanitarian law violations that were committed in Kosovo. This reveals that:

Summary and arbitrary killing of civilian non-combatants occurred at the hands of both parties to the conflict in the period up to 20 March. On the part of the Yugoslav and Serbian forces, their intent to apply mass killing as an instrument of terror, coercion or punishment against Kosovo Albanians was already in evidence in 1998, and was shockingly demonstrated by incidents in January 1999 (including the Racak mass killing) and beyond. Arbitrary killing of civilians was both a tactic in the campaign to expel Kosovo Albanians, and an objective in itself.

Arbitrary arrest and detention, and the violation of the right to a fair trial, became increasingly the tools of the law enforcement agencies in the suppression of Kosovo Albanian civil and political rights, and - accompanied by torture and ill-treatment - were applied as a means to intimidate the entire Kosovo Albanian society.

Rape and other forms of sexual violence were applied sometimes as a weapon of war.

Forced expulsion carried out by Yugoslav and Serbian forces took place on a massive scale, with evident strategic planning and in clear violation of the laws and customs of war. It was often accompanied by deliberate destruction of property, and looting. Opportunities for extortion of money were a prime motivator for Yugoslav and Serbian perpetrators of human rights and humanitarian law violations.

The second perspective is to look at the specific and different ways in which communities and groups in Kosovo society experienced human rights violations during the conflict. Findings include:

There was a specific focus - for killings, arbitrary detention and torture - on young Kosovo Albanian men of fighting age, every one of them apparently perceived as a potential "terrorist".

Women were placed in positions of great vulnerability, and were specific objects of violence targeting their gender.

There is chilling evidence of the murderous targeting of children, with the aim of terrorizing and punishing adults and communities.

The Kosovo Serb community were victims of humanitarian law violations committed by the UCK, especially in the matter of the many Serbs missing following abduction. However, many Serb civilians were active participants in human rights violations, alongside the military and security forces, against the Kosovo Albanians. Other national communities and minorities also had specific experiences of the conflict.

Prominent, educated, wealthy or politically or socially active Kosovo Albanians were a prime target to be killed. Local staff of the OSCE-KVM, and other people associated with the mission were harassed or forcibly expelled, and some were killed, after 20 March.

The third perspective is a geographical human rights 'map' of Kosovo. Proceeding municipality by municipality, the report presents descriptions of events in hundreds of communities across Kosovo. In some cases the descriptions are of events on a single day or within a short time

period, and reveal how the most characteristic human rights violations of the entire reporting period - forced expulsion, inevitably accompanied by deliberate property destruction, and often by killings or other violence, or extortion - could be visited on a community with little or no advance indication, with great speed, and with great thoroughness. Such experiences were replicated in rural areas all across Kosovo, and would be repeated if villagers attempted to return to their homes. In other locations, particularly the towns, communities of Kosovo Albanian civilians experienced an onslaught over many days or weeks combining arbitrary violence and abuse with an overall approach that appeared highly organized and systematic. Everywhere, the attacks on communities appear to have been dictated by strategy, not by breakdown in command and control.

[...]

The scale on which human rights violations recur is staggering. It has been estimated that over 90 per cent of the Kosovo Albanian population - over 1.45 million people - were displaced by the conflict by 9 June 1999. The death toll as yet can only be guessed at, but the prevalence of confirmed reports and witness statements about individual and group killings in this report is indicative. The violence meted out to people, as recounted vividly, particularly in the statements of refugees, was extreme and appalling. The accounts of refugees also give compelling examples of the organized and systematic nature of what was being perpetrated by Yugoslav and Serbian forces, and their tolerance for and collusion in acts of extreme lawlessness by paramilitaries and armed civilians."

**OSCE 1999, chapter 14:**

Scope of displacement between March and June 1999

"Between March and June 1999 forces of the FRY and Serbia forcibly expelled some 863,000 Kosovo Albanians from Kosovo. Of these, 783,000 - the vast majority - stayed in the region - in Albania, the former Yugoslav Republic of Macedonia, Montenegro (FRY) or Bosnia-Herzegovina. More detailed figures are given in the table. As of 9 June 80,000 refugees were evacuated to 40 other countries participating in a Humanitarian Evacuation Programme (HEP), organized by the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM).

In addition, several hundred thousand other Kosovo Albanians were displaced within Kosovo and remained in the province throughout the conflict. [...] Figures for the numbers of internally displaced are less reliable than those for refugees, but it is clear from refugee accounts that many convoys and groups of IDPs, often numbering several tens of thousands, were on the move throughout the conflict. The UCK gave a figure of 650,000 internally displaced hiding in the hills and 100,000 missing, but it now appears that these figures may have been exaggerated. The UNHCR estimated that as of 13 May 1999 there were 590,000 IDPs in Kosovo, although the lack of international personnel on the ground makes these figures difficult to verify."

***See also International Crisis group report [Reality Demands, Documenting Violations of International Humanitarian Law in Kosovo 1999, 2000 \[Internet\]](#)***

**Massive return of Kosovo Albanians since end of NATO intervention (from June 1999)**

- By the end of June 1999, some 500,000 displaced had returned, sometimes at a daily rate of 50,000
- By mid- November 1999, 810,000 Kosovo refugees had returned but 350,000 cannot return to their inhabitable homes

**USCR, 2000, pp. 289-290:**

"The Military Technical Agreement signed on June 9 between KFOR (a NATO-led international force) and the Yugoslav government ended open military conflict in Kosovo. Serbian forces agreed to withdraw immediately. Some 45,000 KFOR troops entered the province on June 12. UN Security Council Resolution 1244 established the UN Mission in Kosovo (UNMIK) to administer and help rebuild Kosovo. UNHCR, the OSCE, and the European Union became responsible for, respectively, humanitarian affairs, institution building, and reconstruction.

The vast majority of ethnic Albanians who had fled internally or abroad returned to their places of origin within weeks, despite warnings that their safety could not yet be guaranteed. By the end of June, some 500,000 people had returned, sometimes as many as 50,000 per day. By mid-November, 810,000 Kosovo refugees had returned, including about 60 percent of the UNHCR evacuees to third countries. However, because some 100,000 homes remained uninhabitable, many returnees became displaced within the province. About 350,000 returnees remained displaced at year's end."

### **Large scale displacement of ethnic minorities following the NATO intervention (1999)**

- Desire for revenge among the Kosovo Albanian population against those who are believed to have actively or tacitly collaborated with the Yugoslav and Serbian security forces
- Climate conducive to human rights violations against the Kosovo Serbs, the Roma and the Muslim Slavs, forcing them into continuous exodus
- Many flee to Serbia and Montenegro or towards mono-ethnic enclaves in the province
- Violence against ethnic minorities include: killings, rape, beatings, torture, house-burning and abductions, or threats thereof, as well as denied access to public services, healthcare, education and employment
- During the first half of 2000, members of minority communities continued to be victims of intimidation, assaults and threats throughout Kosovo during first half of 2000

#### Findings of the OSCE Kosovo Verification Mission (KVM)(June 1998 - October 1999)

##### **OSCE, 1999, Part II, Executive Summary:**

"[In the period between June and October 1999] no community has escaped breaches of human rights, including the Kosovo Albanians. Particularly in the Kosovska Mitrovica/Mitrovice area, their freedom of movement and rights of access to education and healthcare have been violated. The [OSCE KVM] report testifies to this and does not minimise the effect on the individuals concerned. However, the overwhelming weight of evidence points to violations against non-Albanians.

One discernible leitmotif emerges from [OSCE KVM] report. Revenge. Throughout the regions the desire for revenge has created a climate in which the vast majority of human rights violations have taken place. Through the assailant's eyes, the victims had either participated, or were believed to have participated, in the large-scale human rights abuses [between October 1998 and June 1999]; or they were believed to have actively or tacitly collaborated with the Yugoslav and Serbian security forces. Within this climate of vindictiveness a third category of victims emerged: those individuals or groups who were persecuted simply because they had not been seen to suffer before.

[...]

The first, obvious, group that suffered revenge attacks are the Kosovo Serbs. Despite the generally accepted premise that many of those who had actively participated in criminal acts left along with the withdrawing Yugoslav and Serbian security forces, the assumption of collective guilt prevailed. The entire remaining Kosovo Serb population was seen as a target for Kosovo

Albanians. The [OSCE KVM] report repeatedly catalogues incidents throughout the area where vulnerable, elderly Kosovo Serbs have been the victims of violence. The result of this has been a continuous exodus of Kosovo Serbs to Serbia and Montenegro and an inevitable internal displacement towards mono-ethnic enclaves, adding fuel to Serb calls for cantonisation.

Other particular victims of violence documented in the [OSCE KVM] report are the Roma and Muslim Slavs. Many Kosovo Albanians labeled the Roma as collaborators: accused of carrying out the dirty work, such as disposing of bodies, they were tainted by association with the regime in Belgrade. The [OSCE KVM] report documents the decimation of the Roma community in many parts of Kosovo/Kosova, driven from their homes in fear of their lives. The Muslim Slav community, largely concentrated in the west of Kosovo/Kosova, may share the same faith as the Kosovo Albanians, but they are separated by language. To be a Serbo-Croat speaker in Kosovo/Kosova is to be a suspect and can be enough in itself to incite violence. Other non-Albanians that feature in the report as victims of human rights violations include the Turks and Croats.

A disturbing theme that the [OSCE KVM] report uncovers is the intolerance, unknown before, that has emerged within the Kosovo Albanian community. Rights of Kosovo Albanians to freedom of association, expression, thought and religion have all been challenged by other Kosovo Albanians. The [OSCE KVM] report reveals that opposition to the new order, particularly the (former) UCK's dominance of the self-styled municipal administrations, or simply a perceived lack of commitment to the UCK cause has led to intimidation and harassment. A further aspect of inter-Kosovo Albanian intolerance has been the challenges made in the Pec/Peje area to the rights of Catholic Albanians to express their religion.

Violence has taken many forms: killings, rape, beatings, torture, house-burning and abductions. Not all violence has been physical, however, fear and terror tactics have been used as weapons of revenge. Sustained aggression, even without physical injury, exerts extreme pressure, leaving people not only unable to move outside their home, but unable to live peacefully within their home. In many instances, fear has generated silence, in turn allowing the climate of impunity to go unchecked. The [OSCE KVM] report shows that not only have communities been driven from their homes, but also that the current climate is not conducive to returns. As a result, the spiral of violence has driven a wedge between Kosovo/Kosova's communities, making ever more elusive the international community's envisioned goal of ethnic co-existence.

The [OSCE KVM] report highlights that although many incidents were disparate, individual acts of revenge, others have assumed a more systematic pattern and appear to have been organised. The evidence in part points to a careful targeting of victims and an underlying intention to expel. This leads to one of the more sensitive areas of the report, namely the extent of UCK involvement in the period from June to October 1999. A consistent reporting feature has been assumed UCK presence and control. The [OSCE KVM] report is littered with witness statements testifying to UCK involvement, both before and after the demilitarisation deadline of 19th September ranging from reports of UCK 'police' to more recent accusations of intimidation by self-proclaimed members of the provisional Kosovo Protection Corps (TMK). It is clear that the UCK stepped in to fill a law and order void, but this 'policing' role is unrestrained by law and without legitimacy. The highest levels of the former UCK leadership and current provisional TMK hierarchy have openly distanced themselves from any connection of their members to the violence that has taken place. They highlight the ease with which criminal elements who were never part of the UCK are now exploiting the UCK umbrella for their own nefarious purposes. Close scrutiny by the international community is needed to prove, or disprove, the veracity of these claims.

The [OSCE KVM] report also highlights many instances of other human rights violations, such as denied access to public services, healthcare, education and employment which have also been used as a tool by both the Kosovo Albanians and the Kosovo Serbs to prevent the integration of

traditionally mixed institutions. Restricted access to education, with its long-term implications for the life-chances of those affected; poor healthcare; limited employment opportunities – these are the emerging elements that lock segments of the population into a cycle of poverty and divide communities both on ethnic and on economic grounds. They constitute violations of civil, political, economic, social and cultural rights."

### **Ethnic Albanians forced to leave Serb enclaves in Kosovo (2000-2002)**

- Violence and intimidation by Kosovo Serbs in their enclaves, in particular northern Mitrovica, led to the departure of Kosovo Albanian families from June 1999
- Since March 2001, there has no significant departure of ethnic Albanians but the situation for those still in northern Mitrovica remains precarious
- Ethnic Serbs violently oppose return of ethnic Albanians in the municipality of Strpce (January 2002)

### **U.S. DOS February 2001, Kosovo, sect. 5:**

"Serbs and Roma who did not leave when Yugoslav forces withdrew lived primarily in enclaves, except for the Serbs in the north of the province, where Serbs and Albanians effectively partitioned Mitrovica. Serbs lived largely in the northern Kosovo municipalities of Leposavic, Zubin Potok, and Zvecan, and in the northern part of Mitrovica, and in scattered enclaves under KFOR protection elsewhere. KFOR and UNMIK provided security to these enclaves, settlements, and camps, and escorted minority members who left their residence areas as well as convoys of private Serb vehicles. The UNHCR provided buses to transport Serbs in larger numbers between enclaves and into Serbia to take care of personal business.

In Mitrovica Serb and Albanian Kosovars restricted each other's freedom of movement (see Section 2.d.). After Serbian forces withdrew in 1999, many ethnic Serbs from throughout Kosovo fled to Mitrovica and occupied homes, including those belonging to ethnic Albanians in the northern part of that town. Ethnic Albanians who sought to return to their homes in the north were subject to violence and intimidation by ethnic Serbs, and about 1,500 who live in the northern section of town reported repeated harassment. For example, in April a group of Serbs set fire to 3 Albanian homes and damaged over 20 U.N. vehicles in north Mitrovica. Ethnic Serbs stationed near the bridges monitored persons who crossed the Ibar River from southern Mitrovica into the northern part of the town. Serbs in the northern part of the city continued to seize Albanian property, resulting in over 60 reported illegal house occupations during the summer months. At the same time, ethnic Serbs, including some who owned property there, were unable to move freely in the southern part of the town without similar harassment from ethnic Albanians."

### **UN SC, 18 September 2000, para. 34:**

"Repeated violent flare-ups in Mitrovica have provoked renewed ethnic tension and have led to additional departures of Kosovo Albanian families from the northern side of the city. In July alone, more than 20 ethnic Albanian families from northern Mitrovica registered for assistance with UNHCR on the southern side of the city. Some families have reported being verbally or physically threatened, having their homes attacked or entered by force, receiving phone calls warning them to leave, or being summarily "evicted" from their homes. This renewed displacement appears to have been sparked by fear of reprisals following the arrest by UNMIK police of a Kosovo Serb suspected of arson, theft and assault in the northern part of the city. Displaced Kosovo Albanians have been accommodated either with host families or in a temporary transit centre. UNHCR has daily contact with many ethnic Albanian families still in northern Mitrovica and continues to monitor the situation closely."

### **OSCE, 25 September 2000:**

"[W]ithout clear orders from legal authorities to evict people, the law enforcement agencies (primarily KFOR and UNMIK Police) are unable to carry out lawful evictions. Again, there appears to be no general policy on how to address eviction issues: with local police drawing up their own policies in this area, practice varies greatly. The lack of clear and consistent policies is demonstrated most clearly by the continuing eviction of minorities (including Kosovo Albanians) from north Mitrovica. While the law enforcement authorities in July 2000 announced a co-ordinated policy for evicting recent occupants, this does not appear to have been widely or uniformly applied, and the evictions and illegal occupations have continued."

***For more information on situation in Mitrovica, see "Yugoslavia: Violence in Mitrovica shows ethnic tension still high in Kosovo", 31 January 2001 [Internet]***

**UNHCR/OSCE, May 2002, paras. 228-230:**

"In **Mitrovicë/Mitrovica north** a number of Kosovo Albanians live in isolated apartments in communities where the population is mainly elderly and live in adverse socio-economic conditions dependent on the support of humanitarian organisations. Security is precarious and freedom of movement very limited. For example on 12 January 2002, a hand grenade was thrown at a house belonging to a Kosovo Albanian in the Bosniak Mahala area and in another incident in Mitrovicë/Mitrovica north on 26 March 2002, Kosovo Serbs assaulted a Kosovo Albanian man after he crossed the bridge into the northern part of the city. On December 16 2001, during Ramadan, KFOR and UNMIK Special Police Units had to provide security to ensure that about 150 Kosovo Albanians could travel to the northern part of Mitrovicë/Mitrovica to visit a Muslim cemetery located in a predominantly Kosovo Serb area. Other attempts for displaced Albanians to visit their homes have been effectively obstructed by the Serb population, through roadblocks and protests with strong undercurrents of potential violence, in expression of clear opposition of any Albanian movement perceived as related to attempts to return.

There has been no significant new flight of Kosovo Albanians from the north since March 2001, but the situation of those few Albanian families who still live in northern urban Mitrovicë/Mitrovica remained extremely precarious. The violent upsurge of 8 April 2002 in particular raised the pressure on Albanian minorities considerably. In such a fundamentally unstable and volatile environment, intimidation of non-Serb minorities can intensify very rapidly, with potential for more serious attacks.

In another example, on 22 January 2002, 13 Kosovo Albanian Štrpce/Shtërpçë Municipal Assembly members entered **Štrpce/Shtërpçë** town to assume their duties. However, this was perceived as a provocation by some elements in the Kosovo Serb community who organised a demonstration against their presence. The protest culminated in the blocking of the main access road to the Municipal Assembly Building and the Kosovo Albanian Municipal Assembly members seeking sanctuary from a mob at the Štrpce/Shtërpçë police station. In response, an estimated 150 Kosovo Albanians counter-demonstrated and blocked the main road into the town. To diffuse the situation KFOR and UNMIK police escorted the Kosovo Albanians out of Štrpce/Shtërpçë. The situation was such that the authorities felt compelled to apply stringent freedom of movement restrictions and a stand-off ensued that lasted for several days and led to the suspension of the bus line which runs through Štrpce/Shtërpçë to Zhupa Valley (Prizren) and transports minorities. Such a prohibitive security environment has stymied the prospects of return of displaced Albanians in many locations in the municipality. However, sustained pressure mostly by KFOR has resulted in opening up of access to the municipal building for Kosovo Albanian officials most recently."

**Refugees returning to Kosovo face risk of internal displacement (2000-2002)**

- Since 1999, more than 900,000 refugees have returned to Kosovo, most ethnic Albanians
- Limited absorption capacity in the province may have forced several returnees to find alternative accommodation
- Minorities returning from Macedonia also risk remaining internally displaced in Kosovo or Serbia

**USCR, 2002, p. 258:**

"Ethnic Albanian Kosovar Return After KFOR deployed to Kosovo in June 1999, a majority of ethnic Albanians who had fled abroad returned to their places of origin within weeks. By the end of 1999, about 780,000 Albanian Kosovars had repatriated. During 2000, another 101,000 Kosovars repatriated. In 2001, the number of repatriating Kosovars fell to about 19,500. Since voluntary returns to Kosovo began in 1999, more than 900,000 refugees have returned to Kosovo, including 430,000 from Albania, 224,000 from Macedonia, 90,000 from Germany, 44,000 from Switzerland, and 34,000 from Turkey. UNHCR assisted in about 207,000 returns.

Host countries also deported 8,053 Kosovars during 2001, including 4,501 deported from Germany and 1,334 from Switzerland.

An estimated 98,000 homes destroyed or damaged in 1999 remained uninhabitable in 2001. Assuming an average family size of six per household, this would mean that as many as 600,000 could still be displaced from their original homes. This rough estimate would be qualified by the possibility that some uprooted persons may have found other durable solutions and others could remain displaced because of fear of persecution but have intact homes."

**COE, 16 October 2002, para. 216:**

"Presently, there is a tendency in the host states to make Kosovars return to Kosovo or to other places in the FRY. Some countries, like Switzerland for example, offer financial incentives to returnees. Others return forcibly. From January to June this year, Germany has forcibly returned 1,785 individuals, the UK 648, Switzerland 425, Norway 266, Slovenia 247, Belgium 103, etc.; the total of '*forced returns to Pristina*' registered by UNMIK Border Police for that period of time is 3737 persons. The Norwegian Refugee Council returnee monitoring team has stated that '*79 individual cases of minority returns were recorded of which 11 were reported as having been forcibly repatriated to Kosovo*' from January to August 2002."

**HIWG, 1 September 2000, para. 23:**

"Despite the limited absorption capacity and the shattered infrastructure in Kosovo, with few exceptions those who have returned this year have managed to find accommodation, if not in their original homes, with friends and relatives. Given the large number of returns since June 1999, however, shelter possibilities are now largely exhausted. UNHCR continues to advocate that countries of asylum should give preference to voluntary returns and to supporting the funding of community-based reconstruction efforts in Kosovo. As winter once again approaches, it is recommended that forced returns should be avoided to the extent possible and should take place only after due consideration has been given to existing individual vulnerabilities. UNHCR further recommends that persons who are known to lack accommodation upon arrival should not be returned during the winter months."

**COE, 23 April 2001, para. 19:**

"The housing issue is far from being resolved. With about 120,000 houses damaged or destroyed during the war, about 83,000 are still in need of renovation or reconstruction. Kosovo has a capacity of constructing approximately 7,000 housing units per year, but no more. The newly installed Housing and Property Directorate does not have the financial means to cope with a large amount of problems, ranging from reconstruction, allocation of houses and reconstruction



material to the liberation of illegal occupied houses and apartments. In April 2001, approximately 3.500 persons still lived in temporary community shelters."

**UNHCR/OSCE, May 2002, paras. 166-167:**

"While it is clear that Kosovo's **Ashkaelia and Egyptian** populations in particular enjoyed more advances in their general situation as compared to Kosovo Serbs and Roma, the return trends do not point to having yet reached the critical turning point vis-à-vis conditions for sustainable return for Albanian-speaking ethnic minorities. Very few spontaneous returns were noted during the year 2001 and during the reporting period. Return of Roma, Ashkaelia and Egyptians was largely limited to UNHCR-facilitated movements from fYROM, which continued with very low numbers, with 327 RAE refugees returning during 2001 to Kosovo. It should be noted that these returns took place mostly to six municipalities only, and that the majority (70%) of the total returns to Kosovo during the year took place during the period April-July, coinciding with the most critical periods of internal armed conflict in fYROM. 'Push factors' rather than significant qualitative improvements in conditions in Kosovo can be considered a compelling factor motivating many returns during this period. This is demonstrated by the fact that during the year, 780 Roma, Ashkaelia and Egyptian refugees in fYROM opted for return to internal displacement in Serbia proper. Thus, approximately 70% of the total number of Kosovar RAE refugees who left fYROM in 2001 actually re-located to Serbia into internal displacement, despite very difficult material conditions there, rather than returning to Kosovo under prevailing circumstances.[108]

At the same time, there were some areas with significant **Roma, Ashkaelia and Egyptian** populations, who did indeed experience notable advances in security and freedom of movement within their municipalities and regions, yet these improvements did not produce significant increases in spontaneous return. Often, one key obstacle to return could be found in the unsustainable living conditions in the potential locations for return, while another key obstacle remained the lack of significant enough Kosovo-wide improvements in security and freedom of movement as well as lack of reconstruction assistance. To cite an example, the Albanian-speaking Egyptian communities of western Kosovo enjoyed a gradual but significant reduction of insecurity, steady improvements of freedom of movement, and increased dialogue and interaction with the majority Albanian community, yet this region did not receive significant numbers of new returns. This can be partially attributed to the fact that material conditions (particularly reconstruction and income generation opportunities) were not widely available, and existing Egyptian communities had exhausted their absorption capacity given already over-burdened host family arrangements.[109] During the period there was a growing realisation within the international community that, without creating material conditions for the return of IDPs within Kosovo through reconstruction and other reintegration assistance, and the ability to reclaim their homes, existing communities will remain too fragile to generate any pull factors for further refugee and IDP return from outside of Kosovo. At the same time, the lack of return of RAE to some communities was not only a function of poor material conditions, but also often continued to be a matter of security and uncertain inter-ethnic relations. While many existing RAE communities enjoyed improvements in relations with Albanian neighbours, in some locations the majority population continued to express their opposition to return. In some cases, this opposition seemed clearly motivated by majority interests (e.g. occupation of RAE houses or land usurpation), where the return of IDPs of RAE communities would clearly threaten the status quo, creating a risk to returnees' safety. It therefore cannot be said that obstacles to return for RAE are only of a material nature."

[Footnote 108: Many of those RAE refugees who returned to internal displacement in Serbia are from municipalities in Kosovo, for example Suharekë/Suva Reka, where security conditions and the social environment are not conducive to return. ]

[Footnote 109: For example, in four municipalities of western Kosovo, over 200 RAE families live in internal displacement in host family arrangements, unable to return to their own neighbourhoods and damaged or destroyed homes. A significant number of these families had

previously returned from Montenegro into internal displacement in Kosovo since their own communities remained uninhabited or still destroyed.]

### **Forced displacement also affects other minority groups in Kosovo (2001-2002)**

- Roma, Ashkaelia and Egyptian communities are confined to enclaves, often living in collective centres or camps
- Lack of reconstruction aid have forced Roma IDPs to live temporarily with host families
- Ethnic Bosniacs also face serious limitations to their freedom of movement
- The Gorani community experiences discriminatory practices and harassment even more intensely than Bosniacs

#### **UNHCR/OSCE, May 2002, paras. 207-209:**

"Like most minorities, Roma, Ashkaelia and Egyptian [RAE] communities also have to face **limits to their freedom of movement** (to a greater or lesser extent which varies by community), which adversely affects their ability to exercise social and economic rights especially with regard to full access to employment opportunities, education, health, social services and utilities. The situation is especially difficult as historically the RAE have relied on freedom of movement to earn a livelihood, making confinement to enclave like locations, collective centres or 'IDP camps' such as those situated in Plemetin/Plemetina, Mitrovicë/Mitrovica, Zhitkoc/Zitkovac and Leposavië/Leposaviq particularly oppressive. The fact that hundreds of Roma, Ashkaelia and Egyptians continue to live in IDP camp situations, most of them unable to return to their own municipalities, points to the fact that insecurity is still a serious problem for RAE who originate from many municipalities in Kosovo. Outside these enclave locations RAE communities in specific municipalities enjoy varying levels of improvement to their situation. In the five municipalities of the Pejë/Peæ region, Roma have experienced modest but steady improvements in security and freedom of movement. However, there are substantial differences between the situation of Roma who speak Albanian and those who can only speak Serb, especially with regard to security and access to education, services and employment opportunities, with the latter facing more serious constraints.

The Ashkaelia population seems to have experienced significant improvements in their security situation in the Ferizaj/Uroševac area, but this is not the case with Ashkaelia in the neighbouring municipality of Viti/Vitina where they continue to suffer harassment and intimidation. The distance separating the two municipalities is not vast. At the same time within Ferizaj/Uroševac the security situation of the Roma is precarious in comparison to the Ashkaelia. Similarly, in the Gjilan/Gnjilane area it has been reported that a number of Roma can move around the town while others cannot. Such variations make it very difficult to generalise.

In this context it is important to note that RAE communities in Kosovo are **hosting substantial numbers of IDPs** who have been displaced from their own neighbourhoods/villages. In Pejë/Peæ region, for example, most Roma and Egyptian IDPs live with host families, or under temporary shelter due to the fact that their own houses are damaged or destroyed (categories 4 or 5). Furthermore, the majority of these families meet UNHCR extremely vulnerable individual (EVI) criteria. The situation for the Roma and Egyptian communities in the Pejë/Peæ region is difficult, with IDPs returning into secondary displacement to live with host families who themselves live in very difficult conditions. The principal obstacle to return to their place of origin in dignity has been the inadequate level of reconstruction assistance."

#### **UNHCR/OSCE May 2002, para. 217:**

"[...] the fair assessment on the situation of Bosniaks is that the progress on security conditions does not assure reasonable safety for the community, as the root causes of fear, restrictions in the full exercise of freedom of movement and impediments to access social and economic rights continue to prevail as there has not yet been a fundamental change in Kosovo in terms of law and order, inter-ethnic integration, mutual understanding and tolerance. As a result, many minorities, Bosniaks included, feel compelled to go into exile primarily in the former Yugoslavia, mainly Bosnia and Herzegovina or the Sandzak. Some have gone to asylum countries further afield. Indeed, many have fallen victim to human smugglers who charge exorbitant fees to facilitate travel to locations outside the region. Indeed, in some areas in Prizren and Pejë/Peæ such as Nebregoshte, Grncare and Nove Selo a significant portion of the population has left. **Displacement is still an ongoing occurrence** in Kosovo even in those regions, such as Prizren and Pejë/Peæ where Bosniaks appear to have stable conditions. Returns have not been sustainable. In fact, an increase in the number of Bosniaks forcibly returned in the current environment is neither safe nor sustainable and may actually de-stabilise the fragile and delicate coping strategies, thus leading to the re-emergence of serious security incidents for the community."

**UNHCR/OSCE, May 2002, paras. 218-220:**

**"The situation of Kosovo Gorani is similar to that faced by the Bosniaks.** The majority of the Gorani inhabit a clearly defined geographical area, Goran/Dragash. Kosovo Gorani are also to be found in small groups in Prishtinë/Priština and Mitrovicë/Mitrovica (in Kodra Minatoreve/Micronaselje and Bosniak Mahala). The community experiences discriminatory practices and harassment more intensely than Bosniaks, due to the perception by some sectors in the majority population that it maintains close links with the Serb community and shares the same creed. Indeed, most Gorani have friends, relatives and business contacts in Serbia and Montenegro, which are maintained through regular cross boundary travel. To facilitate commercial and social contacts, persons with these links usually retain motor vehicles with FRY registration plates. During the reporting period, the possession of these license plates became an issue of concern and demonstrated the kind of harassment that Gorani sometimes face as a minority.

[...]

As a result the community continues to experience **a crisis of confidence with regard to its future viability** in Kosovo, as its members have limited freedom of movement outside the enclave like locations where they live. In addition, they face discrimination in accessing economic opportunities and social services on account of their ethnic background and the associated issue of the language limitations which make it difficult for them to easily communicate with the majority population. These factors have compelled many Gorani to leave Kosovo."

**March 2004: ethnic violence leads to a new wave of displacement (2004)**

- March 2004 ethnic violence spread throughout Kosovo within 3 days displacing all minorities
- Violence targeted minorities who had never left as well as some returnees
- 4100 persons were displaced during the violence
- Kosovo Serbs were the most targeted and represent 82% of the newly displaced
- Law enforcement authorities and political leadership did not manage to stop the violence
- Deliberate targeting of Kosovo Serbs sent strong message of denial of right to return
- Violence halted return of minorities and prompted new departures
- RAE communities also suffered serious incidents leading to their displacement

**UNHCR, 1 June 2004:**

“A series of severe security incidents commencing on 15 March 2004 sparked the Kosovo-wide inter-ethnic violence and civil unrest. The first identifiable incident in this cycle of violence involved the serious wounding of a 19 year old Kosovo Serb, in a drive-by shooting, on 15 March in the village of Caglavica/Cagllavice, Prishtine/Pristina municipality. This shooting should also be placed in a context where a few weeks before, two Kosovo Serbs were killed in similar circumstances in Lipjan/Lipljan, the neighbouring municipality [...]. On 16 March 2004, the above provoked violent protests by ethnic Serbs who threw stones at KFOR troops and at UN police and who then proceeded to block the main road connecting Prishtine/Pristina to FYR Macedonia.

The same day, Kosovo media carried the story of three ethnic Albanian boys aged 9-12 who had drowned in a fast-moving river running through Mitrovice/a. According to a surviving boy, the children had been driven into the river while trying to escape from Serb youths who were chasing them with dogs.

Reacting to this incident Kosovo Albanians took to the streets in protest, starting in Mitrovice/a but quickly spanning out to mass demonstrations and violent clashes in all regions of Kosovo. Makeshift roadblocks were set up by Kosovo Albanians and Serbs, gunfire was exchanged and hand-grenades thrown, churches, houses, schools and other infrastructure were set on fire; larger groups of Albanians marched on minority enclaves and residential buildings in urban areas provoking panic and substantial displacement of minority groups within Kosovo.”

**UNHCR, 13 August 2004, par. 2-4, 7-8:**

“Five years after the NATO intervention, the situation in Kosovo continues to be complex, and the security of minority communities remains a serious concern. (...) A further and extremely serious confirmation of the fragile security situation for minority communities came with the March 2004 eruption of mass demonstrations leading to inter-ethnic violence and civil unrest of a scale not witnessed since 1999. The violence rapidly spread to all regions of Kosovo resulting in displacement among all minority communities. Notably, the violence systematically targeted mainly members of minority communities who had not been displaced over the past five years, although returnees also came under direct attack. The Kosovo Serbs were the primary target of this inter-ethnic violence. Equally, various serious security incidents affected Roma, Ashkaelia and Egyptian communities. This particularly concerned Vushtrri/Vucitrn town, where the entire Ashkaelia neighbourhood was systematically attacked, houses burned and looted. Likewise, some Albanian communities and families in a minority situation in the northern municipalities suffered security incidents. Finally, whereas Bosniaks and Gorani were not directly targeted, some felt sufficiently at risk to opt for precautionary self-evacuation, or were evacuated by police to safer places.

The law enforcement authorities and political leadership did not manage to stop the violence early on and the three days of violence left according to initial information 19 civilians killed and more than 950 civilians injured – both killed and injured were of various ethnicities.<sup>1</sup> Approximately 730 houses belonging to minorities were damaged or destroyed, as well as 36 churches, monasteries, religious sites and public buildings catering to minorities.[...] By 23 March, a total of more than 4,100 Serb, Roma, Ashkaelia, Egyptian and Albanian minority community members had been displaced as result of the unrest. (...)

***Kosovo Serbs:***

“The past year has witnessed an increase in serious ethnically-motivated crimes against the Kosovo Serbs, ranging from shootings, grenade attacks and use of explosives to arson and physical assault. During the inter-ethnic violence of March 2004, Kosovo Serbs were attacked, physically assaulted by aggressive crowds in their homes, from which they were forced out as these houses or flats were set on fire. Many had to be evacuated by KFOR, some from burning houses. Widespread looting and pillaging followed the arson and continued unabated for three days. Eight of the 19 persons killed were Kosovo Serbs, several hundreds of the injured as well,

and the vast majority of the destroyed or damaged houses belonged to the Serb community. Over 3,400 persons or 82 per cent of the newly displaced were Kosovo Serbs who sought temporary safety in KFOR camps, public buildings and private accommodation.

8. The continued looting and attempts to destroy houses, churches, monasteries, religious institutions and public services that belonged to the Serb population for days following the departure of the displaced, sends a strong message of denial of the right to return, including and especially for those who had never before felt the need to leave Kosovo. This has adversely affected the Serb communities as a whole, halting or delaying voluntary return to Kosovo and prompting some departures of the remaining population.”

***Kosovo Roma, Ashkaelia and Egyptians:***

**UNHCR, 13 August 2004, par.12-13:**

“12. Up until March 2004, security, freedom of movement and access to basic services continued to improve for members of these three communities. It should be stressed, however, that the situation varied and still varies considerably among these three communities, from one location to another and to some extent depending on the language abilities of the particular communities. Generally, the Serbian-speaking Roma are either living with or are perceived to be closer to the Kosovo Serbs and their

security situation is thus in many cases similar to that of the Kosovo Serbs. The Albanian-speaking Ashkaelia and Egyptians, on the other hand, appear to be better tolerated and, relatively-speaking, enjoy greater freedom of movement and a more stable security situation.

13. Nevertheless, the fragile position of all three communities was clearly evidenced by the fact that even in locations where minority returns have taken place with the involvement of the majority population, security incidents still occurred before March 2004. All three communities have encountered various forms of harassment over the last five years from serious threats, physical assault and grenade attacks to verbal abuse, stone-throwing, discrimination and marginalization.”

**As of 31 May 2005, 1467 persons displaced during the March 2004 violence remain displaced within Kosovo and some 170 are in Serbia (UNHCR Map, March IDP locations, 31 May 2005, USDOS, 28 February 2005, p.10)**

**See also:**

*The March violence: KFOR and UNMIK's failure to protect the rights of the minority communities, Amnesty International, 8 July 2004*

*Failure to protect: anti-minority violence in Kosovo, March 2004, Human Rights Watch, July 2004*

*Human Rights Challenges following the March riots, OSCE/UNMIK, 25 May 2004*

*and*

*Section "Pattern of displacement", March 2004 violence consolidates ethnic separation (2004)*

**Pervasive insecurity continues to force ethnic minorities in Kosovo to leave their home areas (2000-2005)**

- Further to the March 2004 violence, further displacement is expected to continue in 2005
- Reducing number of IDPs within Kosovo seem to indicate a slow down in new departures
- The pattern of ongoing displacement has continued to be small scale and low key, yet unremitting
- 'Low level' intimidation has become a feature of everyday life for many communities and continues to provoke departure

- Security concerns include not only fear for physical safety but also comprise freedom of movement restrictions and limited access to basic services and employment prospects

**UNHCR, 15 September 2004:**

“The latest inter-ethnic clashes [March 2004] represent a serious set-back in the return process and have only helped to exacerbate already acute difficulties with security, freedom of movement, unresolved property claims, access to services (especially education) and employment. The willingness of displaced minority populations to return to their home communities is likely to remain low in 2005 while the sustainability of return will remain fragile until a more secure environment is in place. (...) Secondary displacement to mono-ethnic communities is also a strong possibility if security incidents continue.

In view of the situation, departure of members of minority groups from Kosovo, especially Romas and Ashkaelis, is expected to continue.”

**SG, 23 May 2005, par.41:**

“UNHCR figures for internally displaced persons in displacement since March 2004 went down by 403 (to 1,662) over the same period. Although departure figures cannot be fully captured, they appeared to indicate a reducing number of departures from Kosovo.”

**September 2001-April 2002**

**UNHCR/OSCE, May 2002, para. 5:**

"[T]he main challenge for minorities in Kosovo continues to be the threat of physical violence which permeates their lives. This overriding concern continues to influence individual perceptions of security, and therefore the exercise of freedom of movement, which leads to limits on access to a multitude of social and economic rights, particularly health care, social services, education, employment opportunities, reconstruction of residential property and public utilities. This has undermined the ability of a large number of members of minority communities to secure the means by which they can be self-supporting. Insecurity which undermines the viability of minority communities and which corrodes the individual's will to remain not only induces ongoing displacement, but also impedes sustainable return. "

**See also:**

***envelope on protection concerns in Southern Serbia (protection section) [Internal link]***

***envelope on figures on movements for displacement towards Serbia [Internal link]***

**March - August 2001**

**UNHCR/OSCE, October 2001, para. 1-2:**

"The general security situation for minorities across Kosovo stabilised noticeably during this period. The number of serious security incidents affecting minorities decreased for all minorities in almost all regions of Kosovo. As a result there have also been some improvements in freedom of movement, which may be interpreted as tentative confidence on the part of minorities in response to this relatively prolonged period largely free of serious security incidents resulting in fatalities. Additionally, information gathered on population figures shows that the overall estimated numbers of minority communities in Kosovo have remained fairly constant. Continued fears about security mean that few minorities have returned to Kosovo. At the same time the numbers of minorities leaving has tapered off. The motivation for ongoing departures is frequently linked to quality of life issues, in particular the lack of employment prospects, rather than immediate security concerns. However, such a conclusion should not be drawn in isolation from the reality that past, continuing and anticipated, violence continues to overshadow peoples' lives. What may on the surface appear to be solely socio-economic push factors are invariably influenced by the pervading climate of insecurity that exists within minority communities.

It must be stressed that the perceived improvement in security remains extremely tentative. The negative attitudes and perceptions that continue to drive the post-conflict situation, can come to the fore and lead to a sharp deterioration at any time. A shocking reminder of the fragility of the security situation was the shooting of a family of five Kosovo Albanians in Glllogoc/Glogovac on 22 August 2001 amidst allegations that one family member had collaborated with the previous Serbian regime. Such allegations, which have also been made against members of minority communities, heighten tensions and can easily trigger further violence. While there has been an improvement in the security situation, as measured by reference to the number of fatalities, lesser threats and incidents of intimidation against minorities remain far too common. Whilst provoking insecurity of a degree less obvious and measurable than the impact of recurrent murders, the cumulative effect of suffering daily harassment is extremely debilitating. For many members of minorities who live, or who are forced to live, in agricultural communities, the theft of cattle, often their only livelihood, remains a key, and frequently unresolved, concern. In areas that have been the arena of protracted tensions the negative impact of intolerance is clear. For example, the daily harassment of minorities (including Kosovo Albanians) in north Mitrovice/Mitrovica continues to provoke departures, a key sign that the situation is far from being satisfactory even when open street violence has been reigned in. 'Low level' intimidation has become such a feature of everyday life for many communities that it is common for minorities to tell OSCE and UNHCR that they no longer report such incidents to the police because, in their view, little has been done to address past incidents."

***October 2000-February 2001***

**UNHCR/OSCE, March 2001, para. 12:**

"The pattern of ongoing displacement as noted during the reporting period has continued to be small scale and low key, yet unremitting. Minority populations are still leaving Kosovo. The primary motivation for such departures is security related. Security concerns manifest themselves not only in fear for physical safety but also in more complex ways including freedom of movement restrictions and limited access to basic services and employment prospects. On this basis recent departures may be attributed as much to the occurrence of individual incidents of violence as to resignation after prolonged periods of lesser forms of intimidation and harassment. Lack of optimism for a longer-term future in Kosovo is a major contributing factor in the decision to leave."

**UN CHR, 29 January 2001, para. 116:**

"While crime in Kosovo is generally declining, attacks against individuals from ethnic minorities remain disproportionately high. For example, UNMIK police sources indicate that during the period 2 January-28 October 2000, 122 Albanians (58 per cent of the total) and 78 Serb or other ethnic minorities (37 per cent) were reportedly murdered (in the remaining cases the ethnicity was not recorded), despite the fact that, overall, ethnic minorities constitute just some 10 per cent of the total population in Kosovo."

***June-September 2000***

**UNHCR/OSCE, October 2000, paras. 1-2:**

"Security continues to be an issue of overriding concern for minority communities. In many respects it is the issue and is more frequently raised in discussions about minority protection than any other. The degree of security or, as is more often the case, insecurity, experienced by minority groups is the basic yardstick against which the sustainability of their communities is measured.[...] Unless security can be improved, many minority communities will be neither socially nor economically viable, dependant on humanitarian assistance for survival and faced with little option but to leave. Murder, arson and lesser forms of intimidation are still a daily reality for many minority communities whose members figure disproportionately among the victims of crime. As significant as the individual incidents of violence is their cumulative effect and the continued perception among minorities that they are not secure. The lack of security continues to restrict freedom of movement, which, for many minority communities, remains possible only through the provision of special bus lines and escorts. As a result, minorities continue to face

difficulties of access to essential services, such as secondary healthcare and education, and face a very poor quality of life.

Levels of security have fluctuated in light of local circumstances. The picture from municipality to municipality, and community to community, is diverse. Some communities have seen an easing in the level of violence while others continue to be subjected to unrelenting violent attacks. It is still not possible to say that any one ethnic group has experienced a lasting improvement in overall security; even after months of calm, violence can re-ignite and minority communities are all too conscious of the fact that the threat of violence is ever present. Indeed a recurrence of violence after periods of calm can send a community into panic, having deep and long-lasting consequences, to the detriment of any progress achieved."

### **Increasing number of forced return reinforces the risk of secondary displacement (2005)**

- UNHCR under increased pressure to remove restrictions on forced return of certain ethnic minorities
- UNMIK concluded a memorandum of understanding with Germany on forced returns
- Assistance to forced returnees is needed to avoid secondary displacement
- UNHCR monitored an increase of forced return in the third quarter of 2004
- UNHCR advocates against forced return to prevent secondary internal displacement
- Internal flight alternative is also a source of secondary displacement
- Forced returnees to places other than their place of origin cannot obtain IDP status and are therefore deprived from access to social and economic rights

***UNHCR's position paper from March 2005 on protection needs softens its position with regard to return of RAE communities. While stating that return for Kosovo Serb, Roma and ethnic Albanian in a minority situation should only be on a voluntary basis, UNHCR shows more flexibility with regard to RAE, Bosniak and Gorani communities.***

#### **UNHCR, 31 March 2005:**

"With regard to Ashkaelia, Egyptian as well as Bosniak and Gorani communities these groups appear to be better tolerated in spite of a single but very serious incident against the Ashkaelian community in Vushtrri/Vucitrn during the March 2004 attacks. In light of that incident, the August 2004 advice from UNHCR included the Ashkaelia and Egyptian communities among those with a continuing general need for international protection. However, in light of the developments since then, UNHCR's position is currently that these groups may have individual valid claims for continued international protection which would need to be assessed in a comprehensive procedure."

#### **Refugees International, 27 June 2005:**

"The March 2005 UNHCR paper states that members of Kosovo Serb and Roma communities as well as ethnic Albanians in a minority situation should not be forcibly returned. Some humanitarian workers told Refugees International that UNHCR was pressured by staff of UNMIK and UNHCR headquarters to say that Bosnians and Gorani could be returned. Governments are also applying pressure. In a letter written in April 2005 to the Special Representative of the Secretary General, Soren Jessen-Petersen, the governments of Denmark, Sweden, Norway, and Iceland expressed their concern that "the present UNHCR guidelines, which ban return of minorities to Kosovo, could unintentionally contribute to ethnic cleansing of minorities in Kosovo." These governments have urged UNHCR to lift the ban on return and to have all cases decided on



an individual basis. Even though a return of minority communities is ideal, considering the level of violence just a little over a year ago, UNHCR's guidelines are reasonable. It is important that return is not rushed by political motivations or the deadlines of UNMIK or other nations.

Press reports in May 2005 indicated that as many as 34,000 RAE refugees were threatened with immediate return from Germany. A German official, however, denied to RI that there was ever an intention to send back more than 1,000 to 1,200 Ashkalis or Egyptians in one year and said that the return process would take at least eight years to complete. Since March 2005 fewer than 20 Ashkali and Egyptian refugees have been forced to return, though the press reports did provoke a number of RAE refugees to leave Germany for other countries to avoid being forced to return home.

Although the number of Kosovars who will be returned from European nations in the next few months is not as high as reported, there is and has been a continued effort throughout Europe to return refugees to Kosovo. Nations such as Germany and Sweden, which provide refugees social assistance, including medical care, would like to reduce the cost of the social services for Kosovars, some of whom have been in their countries since the early 1990s. Based on the terms of an April 2005 Memorandum of Understanding with UNMIK, each month Germany has been submitting a list of 300 possible cases of return (which may rise to 500 returns in August and will be unlimited starting in May 2006). From that list only 20% may be returned and each case is assessed by UNMIK's Office for Return and Communities (ORC).

ORC and the local municipalities remain unprepared to assist with forced returns. In a letter to European governments in March 2005 and again in June 2005, the Ombudsperson, Marek Antoni Nowicki, urged UNMIK and the local governments to provide more support to people forced to return when they first arrive in Kosovo and social programs to help them integrate. (...)

RI talked with recently returned families from Germany and they were poorly informed of what would happen to them and whether their home was destroyed or occupied. One couple that went to Germany in 1992 after their son was targeted by the Serbian police was picked up one morning in June by the German police and given twenty minutes to pack (and no time to close out bank accounts). German officials did not respond to the husband's concern that he did not know if his house was occupied or destroyed. At the airport they were interviewed by Kosovar police and relied on their cousin for transportation and shelter. His Albanian neighbors had blocked the road to his house and he had to negotiate with the occupiers of his house to leave in one month. He was lucky to have relatives assist with his return and that the occupiers were willing to leave. He told RI, "For those who return, every family has a critical situation --- either they are without a house, their house has been destroyed or occupied, or they have problems...with their neighbors."

**UNHCR, 1 June 2005:**

"UNHCR established an Inter-Agency Working Group on the forced return from western European countries to Serbia (but not to Kosovo) of minorities originating from Kosovo. UNHCR strongly advocated against the forced return of minorities, in particular Roma and Serbs, in order to prevent secondary internal displacement and in full observance of the right to return to the place of origin. (...)

Despite UNHCR's advocacy of continued international protection of ethnic minorities from Kosovo, and an initial decrease in forced returns from third countries, the trend increased again in the third quarter of 2004 with a total of 383 forced returnees recorded by airport monitoring teams (and followed up by UNHCR field offices)."

***Forced return to secondary displacement: the internal flight or relocation alternative***  
**UNHCR, August 2004, par.6,9, 16-18:**

“The possibility of applying the internal flight or relocation alternative to persons originating from the territory of Kosovo, and returning them to another part of Serbia and Montenegro has increasingly been discussed in asylum countries. This possibility concerns especially persons belonging to ethnic minorities in Kosovo, in particular the Roma, Ashkaelia and Egyptians. (...)

“[I]n UNHCR’s view, the application of the internal flight or relocation alternative with respect to this caseload from Kosovo may, depending on individual circumstances be neither a relevant nor a reasonable option. The applicants, particularly if they are Roma, Ashkaelia and Egyptians, may not be able to reintegrate legally elsewhere in Serbia or in Montenegro and may face undue hardship as the

conditions for legal re-integration and economic survival may not be met. The quality of life of the minority groups would generally fail to meet the basic norms of civil, political and socio-economic human rights and would place them in a situation of destitution and marginalization based on the serious practical obstacles to obtaining legal residence.

17. In addition, the implementation of the internal flight or relocation alternative is likely to lead to further displacement within the territory of Serbia and Montenegro. Not only would the legal status of persons returned under such conditions be unclear, but they would also compete for survival with the IDPs and refugees already in Serbia and Montenegro in dire situations, further exacerbating the already over-stretched absorption capacity in Serbia and Montenegro.

18. Finally, in UNHCR’s view, forced returns to Serbia and Montenegro (excluding Kosovo) on the basis of the internal flight or relocation alternative contradict the spirit of the UN Security Council Resolution 1244, which refer to the safe and unimpeded return of all refugees and internally displaced persons to their homes in Kosovo. Meanwhile, refugees from Kosovo should have the right to seek and enjoy asylum in other countries or to remain in the country of asylum, as also emphasised in the

[Guiding Principles on Internal Displacement](#), Principle 2(2). This principle states that the Principles are not to be interpreted as “restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law” and in particular, they are “without prejudice to the right to seek and enjoy asylum in other countries”. (...)

#### ***Legal obstacles faced by forced returnees***

In the absence of permanent residency, IDP registration with the Serbian Commissioner for Refugees is a pre-requisite to access all socio-economic rights. It is important to note that, persons originating from Kosovo who are forcibly returned from third countries to Serbia and Montenegro are not permitted to be registered as IDPs either in Serbia or in Montenegro. IDPs who do not hold an IDP identification card are consequently deprived of access to basic rights including but not limited to health, employment benefits,, pensions, social insurance, and accommodation. This triggers a subsequent process of legal and socio-economic marginalization. (...)

In addition to the problems related to access to legal status and attached rights highlighted above, the Roma, Ashkaelia and Egyptian population generally faces a pattern of discrimination from some representatives of the local authorities and some segments of society. This renders access to health care and services particularly difficult. Moreover, racial segregation in schools is a serious problem. Kosovo IDPs belonging to these ethnic communities face an additional obstacle; many of them do not know the Serbian language, speaking Albanian/Roma only. Therefore the drop out rate is very high resulting in additional marginalization, isolation and puts their future prospect for social integration in jeopardy. In the individual case, such treatment could cumulatively rise to the level of persecution or serious harm and this may therefore rule out return to other parts of Serbia or to Montenegro.”

## **The ethnic minorities in Kosovo**

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### **The Serbian population in Kosovo: up to 300,000 persons by 1999**

- Serbs have lived in Kosovo for centuries and, by 1999, it is estimated that there were up to 300,000 Serbs in the province
- Serbian population in Kosovo was divided between rural and urban areas
- They formed majority in some parts of Kosovo and made up approximately 25% of the population of Prishtine/Pristina
- The majority of the pre-war and the current Serb population is to be found within the Eastern Plateau from Mitrovica/Mitrovice down through Kosovo Polje/Fushe Kosove and Urosevac/Ferizaj and then further up to Gnjilane/Gjilani and Kamenica in the south-east of the province
- According to KFOR estimates in September 1999 and to the Kosovo Serb National Council , about 100,000 Serbs remained in the province after the conflict in 1999

#### **MRG, 6 July 2006, p.8:**

“As stated above, Serbs have lived in Kosovo for centuries. Kosovo has a particular importance to Serbs because of the monasteries and the legends around the 1389 battle. The Patriarch of the Serbian Orthodox Church is the Archbishop of Peje/Pec, one of the major cities of Kosovo and the site of one of the main monasteries. Despite the years of secularism under communism, the Serb identity in Kosovo is still largely tied to the Serbian Orthodox Church.

Serbs, however, have long been a numerical minority in Kosovo. According to Serbian history, their minority status began with the flight of many Serbs after the Ottoman Empire reconquered the province in 1690. The province was conquered by Serbia in 1912 and attempts were made to ‘recolonize’ the province with Serbs; these largely failed. As increasing power was devolved to Kosovo’s (largely Albanian) authorities by Yugoslavia, Serbs complained about discrimination and some left the province. Milosevic’s rise to power brought a revocation of Kosovo’s autonomy and discrimination in favour of Serbs throughout the 1990s. By 1999, it is estimated that there were up to 300,000 Serbs in Kosovo. In some parts of Kosovo they formed the majority, including three municipalities in the north, the municipality of Strpce/Shterpce in the south and the town of Kosovo Polje/Fushe Kosove near Prishtine/Pristina in the centre. Many Serbs lived in the major towns and cities, forming approximately 25 per cent of the population of Prishtine/Pristina. Until the NATO bombing began they were clearly the dominant group in Kosovo.”

#### **ESI, 7 June 2004:**

“Before the 1999 war, there were two distinct communities of Kosovo Serbs, living in very different social and economic conditions. In the rural areas, people lived in small communities, often on lands their families had worked for generations. As with peasant workers throughout the former Yugoslavia, these were politically marginal communities which neither expected nor received much from the state. By contrast, urban Serbs in Pristina and the larger towns held the pick of working positions in government and socially owned enterprises. They enjoyed the status and privileges that came from close association with the state – particularly after 1989, when Albanians were purged from public-sector employment.”

#### **OSCE 1999, Part IV, Chapter 19:**

"According to the 1991 census there were 1,954,747 people living in Kosovo, 195,301 of them Serbs. During the aftermath of the wars in Croatia and Bosnia-Herzegovina a substantial number of Serb refugees from Krajina and other parts of Croatia and from Bosnia-Herzegovina were forcibly sent to Kosovo. By the summer of 1996, there were some 19,000 Serb refugees living in Kosovo."

**UNHCR/WFP 5 February 2000, sect. 5:**

Table 1 : Serb Population and Beneficiary Registration Data

| Serbs                               | Pre-Conflict Population (UNHCR) | Remaining Popn, Sep'99 (KFOR) | No. Benefi Registr 1999 |
|-------------------------------------|---------------------------------|-------------------------------|-------------------------|
| North-West (incl. M/Vice)           | 36,000                          | 29,000                        | see footnot             |
| Eastern Plateau & bordering Forests | 105,000                         | 60,000                        | 57,000                  |
| Strpce/Shterpce                     | 8,000                           | 9,000[2]                      | 9,000                   |
| Elsewhere                           | 41,000                          | 6,000                         | 4,000                   |
| Totals:                             | 190,000                         | 104,000                       | -                       |
| Totals (excl. North-West)           | 154,000                         | 75,000                        | 70,000                  |

[1] Beneficiary registration data from the north-west do not provide an indication of total population. In this area WFP currently provides assistance to the following categories of beneficiary:

- a. IDPs from Kosovo,
- b. 10% of the resident population,
- c. Krajina Serbs living in collective centres,
- d. Roma living in collective centres and 2,900 minority Albanians in northern Mitrovica/Mitrovice and Zubin Potok municipalities.

[2] Beneficiary Registration data taken for Strpce/Shterpce, rather than KFOR's estimate of 3,400, which seems rather low.

**USCR April 2000, pp. 2-3:**

"The numbers are disputed. The Kosovo Serb National Council claims that about 100,000 Serbs are still living in Kosovo. By some accounts, up to 25,000 Roma are still living in Kosovo. The sum of Serbs and Roma who reportedly have fled (230,000) and those who reportedly remain (125,000) would be a larger number than the estimated 250,000 Serbs and Roma living in Kosovo before the war, casting doubt on the accuracy either of the past-war count or of the pre-war estimate."

**UNHCR/WFP 5 February 2000, sect. 5:**

"The north-west is an almost exclusively Serb area consisting of Leposavic/ Leposaviq, Zubin Potok, Zvecane and northern Mitrovica/Mitrovice municipalities, bordering Serbia to the north. There is relatively little concrete information on the current population of this area, since KFOR estimates may not include the relatively large number of IDPs from Kosovo.

The majority of the pre-war Serb population, and the bulk of the population now, is to be found within the Eastern Plateau and neighbouring Forests food economy areas (a relatively agriculturally productive corridor running south from Mitrovica/Mitrovice down through Kosovo Polje/Fushe Kosove and Urosevac/Ferizaj and then around and up to Gnjilane/Gjilani and Kamenica in the south-east of the province [...]).

Strpce/Shterpce is a municipality lying to the south of the province in the mountains bordering Macedonia. The exclusively Serb villages in the centre and west of the municipality lie within an enclosed mountain valley; they are now almost completely cut off from surrounding areas.

Outside of these three areas, the few remaining Serbs are to be found mostly within a number of very specific locations, including Prizren and Orahovac/Rahovac towns and the villages of Velica Hoca (Orahovac/Rahovac) and Gorazdevac (Pec/Peje)."

### **Roma, Ashkaelia and Egyptians in Kosovo (2006)**

- The acronym RAE (Roma, Ashkaelia and Egyptians) comprises various groups with different linguistic and religious traditions and the clear division among these groups can be observed from the 1990s
- Roma speaking Albanian as their first language identified themselves as Ashkalia (sometimes spelt Ashkaelia) or Egyptians, the Egyptians trace back their ancestry to Egypt
- Those who consider themselves Roma in Kosovo today generally speak either Romany or Serbian as their first language
- The three groups have been recognized by UNMIK, for example with regard to representation under the electoral system
- In the 1991 Yugoslav census, the number of Roma in Kosovo was calculated at around 43-45,000 but many did not register as such
- By some accounts, up to 25,000 Roma were still living in Kosovo as of end of 1999
- Roma are concentrated in the Eastern Plateau, in Pec/Peje, Djakovica/Gjakove and Prizren municipalities in the west

#### **MRG, 6 July 2006, pp.8-9:**

"The Roma are believed to have entered the Balkans in the 13th century CE and have remained there ever since []. They were found across Kosovo, many becoming sedentary early on. Some adopted Islam, some became Orthodox Christians. Some (largely Muslims) adopted Albanian as a first language, some Serbo-Croatian, with others retaining Romany as a first language. However, as in the rest of Europe, all other communities generally treated the Roma with 'social contempt' []. At least 1,000 Roma from Kosovo were killed during the Second World War, as part of the Porajmos, the genocide of the Roma.

Roma, however, have often expressed loyalty to the post-Second World War Yugoslavia that they saw as giving them more freedom than ever before. The number identifying themselves as Roma increased from 11,000 post-war to 43,000 in the 1991 census. The latter is certainly a major underestimate, as Roma have often identified themselves officially as Albanian, Serb or Turk. With the mass dismissal of Albanians from state employment in Kosovo at the start of the 1990s, some of their positions were taken by Roma. Roma were used by Serb authorities during the ethnic cleansing in 1999 to bury the dead []. Among some Albanians, there was an image that Roma had been 'collaborators' with the Serb authorities.

From the 1990s onwards, there has been a clear division of the Roma into three self-identifying groups. Those who largely spoke Albanian as a first language identified themselves as Ashkalia (sometimes spelt Ashkaelia) or Egyptians. The Egyptians consider themselves a group whose ancestry is traced back to Egypt []. Both groups have a close affinity with Albanians, but have been largely rejected by Albanians []. Those who consider themselves Roma in Kosovo today, however, generally speak either Romany or Serbian as their first language.

After some disputes, the right to self-identification has been acknowledged and the three groups have been recognized by UNMIK, for example with regard to representation under the electoral system. Sometimes the term RAE is used to refer to all three groups together. All three groups can be said to be in the worst position in Kosovo, with the worst education, highest levels of discrimination in the workplace and almost certainly the highest unemployment rates. Within the three communities, the Roma are in the worst position of all."

**OSCE, 2000, chapter 20:**

"The several groups generically described here as Kosovo 'Gypsies' (Maxhupet) have different allegiances and different linguistic and religious traditions. The groups identify themselves quite distinctly.

The so-called 'ethnic Roma', identify themselves as Roma and use Romani as their mother tongue, and also speak Albanian and Serbian. They have proud cultural traditions and align themselves with Roma communities in other countries (they include a small Catholic Romani community living near the Kosovo Croat communities in Lipljan/Lipjan municipality, as well as one group which has a nomadic lifestyle, known as the Cergari, who follow the Orthodox faith and speak Serbian).

The Ashkaelia are Albanian-speaking and live close to the Kosovo Albanians with whom they have always been identified.

The Egyptians, whom many consider to be Ashkaelia, speak Albanian but claim to have originally come from Egypt. They are perceived by Kosovo Albanians to be Maxhupet for whom a separate identity was created roughly 10 years ago by the Yugoslav regime in order to further the image of a multi-ethnic, rather than an Albanian-dominated Kosovo. It is also believed to be an effort of self-identification in order to escape the derogatory qualification of Maxhupet in Kosovo and to differentiate themselves from the Romani-speaking "ethnic Roma". Both the Ashkaelia and Egyptians follow the Muslim faith.

Kosovo Albanians and Kosovo Serbs alike generally treat the 'Gypsy' (Maxhupi) population and groups as separate from themselves, despite their varying levels of integration. As is the case with majority populations in other central and east European countries, the Kosovo Albanians and Kosovo Serbs consider Maxhupet/Cigani as second-class citizens."

Population numbers

**OSCE, 2000, chapter 20:**

"Although it is difficult to assess the exact numbers of Roma/'Gypsies' living in Kosovo before the conflict and up to early June 1999, it was estimated by some Romani refugees from Kosovo and Serbia living in third countries to be around 100,000-150,000 people. In the 1991 Yugoslav census, the number of Roma/'Gypsies' in Kosovo was calculated at around 45,000. Many did not declare themselves as Roma/'Gypsies' in the census either because of a feeling of being fully integrated in the Kosovo Albanian or Serb communities, or because their registration as Romani/'Gypsy' could prevent their integration within the community and therefore deprive them of their basic rights. Based on data from the 1991 census, Romani/'Gypsy' communities could be found in almost all municipalities of Kosovo."

**USCR, April 2000, pp. 2-3:**

"The numbers are disputed. The Kosovo Serb National Council claims that about 100,000 Serbs are still living in Kosovo. By some accounts, up to 25,000 Roma are still living in Kosovo. By some accounts, up to 25,000 Roma are still living in Kosovo. The sum of Serbs and Roma who reportedly have fled (230,000) and those who reportedly remain (125,000) would be a larger

number than the estimated 250,000 Serbs and Roma living in Kosovo before the war, casting doubt on the accuracy either of the past-war count or of the pre-war estimate."

#### Geographical distribution

##### **UNHCR/WFP, 5 February 2000, sect. 6:**

"Typically, the Roma have made a living as casual labourers and itinerant market traders. Geographically, they are concentrated in the Eastern Plateau and Mediterranean food economies (Pec/Peje, Djakovica/Gjakove and Prizren municipalities in the west), areas where there has traditionally been a demand for agricultural labour.

For the Roma, questions of identity, which before the war were of relatively little importance, are now paramount. This is because many Roma are believed to have sided with the Serbs during the recent conflict, taking part in the widespread looting and destruction of Albanian property (Roma communities were themselves generally spared the widespread displacement and destruction suffered by other groups).

Most of the Roma remaining within the province are recognised by their immediate neighbours as being innocent of any direct involvement in looting and destruction. However, they are likely to encounter hostility from Albanians that do not know them personally, particularly if they move outside their local area. Most identify themselves with the majority Albanian population, generally referring to themselves as 'Askali' in the east and 'Egyptians' in the west."

#### **Other ethnic minorities in Kosovo (2006)**

- In addition to the Kosovo Albanians, Kosovo Serbs and Roma, there are a number of other minority groups in Kosovo
- Some of these groups had the status of "national communities" in the FRY, others did not
- Ethnic identification in Kosovo has been closely related to religious affiliation
- In addition to ethnic minorities, there are also religious minorities, such as Roman Catholic Kosovo Albanians or Jews

#### *Bosniaks or Muslim Slavs*

##### **MRG, 6 July 2006, p.9:**

"Under the Ottoman Empire a large number of speakers of Slavic languages (predominantly the language known as Serbo-Croatian) adopted Islam. They formed a majority of the republic of Bosnia and Herzegovina, and of the Sandzak region of Serbia and Montenegro immediately to the north of Kosovo. The group was only recognized as a national identification in Yugoslavia in 1961, with a census category of 'Muslims in the ethnic sense'. During the Bosnian war in the 1990s, the term 'Bosniak' was adopted for this group, and the Bosnian language promoted as distinct from Serbian and Croatian.

The term 'Bosniak' was also largely adopted after 1999 by the Muslims in Kosovo whose first language was Bosnian. Bosniak has become the accepted term for those who were sometimes referred to as 'Slavic Muslims' and sometimes self-identifying as 'Torbesh'.[] They are particularly concerned to protect the Bosnian language as distinct from Serbian.[] The community is predominantly Muslim and numbered at least 35,000 in 1999.[] Bosniaks themselves state that their community in Kosovo numbered at least 100,000 in 1991 and is approximately 57,000 today.[]"

**OSCE, 1999, chapter 21:**

"This group (Muslim Slavs) consists of Serbian speaking Slavs who are associated with the "Muslim nationality" as classified within the former Socialist Federal Republic of Yugoslavia. Many of them describe themselves as Bosniac. In the data collected by the OSCE-KVM there are no references to human rights violations against Muslim Slavs. In Ozrim/Ozdrim (Pec/Peja) Muslim Slavs are described as having been spared when Kosovo Albanians were attacked and expelled in May [1999] [...]."

*Gorani*

**MRG, 6 July 2006, p.9:**

"Also Muslim and Slav, but distinct from the Bosniaks, is the Gorani community based in the mountain region of Gora in the south-west, probably the most remote region in Kosovo. The Gora numbered approximately 12,000 in their home region in 1999, with smaller communities in the major cities of Kosovo. Their numbers are estimated at 6,000 today."

**OSCE, 1999, chapter 21:**

"This community consists of persons of Slav ethnicity and Islamic faith from Gora/Dragash municipality in the south of Kosovo (the term Goran roughly translates as "Highlander"). They are distinct from the group described as Muslim Slavs (...). A survey conducted jointly by UNHCR and the OSCE found that "Despite their shared religion, their relationship with [Kosovo] Albanians is not always easy given their ethnic and linguistic links with the Serbs, as well as their political attitudes.[]"

*Kosovo Turks*

**MRG, 6 July 2006, p.9:**

"From the 1450s until 1912, Kosovo was ruled by the Ottoman Empire and the language of government was Turkish. Turkish was named as one of the official languages in Kosovo in the 1974 Constitution.

By 1999, the population of those identifying as Turkish had been reduced to somewhere between 12,000 and 50,000. The majority are in the Prizren region, with smaller communities elsewhere. Many Turks fled to Turkey to escape either the war or unemployment.[] The critical issue for them has largely been recognition and protection of their language."

**OSCE, 1999, chapter 21:**

"The 1991 census in Yugoslavia put the number of Kosovo Turks at 10,833, but that figure is not thought to reflect the true size of the population. The Turks in Kosovo continue to use Turkish as their mother tongue (in the 1974 Constitution of Kosovo, repealed in 1989 by the federal government, Turkish was recognized as the third official language of Kosovo),[] and there are a number of Turkish schools in the province. The Turks have traditionally taken a neutral stand between the Albanians and the Serbs and they have traditionally had good relations with both.

There are contradictory reports about how Kosovo Turks experienced the conflict up to June 1999. In the predominantly Turkish village of Mamusa/Mamushe (Prizren), which was attacked by Yugoslav and Serbian forces in late March 1999 (this is covered in more detail in the entry for Prizren municipality), people interviewed by the OSCE-KVM reported that the inhabitants of Turkish origin were allowed to stay as the Yugoslav and Serbian forces expelled the Kosovo Albanians.

In other parts of Kosovo, Turks were reportedly attacked and expelled together with Kosovo Albanians, or otherwise left the province. Many found refuge in Turkey."



### *Kosovo Croats*

**MRG, 6 July 2006, p.9:**

"There are two small communities of Croats in Kosovo, Janjevo (near Prishtine/Pristina) and Letnica (in the south). Religious identification as Catholic was very important to Croat identity and Letnica is a destination for pilgrimage."

**OSCE, 1999, chapter 21:**

"The Kosovo Croats are also known as Janjevci after the village of Janjevo/Janjeve (Lipljan), where they made up two-thirds of the population. As well as Janjevo, Lipljan/Lijpan town also had a sizeable Croat population, and four villages at the eastern end of Vitina/Viti municipality - Letnica/Letnice, Sasare/Shashare, Vrnakovolo/Vrnakolle and Vrnez/Vernez - had Croat majority populations.

In the data collected by the OSCE-KVM there are no references to human rights violations against Kosovo Croats."

### *Cerkezi or Circassians*

**MRG, 6 July 2006, p.10:**

"In the 1860s, the Ottoman Empire settled thousands of Circassian (Cerkezi) refugees (from the Caucasus) in Kosovo and other parts of the Balkans. Many fled Kosovo when the Ottomans were driven out in 1912. By 1999 a few hundred remained in two villages in Kosovo, and have subsequently wished to keep themselves very quiet."

**OSCE, 1999, chapter 21:**

"The Cerkezi, who are a tiny minority group not recognized as a national community in the FRY, are of the Cherkess nationality from the north Caucasus region of Russia. The Cerkezi arrived in Kosovo more than 80 years ago and settled in Milosevo/Milloshave in Obilic/Obiliq municipality. They number around 100 persons, are Muslims, and speak Albanian, Serb and Cerkess. None of the data gathered by the OSCE-KVM specifically referred to the Cerkezi of Malisevo, but it is known that at some point during the period between late March and early June 1999 they were expelled and some of their houses were burned by Serbs, and that all of them became refugees in the former Yugoslav Republic of Macedonia."

### *Roman Catholic Kosovo Albanians*

**OSCE, 1999, chapter 21:**

"These are a religious, not an ethnic minority, numbering an estimated 70,000 people. They live mainly in the municipalities of Djakovica/Gjakova, Klina/Klina, Prizren/Prizren and Vitina/Viti."

### *Jews, Vlachs*

**MRG, 6 July 2006, p.10:**

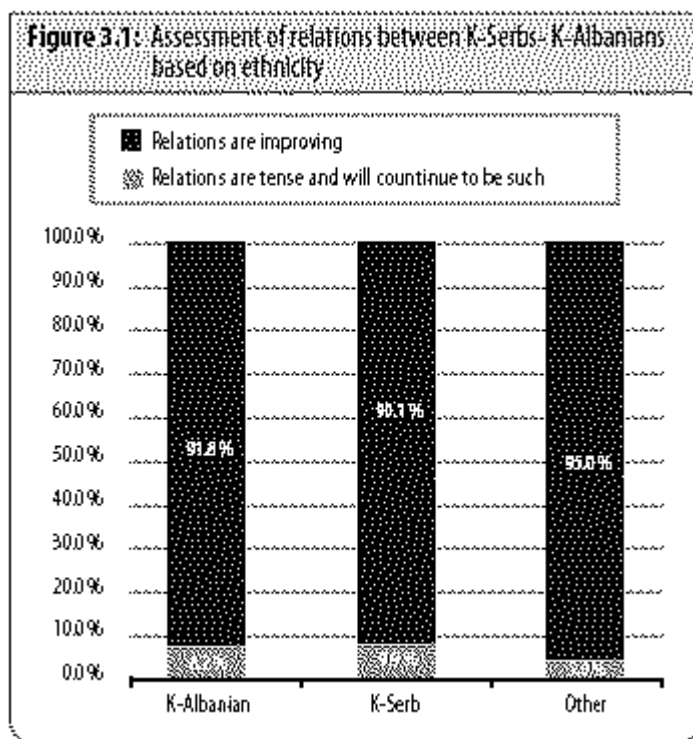
"The Jewish community of Kosovo numbered a few hundred in 1941. Half were transported to their deaths in the Holocaust and the majority of the rest left for Israel after 1945. The population today of Jews is minuscule.[] A vanished group in Kosovo are the Vlachs, an Orthodox people who once numbered in the thousands. However, since the Serbian conquest of 1912 they have been completely assimilated into the Serbs and no one in Kosovo today identifies themselves as Vlach."

## Interethnic relations (2007)

- At the community level, there is a positive trend to be observed for all ethnicities, with no more than 10% of respondents declaring interethnic relations 'tense'
- Kosovo Serbs attribute the responsibility for tense interethnic relations to Kosovo Albanian leaders and their lack of efforts to integrate K-Serbs
- 55% of Kosovo Albanians hold Belgrade responsible for tense interethnic relations, with some citing also the lack of readiness of K-Serbs to integrate into Kosovo society

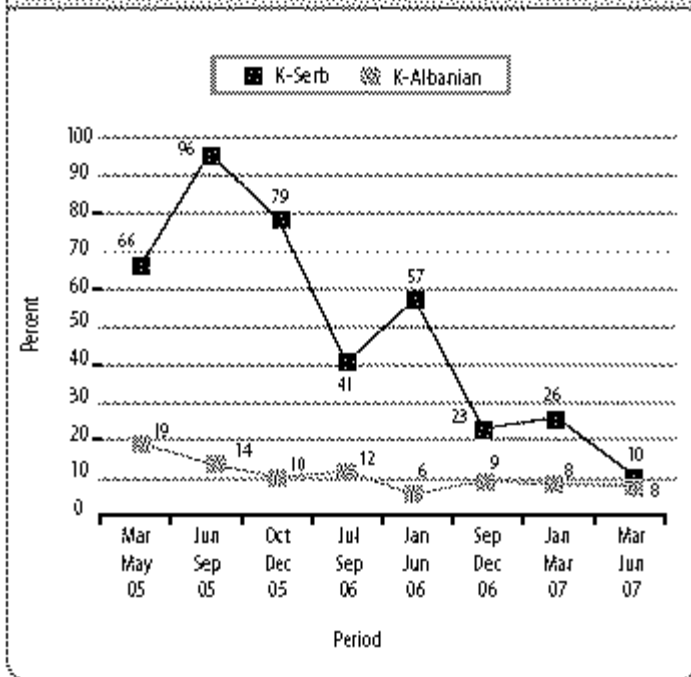
### UNDP, 1 July 2007, pp.39-40:

“Asked about the interethnic relations between K-Serbs and K-Albanians at community level, there is an overall positive trend for all ethnicities. Only 10% of K-Serbs, 8 % of K-Albanians and 5 % of Other minorities think that “relations are tense and will continue to be such in future” while others think that there has been some improvements, considerable improvements or that relations are not tense. As compared to 2005 the percentage of K-Serbs who believe that relations are tense has dropped significantly and at present it is at the lowest level ever (10 percent) while the percentage of K-Albanians who believe relations are tense has stabilized and since December 2005 tends to fluctuate between 6% and 12% (see figure 3.1). On the other hand, Other communities have the most positive view of Serb-Albanian relations and at present only five percent think that these relations are tense.

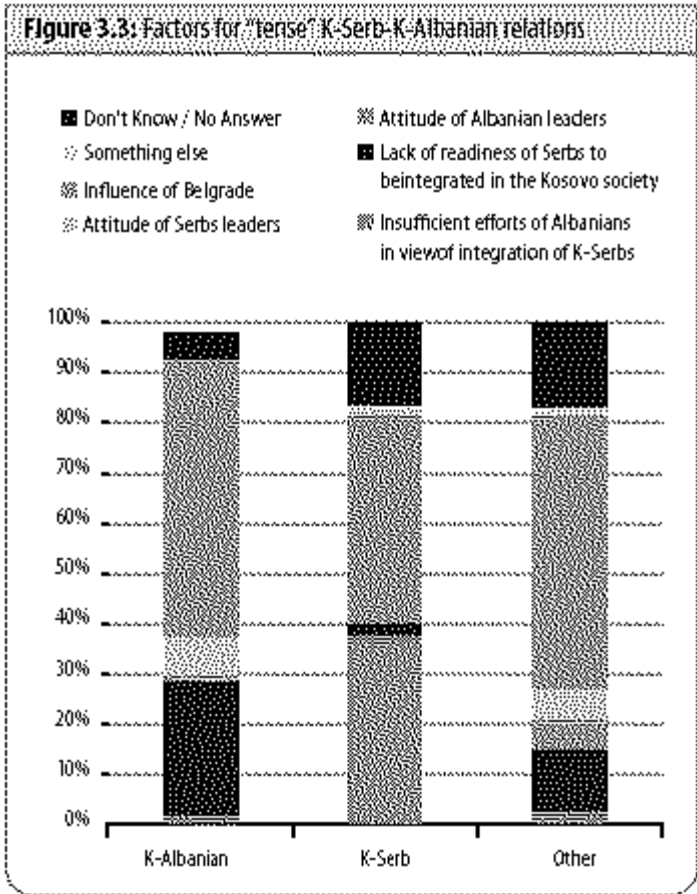


As can be seen in Figure 3.2, the trend of improvement (since September 2005) in the assessment of interethnic relations among K-Serbs continues after a short stagnation. In June 2007 some 9% of K-Serbs considered their relations with K-Albanians to be tense with no hope for improvement which represents a considerable decline of 17 percentage points compared to March 2007 (Figure 3.2). The vast majority of K-Albanians consider interethnic relations to be improving with only 8% of respondents stating that interethnic relations are tense without hope for improvements in the future.

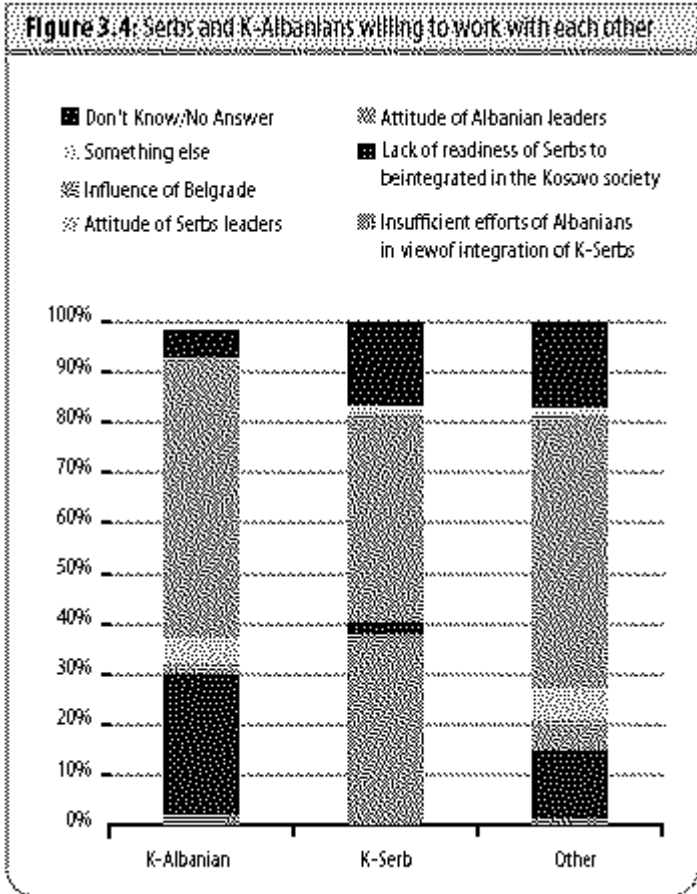
**Figure 3.2: Trend of respondents considering that relations between K-Serbs and K-Albanians to be tense and not improving**



When asked about the responsibility for tense interethnic relations, K-Serb respondents cite the attitude of K-Albanian leaders and the insufficient efforts of K-Albanians for the integration of K-Serbs as reasons for tense relations. The opposite opinion is held by K-Albanian and Other minorities on this question. Some 55% of K-Albanians and Other minorities hold Belgrade responsible for tense interethnic relations in Kosovo, and some 30% of K-Albanian and 15% of Other minority respondents believe that the lack of readiness of K-Serbs to be integrated into Kosovo society is the responsible factor for tense interethnic relations (see Figure 3.3).



The latest poll shows that the number of K-Serbs willing to work with K-Albanians has dropped to 50%, some 16 percentage points lower than in March 2007. Approximately 37% of K-Albanian respondents agree to work with K-Serbs which represents a slight decrease in this willingness compared to March 2007 poll.”



For more information, data and conclusions on inter-ethnic relations in Kosovo see chapter 3 in the UNDP report.

# POPULATION FIGURES AND PROFILE

## Overview

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### Background and Numbers (2009)

- According to UNHCR, 205, 935 persons are displaced in Serbia (as of August 2009), and 19,724 are displaced within Kosovo (as of October 2009)
- Most IDP in Serbia are ethnic Serbs from Kosovo who fled in 1999
- A large number of Roma were also displaced accused of collaborating with Serbs
- Figures have to be taken carefully since:
  - The official figure for IDPs underestimates the number of displaced Roma who never registered as displaced
  - The first registration of internally displaced persons (IDPs) from Kosovo in Serbia was conducted in 2000, since then the only update has been in the deregistration of returnees to Kosovo based on the data provided by UNHCR Pristina, with no reporting or analysis of IDP movement within Serbia

### UNHCR Belgrade, August 2009:

#### Population of concern as of 1st August 2009

|  |                |
|--|----------------|
| Refugees from Bosnia and Herzegovina                     | 24,124         |
| Refugees from Croatia                                    | 62,030         |
| Mandate refugees and asylum seekers                      | 182            |
| <b>Total number of Refugees in Serbia (excl. Kosovo)</b> | <b>86,336</b>  |
| IDPs from Kosovo in Serbia (excl. Kosovo)                | 205,835        |
| Stateless (estimated)                                    | 17,000         |
| <b>Total (Refugees and IDPs)</b>                         | <b>309,171</b> |

### UNHCR Statistical Overview, October 2009:

IDPs in Kosovo: 19,724

#### Council of Europe, Commissioner for Human Rights, March 2009, p. 26:

"Approximately 235,000 Serbs, Roma, and members of other minority communities fled Kosovo at the end of the July 1999 conflict. The majority fled to Serbia, while others went further afield in Europe. In 2004, another 4,200 persons, including Serbs, Roma and Ashkali were displaced. There are currently some 20,000 internally displaced persons (IDPs) in Kosovo, and according to Serbian government sources, 206,000 inhabitants of Kosovo are displaced in Serbia. "

### Praxis, January 2009:

"According to official data, a total of 108,000 Roma live in the Republic of Serbia, even though some estimates suggest that that number is as high as 500,000. At the same time, there are 22,965 RAE officially registered as IDPs, even though it is assumed that that number is much higher, since many of them were unable to register their status upon leaving Kosovo due to lack of documents."

**Republic of Kosovo, Ombudsperson Institution, July 2008:**

"According to UNHCR's estimates, 245,353 displaced persons from the Serbian, Roma, Ashkali and Egyptian communities were displaced after the end of hostilities in 1999; 207,069 fled to Serbian, 16,284 went to Montenegro, and 22,000 remained in Kosovo. UNHCR's statistics show that only 18,114 displaced persons and refugees belonging to minority communities returned voluntarily to their place of origin in Kosovo between 2000 and the end of April 2008."

**UNDP, Slobodan Cvejic, Marija Babovic, 2008:**

"The first registration of internally displaced persons (IDPs) from Kosovo in Serbia was conducted in 2000. The two largest groups out of ten different ethnicities among 207,270 registered IDPs were Serbs (approximately 160,000) and Roma (22,409). 5,318 IDPs (2,84%) out of these groups were accommodated in 90 collective centres throughout the country.

Since then, the only update has been in the deregistration of returnees to Kosovo based on the data provided by UNHCR Pristina, with no reporting or analysis of IDP movement within Serbia. Furthermore, hardly any of the records on vulnerable populations contained disaggregated data on IDPs. The prevailing perception was that IDPs were worse off than refugees, with their living conditions rapidly deteriorating. However, neither reliable data nor measurable indicators existed to substantiate this assumption."

**UN Commission on Human Rights, 9 January 2006:**

"The events in Kosovo led to massive displacement. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), a total of 848,100 ethnic Albanians fled or were expelled, including 444,600 to Albania, 244,500 to Macedonia and 69,900 to Montenegro after NATO troops started air attacks on 24 March 1999. The adoption of Security Council Resolution 1244 (1999) on 10 June 1999 ensued in the withdrawal of Yugoslav forces which was followed by the arrival of NATO Kosovo Force (KFOR). Large numbers of Kosovo Albanians returned spontaneously, causing in their wake a massive exodus of the ethnic minorities, particularly Serbs and different categories of persons of Roma origin, namely the Romany-speaking orthodox Roma, the Albanian-speaking Muslim Ashkali and Egyptians who claim to originate from Egypt. They left Kosovo for the other territories of the Republic of Serbia and the Republic of Montenegro. Smaller numbers left during the following years, bringing the total of IDPs up to 204,900 in the Republics of Serbia and of Montenegro; 30,000 were displaced inside Kosovo. According to UNHCR statistics, the number of IDPs reached its peak in Kosovo in the year 2000 with 40,000 IDPs, and in the Republics of Serbia and of Montenegro in 2002 with 234,826 affected persons. In March 2004, after minority return started to gain momentum, ethnic violence between Albanians and Serbs as well as Roma, Ashkali and Egyptians displaced a further 4,100 persons, mainly Serbs. In April 2005, UNHCR reported 226,106 IDPs in the Republics of Serbia and of Montenegro, and 22,000 in Kosovo. During the first 11 months of 2005, less than 2,000 persons were able to return, thus bringing returns almost to a halt."

**UNHCR, July 2005:**

Most of the internally displaced people in Serbia and Montenegro are ethnic Serbs originating from Kosovo. They fled the province for fear of reprisals from the ethnic Albanian population after NATO air strikes in June 1999 had ended years of oppression of the ethnic Albanian majority by the Serbian government and forced Yugoslav and Serb troops to withdraw from Kosovo. A large number of Roma, accused by the Kosovo Albanians of collaborating with the Serbs, also left their

homes at the same time and sought refuge in Serbia and Montenegro. Serbia and Montenegro is also home to some 150,000 refugees, mostly Serbs from Bosnia-Herzegovina and Croatia.

**March 2009 (Source UNHCR):**

"As of the end of the reporting period the total figure for IDPs within Kosovo indicates 20,033 persons. This does not include IDPs from Kosovo displaced in Serbia."

**January 2009 (Source UNHCR):**

IDPs in Serbia (incl. Kosovo): 225,879

**September 2008 (Source UNHCR):**

IDPs in Serbia: 205,861

IDPs in Kosovo: 20,218

**July 2008 (Source UNHCR):**

IDPs from Kosovo in Serbia (excl. Kosovo): 205,940

**March 2008 (Source UNHCR):**

IDPs in Serbia : 206,019

IDPs in Kosovo: 20,262

**December 2007 (Source UNHCR):**

IDPs in Serbia (excluding Kosovo): 206,071

**July 2007 (Source UNHCR):**

IDPs in Serbia: 206,500

IDPs in Kosovo: 21,000

**UNHCR estimates suggest that at least 19,724 persons are internally displaced within Kosovo (as of October 2009)**

- UNHCR estimates the number of IDPs in Kosovo at 19,724
- The majority of IDPs are ethnic Serbs (47,5%), followed by ethnic Albanians (38,4%)
- Ashkalis, Roma and Egyptians IDPs represent 8,7% of the total IDP population within Kosovo
- Mitrovica region hosts the vast majority of IDPs.
- Figures have to be taken carefully since number of Roma people, among which some are IDPs, are not registered as residents of Kosovo

***IDP figures in Kosovo are estimates and are not based on any registration or census.***

**UNHCR, Statistical Overview, October 2009:**

IDPs in Kosovo: 19,724

**KIDPs - Kosovo wide and breakdown by Area of Responsibility**



| KIDP mapping per AoR based on ethnicity |              |             |            |            |           |           |          |            |          |
|---|--------------|-------------|------------|------------|-----------|-----------|----------|------------|----------|
| Region of displacement                  | Serbs        | Albanians   | Ashkalis   | Romas      | Bosniaks  | Gorani    | Croats   | Egyptians  | Turks    |
| Pristina                                | 1993         | 0           | 408        | 153        | 7         | 20        | 4        | 0          | 1        |
| Peja/Pec                                | 48           | 7           | 3          | 20         | 10        | 0         | 0        | 283        | 0        |
| Prizren                                 | 119          | 0           | 8          | 17         | 0         | 0         | 0        | 0          | 0        |
| Mitrovicë/a                             | 7004         | 7439        | 218        | 454        | 5         | 15        | 0        | 24         | 0        |
| Gjilan/Gnjilane                         | 1178         | 127         | 83         | 32         | 0         | 0         | 4        | 0          | 0        |
| <b>Total in Kosovo</b>                  | <b>10342</b> | <b>7573</b> | <b>720</b> | <b>676</b> | <b>22</b> | <b>35</b> | <b>8</b> | <b>307</b> | <b>1</b> |

"Mitrovicë/a Region host the vast majority of the KIDPs. UNHCR estimated that there are 7004 Serbs displaced from the Southern Mitrovicë/a and other Municipalities to the Mitrovicë/a (Northern part), Zubin Potok, Leposaviq/c and Zveqan/Zvecan. In the other side there are also 7439 Kosovo/Albanian KIDPs in Mitrovicë/a (Southern part) originating from Mitrovicë/a (Northern part), Zveqan/Zvecan, Zubin Potok and Leposaviq/c. The Serb KIDPs in Pristina Region are mainly concentrated in Pristina Municipality Southern part, in Graçanicë/a and surrounding Serb villages.

The Serb KIDPs in Gjilan/Gnjilane Region are mainly concentrated in Shtërpçe/Strpçe Municipality with the K/Serb Majority population. Source of information is UNHCR survey conducted in 2005. Mitrovicë/a Region was partially covered by the survey, thus the figures for this Region are rather UNHCR estimations."

**USDOS, February 2009 (Kosovo):**

"There were 19,978 persons displaced within Kosovo, 52% of whom were Kosovo Serbs and 38% were Kosovo Albanians. "

**EC, November 2008, (Kosovo):**

"Members of Roma, Ashkali and Egyptian communities remain marginalised. [...] Up to 40% of the estimated 34,000-strong community are not registered as residents of Kosovo, which prevents them from benefiting from administrative and social services.

**Approximately 500 IDPs continue living in the Cesming Lug camp (2009)**

- Approximately 500 IDPs continue living in the Cesmin Lug and Osterode camps in Northern Mitrovica

**COE, Commissioner for Human Rights, 2 July 2009:**

"Approximately 500 people remain living in the contaminated camps of Cesmin Lug and Osterode. "

**USDOS, February 2009, (Kosovo):**

"As of August, 37 Roma families (144 persons) remained at the lead-polluted Cesmin Lug camp for IDPs. Osterode, a medical treatment facility also in north Mitrovicë/Mitrovica, housed 98 families (395 persons) who were relocated from Cesmin Lug and two other polluted camps in 2006."

### **About 4,000 IDPs live in collective centres as of November 2002**

- This population comprises ethnic Albanians, Serbs and Roma

A small portion of non-Albanian IDPs are currently living in collective shelters. According to data provided by UNMIK, there are at least 1,744 members of non-Albanian minorities living in collective shelters (or Temporary Collectives Shelter, TCS) as of November 2002, including 796 ethnic Serbs and 651 Romas (UNMIK 15 November 2002).

According to UNMIK figures, there are still about 2,450 ethnic Albanians residing in collective shelter (TCS) as of November 2002 (UNMIK 15 November 2002)

For more details, see also UNMIK statistical information relating to:

[Majority Albanian TCS](#) [Internal link]

[Ethnic Minority TCS](#) [Internal link]

See also [UNMIK TCS Map](#), January 2002 [Internal link]

### **About 36,000 persons are internally displaced in Kosovo as the result of human rights violations and conflict (UNHCR - December 2000 - February 2001)**

- 10.800 internally displaced from the Presevo Valley are currently in Kosovo according to UNHCR estimates
- UNHCR also reported 25,000 internally displaced persons in Kosovo as of December 2000, mainly members of Kosovo minority groups

#### Displacement from the Presevo Valley

##### **UNHCR, 11 April 2001:**

"UNHCR used an approximate figure of 15,000 persons by the end of 2000, indicating that this figure was in need of verification since due to ongoing movements across the boundary line and lack of de-registration for humanitarian assistance, double registration could not be excluded. This verification exercise took place in February 2001 in the Pristina and Gnjilane areas. Based on this, our current best estimate is some 10.800 IDPs currently in Kosovo. UNHCR highlights that this is an estimate only and it cannot be excluded that more ethnic Albanians from Southern Serbia are in Kosovo who however have not come forward for assistance and therefore are not known to the local NGOs providing assistance and/or UNHCR."

#### Other IDPs

##### **UNHCR, 11 April 2001:**

"There is no systematic registration of the IDPs in Kosovo while especially the Serb minority communities have boycotted the UNMIK civil registration. For the annual statistics UNHCR had to produce estimates for the IDP population in Kosovo and came up with the following breakdown of the 25,000 reported:

- i) ethnic Serb IDPs in North Mitrovica, Zubin Potok, Zvecan and Leposavic municipalities: 10,000 (originating from municipalities south of the river Ibar)
- ii) ethnic Serb IDPs in Strpce municipality: 2,000 (mainly originating from Prizren and Ferizaj/Urosevac municipality)
- iii) ethnic Serb/Roma IDPs in collective accommodation in various parts of Kosovo: 2,500

- iv) ethnic Alb. IDPs mainly in south Mitrovica municipality: 8,000
- v) ethnic Serb and Roma IDPs dispersed in various municipalities: 2,500."

#### Geographical distribution

#### **UNHCR/OSCE, October 2000, para. 114:**

"Kosovo continues to bear the scars of conflict, ethnic hatred and displacement. Across the province there are examples of all ethnic groups still unable to return to their places of origin. For Kosovo Albanians this is particularly the case for those originating from northern Mitrovica and other locations dominated by Kosovo Serbs. Relatively large numbers of Kosovo Serbs and Roma also remain in situations of displacement awaiting the possibility to return to their places of origin. Kosovo Serbs displaced from Prizren and Urosevac/Ferizai for example have concentrated in Strpce/Shterpe. Roma and Ashkaelia from various locations around the province continue to live in semi-permanent collective accommodation in Plemetina/Plementine IDP camp and in three locations north of Mitrovica/Mitrovice. The number of displaced absorbed into host family arrangements is difficult to assess but this is certainly a continuing reality."

#### **Displacement as the result of the Kosovo conflict (March-June 1999): no reliable estimates for the persons still unable to return to destroyed houses (2000-2001)**

- 120,000 houses were destroyed or seriously damaged in the conflict
- 42,000 houses still in need of rehabilitation work as of April 2001, which suggests that about 250,000 persons may still be unable to return to their homes

#### **UN OCHA, 6 July 2000, p. 62:**

"No reliable estimates of the numbers of internally displaced persons within Kosovo are available. However, given that some 120,000 houses were seriously damaged or destroyed in the conflict, there are presumed to be a significant number of people still to return to their pre-conflict homes."

#### **USCR, 2000, p. 288:**

Estimate as of 31 December 1999: "In Kosovo, 350,000 ethnic Albanians remained unable to return to their uninhabitable homes."

*There are no precise figures available on the number of persons who are still unable to return to their houses because of destruction or heavy damages as of April 2001. Most of them rent an accommodation, live with relatives or friends or occupy abandoned properties.*

*According to UNMIK department for reconstruction, 28,000 houses were rehabilitated in 2000 with the support of the international community while between 35,000 and 40,000 houses were rebuilt privately. UNMIK has also identified 10,000 houses which will be rebuilt with international support during 2001. This leaves about 42,000 houses still in need of rehabilitation work as of April 2001. With a ratio of 6 persons per house (as established by a survey conducted by IOM in May 2000), the total number of persons still unable to return to their pre-war houses may be of 250,000. (UNMIK reconstruction department, 27 April 2001)*

# PATTERNS OF DISPLACEMENT

## Current displacement processes

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### **March 2004 violence consolidates ethnic separation (2004)**

- March violence were the most serious ethnic violence since 1999
- Kosovo Serbs, Roma and Ashkaelia communities were the main targets of violence
- Violence targeted minorities who had never left
- 4.100 persons were displaced during the violence mostly Serbs
- Majority of the displaced were from Pristina and Mitrovica
- 8% of the victims of violence were returnees
- Kosovo Serbs displaced have moved from mixed to mono-ethnic areas
- RAE communities have moved to KFOR camps, public premises and host families
- Security situation and destruction prevents return
- Parallel structures are developed to address the needs of the newly displaced
- March 2004 violence has reached a new step in the separation of communities

### **UNHCR, 1 June 2004, pp.31-33:**

“The gradual improvements to security, freedom of movement and access to basic services for members of minority communities in general, with the exception of the Serb minority community as mentioned above in Part 2, came to a drastic halt in mid-March 2004 with the sudden eruption of civil unrest, continuing for several days. The riots and inter-ethnic violence targeted particularly Kosovo Serbs, Roma and Ashkaelia communities, and was the most intense and widespread cycle of violence experienced since 1999.” (...)

Kosovo Serbs were the primary target of inter-ethnic violence. It is noteworthy that this targeted mainly resident minority communities that had never been displaced over the past five years although returnees also came under direct attack. Equally, various serious security incidents affected Roma, Ashkaelia and Egyptian communities. This particularly concerned the village of Vushtrii/Vucitrn, where an entire Ashkaelia neighbourhood was looted and burnt down, with KFOR evacuating the Ashkaelia community at the last moment to prevent serious injury or loss of life. Vushtrii/Vucitrn had been the focus of a small scale return effort in recent years benefiting a number of Ashkaelia families previously displaced in Serbia. Likewise, some Albanian communities and families in a minority situation in the north suffered various security incidents. Finally, whereas Bosniaks and Gorani did not become a direct target of the violence, in some locations they felt sufficiently at risk that they opted for precautionary movements, or were evacuated by police, to safer places. Three ethnic Turkic families (14 persons) also fled from Mitrovica/a North.

The widespread and systematic nature of the violence took Kosovo’s civil and military authorities by surprise. As a result, during the first waves of attack, KFOR, UNMIK Police and KPS struggled to maintain control. In many locations they failed to protect minorities, their property and municipal infrastructure, and were unable to prevent the large scale displacement of minority communities fearful for their lives. (...)

In less than 48 hours, 4,100 minority community members were displaced – which is quantitatively more than the total number of minorities who had returned to Kosovo throughout 2003 (3,664 persons). The majority of those newly displaced were in the Prishtine/Pristina and southern Mitrovica/a regions, but displacement affected all other regions of Kosovo as well. Kosovo Serbs represented the highest number of newly displaced followed by Ashkaelia, Roma, Egyptians, Gorani and Bosniaks. Equally, some 350 Kosovo Albanians in areas where they constitute the minority were displaced from the northern section of Mitrovica/a. Among the IDPs, more than 1,000 found temporary refuge in various KFOR bases, while the rest were accommodated in public premises or with private host families. Some minority families have reportedly departed for Serbia/Montenegro or other destinations.

Whereas less than 8 per cent of the minorities targeted were returnees [...] – both voluntary and forced - the fact that resident minority communities who had never left before felt compelled to leave their homes for their security is in itself, a very disturbing factor and a most worrying development within Kosovo's present and possibly future, inter-ethnic relations. It is also most important to note that this concerns essentially minority communities living in ethnically mixed and urban areas rather than in mono-ethnic villages.

During the events, Roma, Ashkaelia and Egyptian communities had strong fears of becoming targeted on a systematic basis, in view of the violent attack on the Ashkaelia community in Vushtrri/Vucitrn on 18 March 2004 and various other serious security incidents affecting neighborhoods and individual families. In total, some 300 Roma, Ashkaelia and Egyptian were compelled to flee their homes and found refuge in KFOR camps, IDP collective centers or private host families.

**UNHCR, 1 June 2004, p.41:**

“Most of the recently displaced Serbs have been staying in Serb enclaves. Further security incidents since March 2004 in mixed areas manifest how precarious the security conditions remain. Although KFOR has re-established various fixed check-points and stepped up patrolling, confidence in law-enforcement authorities is very low, particularly in those areas that were the most targeted and subjected to much destruction and violence. Inter-ethnic relations with the majority population are strained, particularly in locations where local population/authorities were either directly engaged in violent acts or failed to intervene. In some locations inter-ethnic relations improved following the personal intervention of municipal authorities and Albanian neighbors who prevented violence against the local Serb community.”

**UNHCR, 1 June 2004, p.40:**

“Humanitarian organizations have been delivering humanitarian assistance to the IDP temporary shelters and minority enclaves. Parallel structures in education, healthcare and other areas have further augmented in number and scope. (...) In various locations the level of destruction of private accommodation and key infrastructure within minority areas has prevented many of the recently displaced persons from returning to their homes. Other IDPs left for Serbia and Montenegro or other destinations.”

***As of 31 May 2005, 1467 March IDP remain displaced (UNHCR Map, March IDP locations, 31 May 2005)***

***See also:***

*The March violence: KFOR and UNMIK's failure to protect the rights of the minority communities, Amnesty International, 8 July 2004*

*Failure to protect: anti-minority violence in Kosovo, March 2004, Human Rights Watch, July 2004*

*Human Rights Challenges following the March riots, OSCE/UNMIK, 25 May 2004*

*and*

*Section "Causes and background", March 2004: ethnic violence leads to a new wave of displacement (2004)*

### **Small-scale but steady displacement from and within Kosovo (2000-2001)**

- The pattern of departure is more in the nature of a slow trickle rather than the massive outflow seen in 1999
- Roma or Serb minorities in rural areas tend to leave their villages and concentrate in enclaves in urban areas
- The reported increase in inter-ethnic houses sales in 2000 and 2001 may be the result of pressure to sell on ethnic minorities
- Departures of minorities can be both temporary and permanent, with Serbs traveling regularly between Kosovo and Serbia depending on security, the education cycle and agricultural seasons

#### **UNHCR/OSCE, October 2000, para. 118:**

"[D]iscussion about return must remain grounded in current realities, not overlooking the fact that ongoing displacement of minority communities has not ceased. Kosovo Serbs and Roma continue to leave the province for security related reasons. The current pattern of departure is more in the nature of a slow trickle rather than the massive outflow seen last summer. For other ethnic groups including Gorani, Muslim Slavs, Turks and Croats individual departures have also been noted. Some departures have been sparked by an isolated incident against members of a given group whereas others would appear to be more related to a perception that there is limited space for minorities in a Kosovo Albanian dominated society."

#### Serb communities

#### **UN OCHA, 22 February 2001:**

"The pressure on minority Serb communities to sell their properties is increasing and more and more Kosovar Serbs residing in the isolated enclaves are leaving Kosovo. On February 13, in a meeting in Rahovec/Orahovac with KFOR, OSCE, UNHCR and UNMIK, the Serb leaders announced that 90% of the residents in the area wanted to leave for Serbia proper due to lack of security. KFOR made a commitment to try to improve security conditions. It was agreed that a meeting should be held fortnightly to discuss security issues.

According to local KFOR 40 Serb families in Gjilan/Gnilane are selling their properties; only about 250 Serbs still live in Gjilan/Gnilane. In Obilic town there is a strong pressure for the remaining Serb families living in a building in the centre of the town to sell their apartments following the illegal occupation of empty flats by 18 ethnic Albanian families. On 15 February, the last Serb in Podujevo town, an elderly lady, sold their property and left for Serbia proper as she could no longer cope in such isolated conditions."

#### **UNHCR/OSCE, October 2001, para. 62:**

"In Obiliq/Obilic municipality, the situation of the Kosovo Serbs remains precarious. Numbers however are relatively stable with the exception of Obiliq/Obilic town, which has experienced a small scale but steady trend of departures, both temporary and permanent. In May four families left for Serbia proper, although one family returned to Obiliq/Obilic, due to the dire economic conditions they face there. In July [2001], another four families left for Serbia proper. Obiliq/Obilic is characterised as a predominantly Kosovo Albanian town, with the relatively small Kosovo Serb community now calculated to total no more than 650 persons comprised of; original residents, (281 families/590 individuals); and Kosovo Serb IDPs, (32 families/60 individuals), most of whom hail from nearby villages. This restricted urban community has extremely limited opportunities to

buy or sell basic goods, and limited access to health care. In late 2000, inter-ethnic houses sales began to steadily increase and in early 2001 the illegal occupation of flats temporarily or permanently abandoned by Kosovo Serbs increased dramatically, with the suspicion remaining that the pressure to sell is organised. The difficult conditions of life in town directly contribute to a continuing sense of frustration, isolation and vulnerability among the remaining Kosovo Serbs. "

**UNHCR/OSCE, October 2001, para. 67:**

"In Gjilan/Gnjilane region, minority population levels have generally remained stable. However, considerable variations exist in the statistical information held by different organisations, which makes it difficult to draw clear conclusions. Many Kosovo Serbs travel regularly between Kosovo and Serbia proper and some maintain accommodation in both locations, alternation between one and the other depending on factors such as overall security, the education cycle and agricultural seasons. "

The Roma and other communities

**UNHCR/OSCE, October 2001, para. 111:**

"In Gjilan/Gnjilane town the current Roma population is estimated at 320 persons. Whilst this has not decreased notably since the previous report it should be remembered that the pre-conflict population numbered several thousands and those who remain, feel an ever increasing sense of isolation and desperation. Small-scale return prompted by slight improvements in security has been offset by a roughly equivalent number of departures by those who simply see no long-term future for this decimated community."

**U.S. DOS, February 2001, Kosovo, sect. 2:**

"Serbs throughout Kosovo and Roma in some areas reported that they were afraid to leave their enclaves due to fear of intimidation and attack by ethnic Albanians. On November 8, unknown assailants shot and killed four displaced Ashkali who had returned to their village of Dosevac (Dashevc) near Srbica (Skenderaj) to rebuild their houses, which were destroyed during the war. Most minorities--including Bosniaks, Egyptians, Ashkali, Gorani, and some Roma--lived alongside ethnic Albanians and reported that their security situation improved over the course of the year, although incidents of violence and harassment continued to occur and their freedom of movement is restricted in some areas of Kosovo. The Turkish community is more closely integrated with Albanians and is less threatened than other minorities. The remaining Roma in Kosovo largely were settled in enclaves and settlements and were dependent almost wholly on humanitarian aid."

## **Multiple displacement**

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### **Displaced returning from Serbia to Kosovo to situations of internal displacement (1999-2000)**

- Security concerns remain the primary factor in the decision made by people to leave or return
- Difficult economic conditions prevailing in Serbia and low level of assistance provided have resulted in the return of displaced Serbs to situations of internal displacement in Kosovo

**UNHCR/WFP, 5 February 2000, paras. 10.2:**

"The mission considered the possible interaction between the provision of food assistance to minorities and population movements. Does the provision of food aid, by enabling minorities to remain within a given location, increase their exposure to insecurity (because without food aid

they would have to move somewhere more secure), or decrease it (because they no longer have to take the risk of travelling to market)? Or, equally importantly, could a shortage of food and a lack of food aid be a reason for leaving?

The finding is that decisions about movements are multi-factoral, with security the primary concern and food very much a secondary issue. Where people have chosen to remain within a relatively insecure location the evidence is that this has more to do with a reluctance to abandon homes and assets than it has to do with any expectation of receiving material assistance. Equally, decisions to move out of an insecure area have primarily been made for security reasons; there is no evidence that people have so far been forced to move primarily because of a shortage of food.

Where security is less of a concern, then the availability of food seems to play a larger part in decision-making. Some of the movements between Kosovo and Serbia, particularly recent movements of IDPs back into Kosovo, may well be linked to the levels of assistance provided in the different locations. There is, however, no evidence that people are moving back to particularly insecure locations. Rather they are moving to places in Kosovo where they feel relatively safe, even if this means remaining an IDP (as in the case of returns to Strpce/Shterpce, for example)."

**OSCE/UNHCR, February 2000, para. 87:**

"Strpce/Shterpce continues to be divided between Kosovo Serb and Kosovo Albanian villages with four purely Kosovo Albanian villages remaining and five previously mixed villages now populated only by Kosovo Serbs, with the exception of Vica/Vice where a few Kosovo Albanians remain in a separate part of the village high on the hillside. The Kosovo Serb population by estimates calculated in November continues to stand at about 9,000 including IDPs. Some 952 IDPs are registered with the Yugoslav Red Cross (YRC) from a highpoint of 1,800 immediately after the conflict. This subsequently went down due to departures to other parts of FRY but current indications are that some people have returned (to conditions of internal displacement) citing difficult economic conditions there. Freedom of movement within the municipality is relatively easy but travel further afield requires a security escort. Regular commercial bus lines linking up with destinations in FRY and fYROM benefit from KFOR security escort. Kosovo Albanians, a minority within this municipality, also face freedom of movement constraints in certain areas."

**Refugees from Croatia and Bosnia-Herzegovina who had been settled in Kosovo forced to leave again (1999-2001)**

- Serbian authorities settled 15,000 Serb refugees from Croatia and Bosnia Herzegovina in Kosovo beginning of 1998
- The refugees left Kosovo in mid-1998 when the situation of Kosovo deteriorated into armed conflict
- Other refugees left from June 1999 as a result of the human rights abuses perpetrated by ethnic Albanians against members of the minority communities
- Settlements of ethnic Serb refugees in Kosovo were particularly vulnerable to attack by the ethnic Albanian nationalists
- Many of these refugees left Kosovo without documentation supporting their previous refugee status

**AI, January 2000:**

"Between 1991 and 1995 Serb refugees have flooded into Serbia and Montenegro from Croatia and Bosnia-Herzegovina. Some 15,000 of these people had been settled in Kosovo by the Serbian authorities as at the beginning of 1998 and the total refugee population in the FRY was



550,000. Some of these refugees and part of the indigenous Serb population started to leave Kosovo in mid-1998 when the situation in Kosovo deteriorated into armed conflict. However, from June 1999 thousands more Kosovo Serbs and Roma fled into Serbia and Montenegro as a result of the human rights abuses perpetrated by ethnic Albanians against members of the minority communities. The bulk of the refugees from Croatia and Bosnia were among those fleeing into Serbia. This month the General Assembly urged the international community to support programs which aim to ensure that the humanitarian needs of refugees and internally displaced persons in the FRY are met and that they support durable solutions, including repatriation and reintegration."

**USCR, April 2000, p. 15:**

"Many of the uprooted in Serbia have been displaced multiple times. Among the people recently displaced from Kosovo are thousands who were already refugees from Croatia or Bosnia, known locally as 'double refugees.' Many had been placed in collective centers in Kosovo, part of Belgrade's effort to alter Kosovo's ethnic demography. Ethnic Albanian nationalists saw the settlement of ethnic Serb refugees in Kosovo as a provocation; they became a target of ethnic Albanian anger. Often Serbian police or military were quartered in these same collective centers, making the refugees living in them even more vulnerable to attack."

**Women's Commission, September 2001, p. 8:**

"Many families have been twice displaced because, between 1992 and 1996, thousands of refugees from Croatia and Bosnia were forced by the Milosevic government to resettle in Kosovo. Their presence was expected to dilute the Albanian majority and reduce pressure for a restoration of Kosovo's autonomy. Both Serb and Roma refugees were part of this forced resettlement. Many of them subsequently fled Kosovo when the NATO bombing ended in Serbia and Kosovar Albanians returned home from their exodus. Many left Kosovo because of a perceived threat of Kosovar Albanian retaliation and others left after their houses had been burned and/or they were threatened with, or experienced, retaliatory violence. When these refugees left Kosovo, many did not come with identification or other official documents because they had burned or there was no time to get them. Without the papers supporting their refugee status, they came to be identified as displaced people and therefore lost some possibilities afforded to them by their previous refugee status."

## **Other factors**

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### **"Ethnic concentration" process in Kosovo (2005)**

- A large proportion of Serb minority returns are taking place to mono-ethnic enclaves
- Pattern of displacement of ethnic Serbs and other minorities leaving ethnically mixed villages or urban neighbourhood to ethnically "pure" enclaves in Kosovo
- From a UNHCR protection point of view, an "enclave" is a population whose movement is limited by considerations of insecurity
- WFP questions the value of the "enclave" concept in relation to food aid planning since absence of freedom of movement may not necessarily coincide with food insecurity
- Smaller enclaves have tended to disappear, transforming Kosovo into a juxtaposition of ethnically homogeneous zones and societies (2000)

### **UNHCR, 31 April 2005, Minority return to Kosovo, table 1:**

" [A] relatively large proportion of Serb returns *[to Kosovo]* (each year and for the reporting period) are not to areas requiring significant interaction w/Albanian communities. Overwhelming

majority of Serb returns have been to all-Serb communities of varying sizes, where minimal communication with neighbouring communities occurs. The communities include villages (Grace, Priluzje and Velika Hoca), relatively large communities (Gracanica, Laplje Selo, Caglavica, Gorazdevac) and municipality of Strepce."

**UN CHR, 27 September 1999, paras. 96-97:**

"In Gnjilane municipality there is an ongoing 'ethnic concentration process' in which Serbs and Albanians are leaving ethnically mixed villages for ethnically "pure" enclaves, adding to the new group of internally displaced persons. Even within towns, Serbs are retreating to ethnic enclaves. This is similar to the patterns observed in Prizren, Pec, Djakovica and other areas where Serbs, often elderly, are retreating to Orthodox Church institutions after harassment, looting or attempted burning of their property.

In Mitrovica, Serbs are concentrating in the northern part of town and further north towards Serbia proper in the municipality of Leposavic. All Roma are reported to have left the Albanian part of Mitrovica. Continuing tension in Mitrovica, which presents a Mostar-style divided city patrolled by French units of KFOR, has resulted in repeated confrontations between Serbs and Albanians, apparently fueled, at least in part, by excessive media presence."

**UNHCR/WFP, 5 February 2000, sect. 10:**

"In September 1999, WFP and UNHCR established a programme of blanket distribution for ethnic 'enclaves', defined for food aid planning and distribution purposes as 'areas within which people are living very strictly confined, with minimal access to markets or to crop or livestock production due to insecurity.' The mission reviewed the concept of ethnic 'enclaves' and concluded that it was not useful in terms of planning food assistance to minorities, since it does not simplify the process of assessing their food aid needs. It is no easier to determine whether a population is an enclave than it is to assess food needs directly. In fact, the information required (i.e. information on access to food) is the same in both cases, and the step of classifying a population as an enclave is a redundant step in the assessment process.

There are two other points in relation to enclaves. Firstly, there is a problem of definition in that the term 'enclave' is used by different organisations to mean different things. From a UNHCR protection point of view, for example, an enclave is a population whose movement is limited by considerations of insecurity. The difference is important because freedom of movement is clearly not synonymous with food security (if the population concerned has stocks, for example). Such definitional differences could easily give rise to misunderstandings over the levels of assistance that should be provided in different circumstances. This is a potential problem that can most easily be avoided by abandoning the concept of 'enclaves' altogether, at least as far as food security is concerned (this does not, of course, mean that minorities living within 'enclaves' as defined by UNHCR would not be eligible for food assistance, but that the level of assistance would depend upon the food security of the population). The second point is that defining a community as an 'enclave' can have the effect of discouraging further enquiry and analysis of the situation within the 'enclave'."

**MDM, 20 December 2000, p. 5:**

"Most of those [Gorani] working in the public sector and in the factories are no longer employed, and a number of Gorani businesses are now closed. Many Gorani are internally displaced from other parts of Kosovo to their home villages. Unless security conditions and employment opportunities improve these IDPs are likely to leave Kosovo for other parts of former Yugoslavia or to join relatives abroad. The Gorani communities visited by the mission have an appearance of relative prosperity, and it seems likely that their short-term need for food is relatively small." (UNHCR/WFP 5 February 2000, sect. 7)

"Nor are the Albanians spared who are brave enough to remain in the North of Mitrovica, in the Serbian part of the town. Lying low in their apartments, dependent on humanitarian aid, harassed every day by threats and incessant anonymous phone calls, they hold out as long as they can, live on tranquillisers, and end up by leaving. The exodus continues and the definitive splitting of the town between the north of the Ibar for the Serbs and the south for the Albanians is slowly but surely becoming a reality.

[...]

So it is that increasingly the small enclaves tend to disappear. The Serbs leave the mixed villages and districts to go to Serbia, the north of Kosovo - the Zubin Potock, Zvecan, et Leposavic regions are almost exclusively Serbian - or the big enclaves such as Gracanica. Similarly, the Albanians are increasingly leaving the north of the province. It is the same with the Gypsy populations who are fleeing to Serbia and Montenegro.

Gradually, Kosovo is becoming organised into a juxtaposition of ethnically homogeneous zones. Day after day, two ethnic entities, two parallel societies are being created, brought together in a single province. Each community has its territory, its towns, its markets, its schools, its hospitals. If a member of one community dares to cross the demarcation line, his chances of being insulted, beaten, or even killed are considerable."

#### **Displacement furthers migration to urban areas in Kosovo, except for the Serb minority (2004)**

- Population of Pristina has at least doubled since June 1999, partly as a result of an influx of refugees and displaced from rural areas
- It was believed that many of the displaced Kosovo Albanians living in urban centres in Kosovo would go back to their rural homes in the spring, however few have returned so far
- Except for northern Mitrovica, there are no more Serbs in Kosovo towns
- Northern Mitrovica owes its economic survival to Serb subsidies which, if stopped could lead to a new exodus
- Serb population in Kosovo remain predominantly rural due to the generally better security prevailing in rural areas
- Before the war, 60% of Kosovo Serbs were living in rural areas

#### Migration of the Albanian population to urban areas

##### **Refugees Daily, 7 July 2000:**

"A year after war ended in Kosovo, chaos and dislocation continue, manifested in the doubling or even tripling of the population of Pristina, now home to more than half a million people, reports the New York Times. Mostly they are people from the villages, refugees who have abandoned their burned-out homes and sought work and shelter in the capital."

##### **UN OCHA, July 2000, p. 64:**

"Over the last year, IDPs have been one of the main groups of beneficiaries of food aid assistance, particularly throughout the winter when they were among the most vulnerable in Kosovo. In Pristina town, in March 2000, over half of the total number of food aid beneficiaries (some 90,000 people) were IDPs. It was believed that many of the ethnic Albanian IDPs living in urban centres in Kosovo would go back to their rural homes in the spring, however few seem to have returned so far. While some of the IDPs now have employment opportunities in the urban centres, others may apply for assistance provided, as of July 2000, through the UNMIK Social Welfare Scheme. (Up to June 2000, UNHCR, WFP, and Food for Peace funded targeted food assistance programmes for the more vulnerable populations in Kosovo)."

Marked shift of the urban-rural balance of the Serb population in Kosovo

**ESI, 7 June 2004:**

"Perhaps the most important fact that emerges from the data is the striking difference between urban and rural Serbs. Today, there is not a single Serb-language primary school in any of the larger urban centres. Of the 63 Serb primary schools in Kosovo, 47 are located in villages with fewer than 5,000 inhabitants. A large majority of Kosovo Serbs are living in small villages scattered widely across Kosovo.

The Kosovo war and the withdrawal of the Serbian state have affected rural and urban Serb communities in very different ways. With the exception of a last outpost in North Mitrovica, the world of urban Serbs has entirely disappeared. There are no more than a handful of Serbs left in Pristina, Pec, Prizren or any of the other larger towns. By contrast, a large majority of rural Serbs never left Kosovo, even during the most turbulent period in 1999/2000. Most are living a life of subsistence agriculture, and though conditions are hard, they are relatively self-sufficient. Only in the Metohija/Dukajini region was there a substantial exodus of both the rural and urban population.

In short, the effect of the 1999 war was that almost all urban Serbs left, leaving North Mitrovica as the last remaining urban outpost. However, the vast majority of rural Serbs stayed.

Kosovo's remaining Serb communities vary considerable in geographical, economic and political conditions. As the last urban enclave, North Mitrovica survives through massive subsidies in the form of public-sector salaries and social transfers, coming from both the Serbian and the Kosovo budgets. Politics in North Mitrovica are directed towards Belgrade, and aimed at securing continuing support. Wage employment in North Mitrovica comes almost exclusively from its public institutions, in particular the university and hospital. These are funded from Belgrade, with many of the professional staff receiving double salaries as an incentive to remain in Kosovo. There is almost no other economic activity, other than small retailers. This leaves the remaining urban communities in a highly precarious position; if a change in the political climate brought these subsidies to an end, it would trigger a rapid exodus of population. Even if present subsidies continue, the lack of public and private investment makes life increasingly difficult, as infrastructure and public housing decays and employment declines. Gracanica, a village near Pristina surrounding a famous Orthodox monastery, has also emerged since 1999 as a small public service centre for Kosovo Serbs, boasting a university faculty, a secondary school, health facilities and a small private sector. Strpce, the main Serb-majority town in the south, has seen most of its former socially-owned companies cease production.

The municipality of Gnjilane, home to the largest community of Kosovo Serbs south of the Ibar, illustrates dramatically the different fates of rural and urban Serbs in post-war Kosovo. According to the last Yugoslav census, there were 19,370 Serbs in the municipality in 1991, of whom just under 6,000 lived in the town. Today, the urban Serbs have gone; according to local Serb representatives, there were 250 left before March 2004, and only 25 now. However, with 12,123 Serbs still living in the municipality, it is clear that almost all the rural Serbs have stayed."

**UNHCR/WFP, 5 February 2000, sect. 5:**

"Before the war, 60% of the [Serb] population was rural, now the figure is 80%, reflecting the generally better security prevailing in the rural areas, and the continued access that villagers have to their crop and livestock production."

**UN OCHA, 6 July 2000, p. 63:**

"Displacement of the majority Kosovo Albanian population has generally been from rural areas to urban centres. This contrasts with the movement of minority population which has been from urban to rural areas, as well as to northern Mitrovica and Serbia proper."

## PHYSICAL SECURITY & FREEDOM OF MOVEMENT

### Real and perceived insecurity affects minorities' freedom of movement (2009)

- Although the frequency of inter-ethnic violence has declined, tensions and real and perceived security concerns continue to restrict minorities' freedom of movement
- As a consequence, members of ethnic communities continued to remain within or travel between areas where their group comprised the majority
- Rock-throwing and other forms of intimidation continued to affect Kosovo Serbs and returnees when travelling outside Kosovo Serb majority areas.
- Public transportation does not function in enclaves populated by Serbs and Roma and members of these communities have to use private vehicles, minibuses or humanitarian bus transportation
- Humanitarian bus transportation provided by the Kosovo Government to the minority communities functions well and passengers are generally satisfied with its quality
- Despite the fragility of the situation, the freedom of movement for Serbs and Roma generally continued to improve, although after the independence it became even more difficult to travel from the northern part of Kosovo to the other locations in Kosovo
- When security incidents happen they have a strong impact on displaced persons and returnees belonging to minority communities
- Many IDPs even after their houses are reconstructed do not dare to return to their homes due to perceived insecurity
- In August 2008, during Go and See Visits in various locations in Kosovo, IDPs have been arrested, threatened, accused and even deliberately shot

#### UNHCR, 9 November 2009, p.10:

"According to UNHCR's observations, corroborated by the Kosovo Police Service (KPS) reports, the majority of security incidents with ethnic undertones affect the Kosovo Serb community, particularly in integrated areas. Kosovo Serbs, Kosovo Roma and Kosovo Albanians living in the North tend to remain within their enclaves.[...]"

Freedom of movement continues to be an issue affecting the Kosovo Serb and Kosovo Roma communities as well as Kosovo Albanians living in the North. Despite efforts by KPS and NATO's Kosovo Force (KFOR) to increase security measures in areas or enclaves inhabited by minority communities, members of such communities are said to be reluctant to move beyond these enclaves due to security related fears. [...]"

Public transportation services for minority groups are still organized on a "humanitarian basis" in certain locations.<sup>53</sup> The continuation of these bus lines is a strong indication that freedom of movement continues to be restricted for isolated Kosovo Serbs, Kosovo Roma and Kosovo Albanians living in the North. Even travel between North and South Mitrovicë/a has proven difficult."

#### HRW, 7 September 2009:

"Kosovo and international authorities should act in concert to halt the recent wave of attacks and harassment targeting Roma communities, Human Rights Watch and Amnesty International said today. The action should include both speedy investigations leading to identification and

prosecution of the perpetrators and measures to prevent any future attacks. The attacks were initially reported in the Kosovo Roma media in mid-August, 2009. (...)

A Roma language television program (*Yekhipe*) on Radio Television Kosovo, the state broadcaster, reported on August 13 that a flurry of attacks against Roma by ethnic Albanians took place in Gnjilane (Gjilan) in the last week of July. At least four Roma, including a community leader, were physically assaulted and injured in separate incidents, the program reported. The Organization for Security and Co-operation in Europe (OSCE) Mission in Kosovo said that the victims had reported the assaults to the police and that investigations have been opened.

The *Yekhipe* program reported that additional attacks had taken place at that time but that they were not reported to the police because the victims feared retaliation. Sources at the OSCE Mission in Kosovo also confirmed a burglary of a Roma house in Gnjilane the same week. Another series of episodes was reported on August 25, when 20 Roma families from the Halit Ibishi neighborhood in the town of Urosevac (Ferizaj) submitted a petition to the Urosevac Municipal Community Office saying that the families had been verbally and physically harassed on a number of occasions between August 17 and 22 by "unknown perpetrators." They sought protection from the Kosovo Police Service (KPS) and the municipal authorities. The police are investigating the allegations."

**Amnesty International, 28 May 2009:**

"Although the intensity and frequency of inter-ethnic violence declined after March, low-level intimidation and harassment of minorities continued. In October shots were fired towards six displaced Kosovo Serbs visiting their homes in Dvoran/e village, Suva Reka/Suharekë municipality; a Kosovo Albanian was later arrested. In November, Ali Kadriu, a displaced ethnic Albanian, was beaten by UNMIK police when he attempted to return to rebuild his house in Suvu Dol/Suhadoll in north Mitrovica/ë; he had previously been threatened by members of the Serbian community. Albanian shops were burned after an attack by ethnic Albanians on 29 December on a mixed ethnicity Kosovo Police Service patrol and the stabbing of a 16-year-old Serb boy on 30 December. "

**USDoS, February 2009:**

"Societal violence decreased marginally, but tensions between ethnic communities remained high, especially following the February 17 declaration of independence.(...)

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government and UNMIK generally respected these rights; however, interethnic tensions and real and perceived security concerns restricted freedom of movement in practice. During the year the government, UNMIK, and KFOR generally maintained the protection of these rights for minority communities as compared to the previous year. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Police continued to assess the security situation as stable but fragile. No crimes related to freedom of movement were reported to police. Nevertheless, members of all ethnic communities continued to remain largely within or travel between areas where their group comprised the majority. Rock-throwing and other forms of intimidation continued to affect Kosovo Serbs when traveling outside Kosovo Serb majority areas.

There were attacks during the year on vehicles carrying Serbs and other ethnic minorities. For example, on January 25, the KPS reported that Kosovo Albanian youths threw stones at a car driven by a Kosovo Serb living in Gjilan/Gnjilane. The suspects escaped from the scene. On

February 1, masked, armed men stopped a bus that routinely carries Kosovo Serbs to Serbia near Podujeve/Podujevo and demanded 20,000 euros (\$26,000). The suspects also took the keys of the bus. Police subsequently arrested a Kosovo Albanian man. A police investigation continued at year's end. On July 5, the KPS reported that five or six Kosovo Albanian youths in Suhodoll/Suvi Dol village in Mitrovica/Mitrovica threw stones at a vehicle operated by a Kosovo Serb. The KPS reported that police issued a warning to the juveniles' parents. (...)

Sporadic incidents of violence and intimidation targeting minorities continued to limit freedom of movement for Kosovo Albanians in northern Kosovo. The government and UNMIK enhanced efforts to facilitate minority travel, but real and perceived risks deterred many minorities from traveling outside their neighborhoods, especially after the country declared independence.

On February 28, Kosovo Albanian residents of villages in Leposaviq/Leposavic sent a letter to domestic and international authorities requesting police escort for their minibus when transporting residents of these villages to and from Mitrovica/Mitrovica. The residents said they did not feel safe travelling outside of their villages through Serb-majority areas without police protection.(...)

During the year there were incidents targeting infrastructure used by minorities. For example, on March 6 Kosovo Serbs reported to police in Gjilan/Gnjilane that unknown suspects had demolished and then stolen parts of a metallic pedestrian bridge in a Serb village. Police identified four Kosovo Albanian suspects and arrested three of them. An investigation continued at year's end. On June 26, a pedestrian discovered unexploded ordnance along the railway in Old Kacanik Village in Ferizaj/Urosevac. On July 7, a passerby discovered an explosive device under a railway bridge in Mitrovica/Mitrovica. (...)

Between January 1 and August 31, UNMIK police reported 798 cases of interethnic crime; 617 involved Serbs as victims or suspects. According to UNMIK, underreporting of interethnic incidents persisted as a consequence of the KPS policy of assigning low priority to them and persistent mistrust between minorities with the Kosovo Albanian majority.

There were multiple reports of violence against Kosovo Serbs during the year which were usually investigated by UNMIK police. For example, on April 23, in Gjilan/Gnjilane, a Kosovo Albanian man assaulted a Kosovo Serb man, who sustained slight bodily injuries.(...)"

**UNHCR, December 2008:**

"Displaced persons mainly complained about the limited freedom of movement. "

**UN ESC, November 2008:**

"The lack of stronger security guarantees affected minority communities, whose freedom of movement was restricted, Mr. Stracevic [Minister of Foreign affairs of Serbia] said. The atmosphere of insecurity contributed significantly to the extremely slow process of the return of internally displaced persons to Kosovo and Metohija, which had virtually come to a halt. Freedom of movement remained precarious (...)."

**EC; November 2008:p .24-25**

"No major ethnically motivated incident took place following the declaration of independence. Some progress can be reported in the field of security and freedom of movement for minority communities.(...) Despite some incidents targeting returnees, the overall security situation in Kosovo during the reporting period remained relatively calm."

***However concerning the situation of Roma, Ashkali and Egyptian, the report states (p.26):***

"Security remains a concern and incidents continue to go unreported."

**UNIJA, October 2008:**

"Overall the safety situation in Kosovo has improved in the previous months. Displaced persons in general can safely visit their holy places and cemeteries whenever they want. However, those visits are mainly still taking place with the help of various NGOs, which organize them with the cooperation of KFOR and UNMIK police."

**Ombudsperson Institution, July 2008, p.39-40, p.50:**

"Tensions between the Albanian and Serbian communities continued to lead to interethnic incidents, even if there were less incidents of this nature in this reporting period compared to previous years. The stoning of busses transporting mainly Serbs to and from enclaves in Skenderaj/Srbica Municipality and returnees in villages in the Pejë/Pec region continued to occur during this reporting period. In July 2007, two Serbs' houses were burned in Rahovec/Orahovac Municipality. Due to the delayed reaction of the fire brigade, the houses were completely burned to the ground. In August 2007, unknown persons wrote anti-Serb messages on the walls of the Orthodox Church in Gjilan/Gnjilane, whose premises were being used as a school for Serbian students. Also in Gjilan/Gnjilane, in December 2007, a Molotov cocktail was thrown into the house of a Serbian family. Fortunately, nobody was injured or wounded. By the end of September 2007, two priests at a Church yard in the village Binaç were gun fired but were not wounded. In December 2007, a Serbian house was attacked in Obiliq/Obilic Municipality and according to the statements of KPS officials, the investigation of this case is still ongoing.

In January and February 2008, two armed attacks occurred against passengers travelling with the company "Adio Tours" from Dragash/Dragaš and Graçanica/Graçanicë to Belgrade. Masked and armed individuals stopped the bus and asked passengers to show their identification cards.

The northern part of Mitrovicë/Mitrovica, while mainly inhabited by Serbs, also has Albanian and Bosniak neighbourhoods. In January and February 2008, a house in the Bosniak neighbourhood in the northern part of Mitrovicë/Mitrovica was burned down and two other houses were stoned.

In April 2008, two armed attacks from the Albanian village Muhagjer were directed at the Serbian village of Bërnjak/Brnjak, near the village Suhadoll I Banjës/Banjski Suvi Do in northern Kosovo. When KPS officers and KFOR arrived at the scene, they were also shot at with automatic gun fire.

In May 2008, an old man of Serbian ethnicity who had recently returned in Deçan/Decani, was beaten up. This incident was also confirmed by KPS officers, but the perpetrators have not yet been arrested. Further, in May 2008, a special KPS unit beat up a minor from Graçanica/Graçanicë, following a verbal dispute. This incident spread fear among young people living in this enclave in the central part of Kosovo.

Despite these incidents and the continuing fragility of the general situation in Kosovo, the freedom of movement for Serbs and Roma generally continued to improve, although after the Declaration of Independence it became even more problematic to travel from the northern part of Kosovo to the other locations in Kosovo.

As mentioned in previous reporting periods, public transport indeed remains problematic for Serbs and Roma, whereas Turks, Bosniaks, Gorani, Askali and Egyptians have generally no problem moving around in the area they live. The usual public transport operating in other parts of Kosovo does not operate in enclaves inhabited by Serbs and Roma. The only remaining means of transportation are private transport or minibuses used by members of the above-mentioned communities travelling from the central to the northern part of Kosovo. Since January 2007, the Ministry of Transport and Telecommunications and the Ministry for Return and Communities took over responsibilities to provide special humanitarian bus transport from the UNMIK Department of Public Administration. It is, to date, the only service provided by the Kosovo Government specifically to the minority communities and in particular to the Serbian community. Humanitarian transport includes 16 bus lines in the entire territory of Kosovo, covering mainly enclaves and villages inhabited by Serbs and Roma. According to various survey realized by OSCE, this



service has proven to be a success in terms of number of users, quality of the service, passenger satisfaction levels and access to basic rights. However, in June 2008, OSCE also raised serious concern about the government incompliance with the legal and administrative provisions regulating the service, in particular concerning the choice of the provider of this service which was until now a Kosovo Serb company trusted by passengers. OSCE underlined that the change of provider might undermine the users' fragile confidence in the Kosovo authorities. It would be logical to eventually include this kind of transport into the general transportation system but it is far to be the case at that stage. (...)

Members of the Serbian and Roma communities living in areas surrounded by the Albanian majority population still suffer from the fear of being attacked, be it real or perceived. Even after their houses, destroyed during the armed conflict of 1999 and the riots in 2004, are reconstructed, many of the owners do not dare to return to their homes and live there, mainly due to the lack of opportunities for economic development and also because of their perceived fear. They very often sell their houses and move to Serbia or Montenegro or to other enclaves in Kosovo where they feel safer because they live with members of their own communities and they are physically less isolated due to the lack of transport.(...)

As mention earlier, returnees, Serbs and Roma in particular, generally feel more comfortable to return in places where they can live with people from their community because they have families, social network and better access to services in their own language. However, it should be underlined that the general security situation and freedom of movement has improved over the past years, despite the continuous occurrence of sporadic, and sometimes dramatic, incidents that then have a very strong impact on displaced persons and returnees belonging to minority communities."

**UNJA, December 2008:**

"In addition to being financed, and in order to implement the obligation of results of the Covenant, returns structures should be backed by political willingness. Together with money, genuine support to return projects have always been missing. As an example, the practice to single out IDPs willing to return on grounds of their involvement in war crimes (the black lists) has been a constant feature throughout all these years. Never effectively monitored, let alone publicly reported, these practices have always condoned by the Kosovo authorities thus seriously undermining the IDPs' confidence in the rule of law in Kosovo. They are also on the rise and from the declaration of independence, in February to August 2008 seven Go and See visits of IDPs in various locations in Kosovo (Vitimirica, Jelovac, Prizren, Kijevo, Gornja/Donja Lapastica, Sojc, Dvoran) resulted in IDPs being threatened, accused, arrested and even deliberately shot."

**UNDP, Social and Economic position of IDPs in Serbia, 2008:**

"The respondents who said they would like to return to Kosovo were asked about their reasons for not returning already, and those who said they did not want to return were asked why they preferred to stay. Both groups could have selected any of the offered reasons. Those who wanted to return did not do so primarily for reasons of safety. The answers are ordered by frequency in the following table. Table 2.6: Reasons for not returning to Kosovo, respondents who wanted to return, in %:

|    | Reason  | %    |
|----|---|------|
| 1  | Poor safety conditions                          | 49.6 |
| 2  | Fear of violence                                | 42.3 |
| 3  | Fear of ethnic discrimination                   | 39.7 |
| 4  | Lack of mobility freedom                        | 39.5 |
| 5  | Distrust in Kosovo authorities                  | 32.6 |
| 6  | Unstable political situation                    | 32.2 |
| 7  | Lack of basic human rights and freedom          | 30.6 |
| 8  | No possibility to make income                   | 25.1 |
| 9  | House destroyed                                 | 19.6 |
| 10 | Unfavourable ethnic structure in the settlement | 19.6 |
| 11 | Lack of health care                             | 18.2 |
| 12 | Inadequate condition for education              | 17.1 |
| 13 | Complicated return procedure                    | 12.6 |
| 14 | House possessed by unauthorized person          | 10.3 |
| 15 | Infrastructure destroyed                        | 9.6  |
| 16 | Other   | 4.5  |

### Security situation since Kosovo's declaration of independence (2009)

- The overall security situation in Kosovo remained relatively stable after the declaration of independence and concerns about possible widespread violence or massive exodus from the Serb enclaves have not materialized.
- However, in the predominantly Serbian north of Kosovo, Kosovo Serbs protested in violent demonstration against UNMIK institutions, including border posts and the UNMIK court in north Mitrovica.
- Since then, the city of Mitrovica has been the site of regular clashes between Kosovo Serbs and Kosovo Albanians
- In April 2009 an attempt to rebuild 20 Albanian houses in North Mitrovica led to violent Serb protests, which were met by a robust response from EULEX and KFOR.
- In central and eastern Kosovo demonstrations over electricity cuts resulted in a violent clash with Kosovo police in March 2009
- In August 2009 the EULEX mission has been targeted by the self-determination Albanian movement Vetevendosja which seeks to end the international interference in Kosovo
- In September 2009, after EULEX signed a protocol on security and law enforcement cooperation with Serbia, EULEX vehicles were attacked and protests were held against the agreement
- In January 2009, the government of Kosovo created its own security force, the Kosovo Security Forces which was immediately condemned by Serbia.

UNHCR, 9 November 2009, P. 10-11:

"With much of the population segregated into ethnically homogenous communities, incidents of targeted ethnic violence on a large scale have decreased since the last major outbreaks in March 2004. Nevertheless, ethnically-motivated security incidents and threats reportedly continue and involve harassment: attacks against religious and cultural sites (mainly Serbian Orthodox), vandalism, burglaries, thefts, looting, unlawful property occupations and assaults[...]

In addition to sporadic shootings and murders, members of minority communities continue to suffer from ethnically based incidents such as physical and verbal assaults or threats, arson, stoning, intimidation, harassment, and looting."

**UN SC, 30 September 2009:**

"The overall security situation in Kosovo remained relatively calm, but fragile in the north. Incidents continued to occur in the northern Mitrovica suburb of Kroi i Vitakut/Brdjani, where Kosovo-Albanian former residents have started rebuilding their houses, which were destroyed in 1999. [...]

On 4 August, a group of Kosovo Albanian workers began clearing a site beyond an area where the Kosovo Albanian and Kosovo Serb communities had previously agreed that reconstruction could take place. Kosovo Serb residents responded by throwing stones at Kosovo Albanian construction workers. One Kosovo Police officer and one journalist suffered minor injuries and two trucks and one car were damaged in the incidents. The situation escalated on 25 August when Kosovo Albanians began clearing work in a part of Kroi i Vitakut/Brdjani in close proximity to the Kosovo Serb village of Brdjani and largely in the cadastral zone of the Zveçan/Zveëan municipality, without having informed or sought approval from the UNMIK Administration in Mitrovica or the Zveçan/Zveëan municipality. This resulted in a series of low-level confrontations between members of the local Albanian and Serb communities in the course of which at least four Kosovo Albanians and two Kosovo Serbs were injured.[...]

On 2 September, two explosions of unknown origin occurred in northern Mitrovica in the vicinity of the regional hospital and the Kodra e Minatoreve/ Mikronaselje neighbourhood, following a stone-throwing incident earlier in the evening in the same neighbourhood between local Albanian and Serb juveniles. No injuries were reported.

During the reporting period, six inter-ethnic assaults on Kosovo Roma by Kosovo Albanian males were reported as having occurred in the Roma neighbourhood in Gjilan/Gnjilane town. On 7 August, a Kosovo Serb couple was found murdered in their home in Partesh/Parteš village in Gjilan/Gnjilane region. Investigations are ongoing and indications are that the double murder was not related to ethnicity."

**Reuters, September 2009:**

"Unknown assailants hurled fire bombs at two EU mission cars on Wednesday, days after the mission signed a protocol on security and law enforcement cooperation with neighbouring Serbia (...)

EULEX has condemned the attack and described it as an isolated incident. Earlier this week, the EULEX, tasked with helping Kosovo authorities improve the rule of law, signed an agreement with Serbian police on sharing information for combating cross-border crime and trafficking. Serbia is refusing to cooperate directly with the government in Pristina as it considers Kosovo a part of its territory. Pristina initially rejected the agreement but later withdrew its objection after the United States, France, Britain, Germany and Italy assured the country's leaders the protocol would not jeopardize Kosovo's sovereignty and territorial integrity. On Monday, hundreds protested in Pristina against the agreement and last month more than 20 EULEX vehicles were damaged in Kosovo's capital. Police said 20 people were sentenced to one month in jail. "

**AFP, 3 September 2009:**

"Ethnic Albanians and Serbs clashed in the flashpoint northern Kosovo town of Kosovska Mitrovica overnight, police said Thursday.

Members of the two communities threw stones at each other before two powerful blasts shook the ethnic Albanian part of the majority Serb city.

"Police units reacted to the incidents but they have not registered any casualties or material damage," said the statement.

The city was the site of regular clashes between the two sides even before Kosovo unilaterally proclaimed independence from Serbia in February 2008. "

**DPA, 27 August 2009:**

"On Tuesday, 28 vehicles belonging to EULEX were destroyed in Kosovo's capital by members of the extremist Albanian movement Vetevendosja (Self-Determination), which seeks an end to what it sees as international interference in Kosovo.

Vetevendosja, which has a large number of followers among young unemployed people, has staged several demonstrations in the past against the international community, which the group perceives as working against Kosovo Albanians.

"Kosovo institutions will be responsible for what happens next" if they keep silent and allow EULEX to cooperate with Serbia, Glauk Konjufca, a leader of Vetevendosja, told German Press Agency dpa.

"What we did was sending a message to EULEX, now it is the turn for our government (Kosovo). The government should question its cooperation with EULEX. If they do not, that will mean that the independence was meaningless," he added. (...)

Also this past Tuesday, there were clashes in Mitrovica, a city in northern Kosovo that has been divided into a Serb-majority north and an Albanian-majority south since 1999.

Serbs and Albanians clashed over the rebuilding of Albanian houses in the Serbian part of the city. Several people were injured, and the rebuilding of the houses has been stopped for now.

Serbs complain that Albanians want to build houses in their part of Mitrovica but will not allow Serbs to build them in the Albanian part of the town.

"If we let (Albanians) in, we will never be able to get rid of them," one Kosovo Serb was quoted as saying.

In neighbouring southern Serbia, where Albanians make up a majority of the population and tensions are often high, Serbian police earlier in August discovered a large stash of illegal weapons in an underground oil tank in Bujanovac municipality. "

**Reuters, 25 August 2009:**

"Seven people were wounded in northern Kosovo on Tuesday when minority Serbs and Albanians clashed in the ethnically divided city of Kosovska Mitrovica, a police official said.

Albanians and Serbs in the suburb of Brdjani, just outside the Serb-controlled northern part of Mitrovica, threw stones at each other. A hand grenade was detonated and the two groups briefly traded small-arms fire, said Sami Mehmeti, a Kosovo police spokesman.

"(The international) Eulex police used tear gas to disperse the crowd and the situation is now under control," Mehmeti said. "Five Albanian construction workers and two Serbs were injured by stones."

Violence broke out after about 100 Serbs from the ethnically mixed neighbourhood rallied to protest the rebuilding of Albanian houses destroyed during the 1998-1999 Kosovo war.

In April, dozens of people including a French peacekeeper were wounded when local Serbs fought international peacekeepers and police to protest housing development in Brdjani.

Kosovo declared independence from Serbia in February 2008, nine years after a NATO-led air war forced Serbian security forces out of the area, ending Belgrade's crackdown against ethnic Albanians.

Following Kosovo's independence declaration, the European Union deployed its police, customs and judiciary mission called Eulex to replace a United Nations mission.

In the capital Pristina, dozens of protesters led by an ethnic Albanian nationalist group rallied on Tuesday against the EU executive presence, damaging 24 Eulex vehicles. Kosovo police arrested 20 people, said Arber Beka, a police spokesman. "

#### **UN SC, 10 June 2009, p.3**

"The overall security situation in Kosovo remained relatively calm. However, a series of incidents occurred in the northern Mitrovicë/Mitrovica suburb of Kroi i Vitakut/Brdjani, where Kosovo Albanian former residents, despite opposition by local Serbs, started rebuilding their houses which had been destroyed in 1999.

UNMIK, in coordination with EULEX and KFOR, encouraged both sides to find a sustainable and peaceful solution. Nevertheless, construction work began on 23 April which led to daily protests organized by Kosovo Serbs. As soon as the situation started causing security concerns, Kosovo Police, EULEX and KFOR stepped in to protect the construction sites from the demonstrators. EULEX used tear gas on a number of occasions to disperse the demonstrators. On 27 April, EULEX and KFOR came under gunfire by Kosovo Serbs but brought the situation under control. Relatively few injuries were reported during the period of protests. Political leaders on both sides condemned the acts of violence, as did the Belgrade authorities. Through its continued mediation, UNMIK, with the support of EULEX and KFOR, eventually broke the deadlock and brought the two sides into agreement on a pragmatic solution. The Kosovo Serbs agreed to the rebuilding of five Kosovo Albanian homes, whereas the Kosovo Albanians agreed to Kosovo Serbs building five homes on recently acquired parcels of land in the same area. As a result, on 13 May, Kosovo Serbs began clearing their parcels of land in preparation for subsequent construction work."

#### **ICG; 12 May 2009:**

"Parallel municipalities in central and eastern Kosovo organized demonstrations over the cuts [the electricity cuts], resulting in a violent clash with Kosovo police at the village of Shillova/Silovo, near Gjilan/Gnkilane, in March 2009. Local leader threatened escalation, including a mass exodus. (...)

From late April 2009, an attempt to rebuild 20 Albanian houses in a north Mitrovica suburb (Kroi i Vitakut/Brdjani) led to violent Serb protests, which were met by a robust response from EULEX and KFOR. Serb representatives claim that in 2000 they agreed with UNMIK that any return and reconstruction would be done reciprocally. On 4 May, Serbs representatives proposed that reconstruction commence on some sixteen Serb houses and all KFOR forces and EULEX withdraw. The protests came to a halt on 11 May after the Kosovo Serbs reached an agreement with UNMIK - and indirectly with EULEX - allowing for the reconstruction of five Serb houses."

**AI, 28 May 2009:**

"In the predominantly Serbian north of Kosovo, following independence, Kosovo Serbs protested in sometimes violent demonstrations against UNMIK institutions, including border posts and the UNMIK court in north Mitrovica/ë, which was occupied by the Serbian judiciary in March. During an internally criticized UNMIK operation to regain the court, a Ukrainian UNMIK police officer was killed and 200 people severely injured. In the following months, Serb members of the Kosovo Police Service (KPS) resigned, and other public employees were urged to leave their posts by the Belgrade government, which sought to establish parallel structures in Serbian areas of Kosovo. "

**ICG, February 2009:**

"A year has passed since Kosovo [declared independence](#) on 17 February 2008. Concerns about possible widespread violence and/ or a mass exodus from the Serb enclaves, have not materialised. While there have been violent episodes, the situation has remained largely stable. Kosovo's government has made positive gestures to the Serb minority and committed to protect minority rights, including through the decentralisation of local government and preserving the Serb cultural and religious heritage. "

**BalkanInsight, 14 January 2009:**

"Most Kosovo Serbs distrust Albanians, reject the secession and see Belgrade as their capital, many still getting salaries, pensions, medical care and even schoolbooks from Serbia. In late 2008, long-simmering tensions in the northern city of Mitrovica exploded into violent protests, exposing the deep ethnic divide."

**AFP, 21 January 2009:**

"Kosovo launched a new security force Wednesday in a new sign of independence, prompting Serbia to brand it "an illegal paramilitary group" whose creation was "totally unacceptable".

The search for hundreds of recruits of the Kosovo Security Force (KSF) is being supported by NATO peacekeepers in the breakaway Serbian province.

Lieutenant Henrik Kristensson of NATO said the force aims to have 1,500 members by September with an eventual full operational size of 2,500 full time members and 800 reserves in two-to-five years.

He said the force would be recruited from majority ethnic Albanians and minority Serbs and would come under the control of the Kosovo parliament.[...]

Serbian Foreign Minister Vuk Jeremic branded the KSF "an illegal paramilitary group" whose creation was "totally unacceptable".

Speaking on B92 television during a visit to Ljubljana, Jeremic said the "force is a direct threat to national security, peace and stability in the entire region".

He said Serbian President Boris Tadic would protest to UN Secretary General Ban Ki-moon and NATO chief Jaap de Hoop Scheffer. "Serbia will use all diplomatic means to have this decision undone," he added.[...]

The force is part of a plan for Kosovo drawn up by UN envoy Martti Ahtisaari which called for independence under international supervision. The plan has never been approved by the UN Security Council because of Russian opposition.

Under the Ahtisaari plan the KSF will have civil protection functions and possibly help in emergency situations but it is not intended to be a fully-fledged police force straight away."

**Reuters, 9 January 2009:**

"Since Dec. 30 several [2008] people have been injured and cars and shops set on fire in ethnically motivated violence between Kosovo's Serbs and Albanians in the divided town of Mitrovica.

"This is urban violence. But it has political implications, meaning that it can mobilise people," said French General Michel Yakovleff. "That can lead to a major conflict."

Tension has been high between Kosovo's ethnic Albanian majority and Serb minority since it declared independence from Serbia nearly a year ago, following NATO's 1999 bombing campaign that halted Serbian troops' killings and expulsions of civilians from the region. (...)

There are about 15,000 NATO peacekeepers in Kosovo, and extra troops were sent to Mitrovica after the last violent incident on Jan. 3 when two explosions destroyed cars and damaged property.

The violence prompted local ethnic Serbs and Albanians to organise round-the-clock neighbourhood vigils. On Friday Arif Gashi, an Albanian teenager, was on the street on a morning shift with two friends, warming his hands at a big fire in temperatures of minus 10 degrees Celsius.

"We are here to protect our families," he said. Serb groups in a Serb neighbourhood just a few blocks away also have neighbourhood watches of their own. "We are organized and have the capacity to protect ourselves even if we are attacked by 100,000 armed Albanians," said a young Serb who refused to be named."

**EC; November 2008:p .24-25**

"No major ethnically motivated incident took place following the declaration of independence. Some progress can be reported in the field of security and freedom of movement for minority communities.(...) Despite some incidents targeting returnees, the overall security situation in Kosovo during the reporting period remained relatively calm."

**OSCE, Human Rights, Ethnic Relations and Democracy in Kosovo, September 2008:**

"Despite fundamental political changes in Kosovo during the first half of 2008, the political and security situation remained remarkably stable. During the reporting period, two important events involving politically motivated violence occurred on 19 February and 17 March in northern Kosovo: one related to the burning of customs posts, and the other to regaining control of the Mitrovicë/Mitrovica courthouse. However, these incidents did not escalate. At the same time, the fear that insecurity among the Kosovo Serb community would lead to a new wave of departures did not materialize."

**Unresolved status of Kosovo threatens Kosovo's stability (2007)**

- The Settlement Proposal, while well-received by the majority of Albanians, was rejected by radical Kosovo Albanians and Kosovo Serbs
- Vetevendosje's (the Kosovo Albanian self-determination movement ) February protest in Pristina turned out deadly for two protesters who died from rubber-bullet wounds to the head
- While the actions of this movement are not widely supported, the lack of status settlement creates a fragile environment which can be exploited by radical elements
- Protests following the February 10 incident had low attendance and were held peacefully

- It shows that as long as there is a forward momentum in the status determination process, people feel no need to explicitly support more radical political options promoted by groups such as Vetevendosje

*Unresolved status and attempts at its settlement have a direct impact on the security situation in Kosovo. Following the publication of Settlement Proposal , i.e. [The Comprehensive Proposal for the Kosovo Status Settlement](#) prepared by UN SG Special Envoy, Martti Ahtisaari and his [Report on Kosovo's future status](#), a serious isecurity incident took place.*

**UN SC, 9 March 2007, paragraph 4:**

"The Settlement Proposal was generally well received on 2 February by Kosovo Albanian leaders and the public, though a number of concerns were voiced on its elements such as the proposed disbandment of the Kosovo Protection Corps (KPC) and decentralization. Radical Kosovo Albanian elements and Kosovo Serbs both rejected the Settlement Proposal, though for opposite reasons. Vetevendosje again held a protest against the plan, the Kosovo negotiating team, UNMIK and the future envisaged International Civilian Office on 10 February, the intent of which was clearly violent. Tragically, two protesters died from rubber-bullet wounds to the head. The Minister of Internal Affairs of the Kosovo Provisional Institutions of Self-Government and the UNMIK Police Commissioner resigned shortly afterwards, while the leader of the Vetevendosje movement's remains in pre-trial detention. An inquiry into the deaths and an investigation into Vetevendosje are ongoing. While there is little mainstream support for the actions of this movement, the continued lack of clarity on Kosovo's status, which hampers social, economic and political progress, creates a fragile environment which was exploited by radical elements."

**UN SC, 29 June 2007, paragraphs 10-12:**

"During the reporting period, the overall security situation was calm, with few significant incidents. Rallies organized by the Kosovo Albanian self-determination movement "Vetevendosje" on 3 and 31 March, in protest against the current status determination process, had low attendance and were held peacefully. This stood in sharp contrast to the 10 February demonstration organized by Vetevendosje, during which two protesters were fatally wounded by UNMIK police and which led to the arrest of the movement's leader. This change in the nature of the Vetevendosje demonstrations can be attributed to outreach efforts by UNMIK police and the Kosovo Police Service (KPS) with rally organizers, and the continued detention of Vetevendosje's leader, as well as steps forward in the future status process.

On 17 April, the international prosecutor in charge of investigating the violence surrounding the 10 February Vetevendosje demonstration issued an interim report stating that there was a substantial basis upon which to conclude that members of the Romanian formed police unit were linked to the incidents. He also concluded that there was insufficient evidence to support a reasonable suspicion as to which Romanian police officers were responsible for firing the shots, and that therefore a judicial investigation could not proceed. On 18 April, the UNMIK Police Commissioner announced that an internal police review had found deficiencies in some areas of operational planning and command and control and indicated that measures had been taken to ensure that the police response to public disorder would be properly managed in the future.

The publication of the interim report, as well as the announcement by UNMIK police that an internal review would be undertaken, did much to defuse tensions. The relative calm during the reporting period was also attributable to a perception by the population in Kosovo that, as long as there is a clear forward momentum in the status determination process, there is no need to explicitly support more radical political options promoted by groups such as Vetevendosje."



**Although ethnically motivated violence is decreasing, minority communities in Kosovo still feel insecure (2005-2007)**

- The overall security situation has been improving steadily since March 2004 riots and has generally remained calm, with few significant incidents
- Potential ethnically motivated incidents decreased by 70%
- Members of ethnic minorities may still suffer from "low scale" ethnically motivated security incidents, many of which remain unreported
- In 2005 security environment in Kosovo remained highly fragile and volatile, and members of ethnic minorities in particular viewed the situation as insecure and dangerous
- In 2004, return movements decreased by almost 50% from 2003 levels, mainly due to security fears

**UN SC, 29 June 2007, paragraphs 10 and 13:**

"During the reporting period, the overall security situation was calm, with few significant incidents.

...

Notwithstanding the general calm that prevailed during the reporting period, there were two high-profile incidents. These included a grenade attack on the Visoki Decani monastery in Deçan/Decani municipality on 30 March, and the attempted assassination on 28 February and 12 April of the head of the Telecommunications Regulatory Agency of Kosovo. Though little damage was done to the monastery, the attack was significant as it occurred only a few days after a successful outreach meeting in the municipality, which was attended by my Special Representative, senior officials of the Provisional Institutions, representatives of the Serbian Orthodox Church and representatives of the Kosovo Liberation Army War Veterans' Association. A suspect was subsequently identified in connection with the attack, but remains at large despite continuing efforts by KPS to locate and apprehend this individual, including public appeals for cooperation in the search. Thanks to swift action by KPS, three suspects were immediately arrested in the case of the assassination attempt on the head of the Telecommunications Regulatory Agency on 12 April."

**UN SC, 9 March 2007, paragraphs 8 and 33 (Annex):**

"With the exception of the violent demonstration on 10 February led by Vetevendosje and the explosion in central Prishtinë/Priština on 19 February that damaged three United Nations vehicles, the security situation remained generally calm. There was a relatively small number of potentially destabilizing incidents. General crime levels decreased during 2006 in comparison to 2005. In specific categories, crimes against persons dropped 11 per cent and weapons-related crimes by 10 per cent. Murders fell by 15 per cent. The only area of significant increase was in crimes against property, which rose by 5 per cent. Potentially ethnically motivated incidents also dropped significantly, by 70 per cent.

Inter-ethnic crime continues at a low level but cases continue to receive maximum exposure in the Serbian-language media. Following the shooting and subsequent death on 3 January of a KPS officer on the Prishtinë/Priština-Mitrovica highway near Babimovc/Babin Most, a predominantly Serb village, KPS officers supported by UNMIK police carried out searches of 17 houses, which brought heavily publicized allegations from villagers that excessive force had been used. Investigations by the KPS Professional Standards Unit, closely monitored by senior officials of UNMIK police, have so far revealed no malpractice by the officers involved."

**UN SC, 20 November 2006, paragraph 7:**

"Security incidents involving Kosovo Serbs continued during the reporting period. On 26 August, a grenade attack on a café at the northern end of the main bridge over the river in Mitrovica

injured 9 people, leading to protests by 300 Kosovo Serbs and the temporary closure of the main bridge. A Kosovo Albanian juvenile suspect was arrested in connection with the attack and remains under house detention. A grenade attack on a Kosovo Serb returnee family in the town of Klina on 19 September wounded a family of four and further raised tensions in the community. All leaders of the Kosovo Provisional Institutions of Self-Government and Kosovo Albanian political leaders condemned the attacks. Despite these incidents, the overall number of potentially ethnically motivated crimes has considerably decreased in the course of this year."

**UN SC, 1 September 2006, Annex, paragraph 37:**

"The police assessed the security situation in Kosovo as stable but fragile. Police figures for potential ethnically motivated incidents have remained low and continue to show a declining trend compared to 2005."

**UNHCR, 19 June 2006, paragraphs 10 and 12:**

"Members of ethnic minorities continue to suffer also from "low scale" ethnically motivated security incidents such as physical and verbal assaults/threats, arson, stoning, intimidation, harassment, looting, and "high-scale" incidents such as shootings and murders. Many of these incidents remain unreported, as the victims fear reprisals from the perpetrators of the majority community. Security incidents against Albanian minorities have been reported in the proximities of the main bridge in Mitrovicë/a, in the course of identity card (ID) checks by Serb bridge-watchers, often involving intimidation and physical assault. Members of the Roma community, possibly due to their weak social and economic position and lack of trust in the authorities' ability or willingness to protect them against retaliation, are reluctant to report security incidents to the Kosovo Police Service (KPS) or Serbian Police (SUP) operating in the northern part of Kosovo.[] In addition, Roma infrequently resort to the court system, e.g. because they live in remote areas.[]"

Members of ethnic minorities continue to perceive the current situation as insecure and in some instances even dangerous. Although not all security incidents are, of course, inter-ethnic in nature, they nevertheless exacerbate inter-ethnic perceptions and tensions.[] The pervasiveness of "low-scale" incidents such as harassment, intimidation, stone throwing, graffiti, and insults/threats has a negative bearing on the level of confidence of minorities in the ability of the security forces to adequately protect them, this even though the number of incidents may have decreased.[] Confidence in the Rule of Law sector has been weakened by ineffectual criminal investigations, low prosecution rates and a large number of unresolved theft and looting cases.<sup>17</sup> The cumulative effect of these factors has reinforced perceptions of insecurity in the Serb Community, and to a lesser extent, in the Roma community.[]"

**UNHCR, March 2005:**

"Since the inter-ethnic violence in March 2004, and particularly in the second half of the year, the overall situation in Kosovo has improved. Renewed and effective engagement of the Provisional Institutions of Self-Government (PISG) to implement Kosovo Standards, particularly in areas related to the situation of ethnic minorities, has led to the creation of new windows of opportunity for return in various municipalities. The security situation has improved if measured by the declining trend in serious crimes against members of minority communities. There has been no reported ethnically based killing since a 16-year old Kosovo Serb died on 6 June 2004 in Gracanica in a drive-byshooting.

Furthermore the elections for the Kosovo Assembly on 23 October 2004 took place in a peaceful manner and were judged to be free and fair. Likewise, no security incidents occurred during the visit of the Serb President Tadic to Kosovo on 13 February 2005. There has also been some progress in prosecuting those responsible for the March violence.

It should be noted, however, that the decrease in the number of serious crimes against members of minority communities may also be closely related to the fact that freedom of movement of ethnic minorities and thus contacts with majority populations have significantly dropped after the March 2004 events.

Nonetheless, the security environment in Kosovo remains highly fragile and volatile. Minorities continue to suffer ethnically motivated incidents in which minority transports are stoned; member of minorities attacked (...) harassed (...) or intimidated; property and possessions of minorities looted (...), destroyed or illegally occupied (...); grave sites of minorities vandalized (...); and hate graffiti painted on municipal buildings (...). Many of these incidents remain unreported as the victims fear reprisals from the perpetrators from the majority community.

The risk that the fragility and volatility of the current situation may translate during 2005 into renewed violence cannot be excluded. (...) If serious inter-ethnic violence were to erupt in one area, it could, as was the case in March 2004, have a “snowball effect” and rapidly spread throughout Kosovo.<sup>11</sup> Should that occur, violence is likely to affect once again ethnic minorities.

...Members of ethnic minorities continue to perceive the current situation as insecure and dangerous. This is due to a number of factors, including that the March 2004 events seriously destroyed their confidence in law-enforcement authorities and exacerbated their mistrust of the majority population. Perpetrators are still rarely brought to justice and incidents such as those described above are continuing. Therefore the enhanced security measures and initiatives by UNMIK and KFOR (...) have not been able to significantly alter that perception.

The strong feeling of insecurity and the concrete security incidents have had a major impact on voluntary repatriation movements. In 2004, return movements of ethnic minorities decreased by almost 50 per cent as compared to 2003.(...) Most of the (few) return movements took place to mono-ethnic rural areas or areas where returnees belong to the majority population. The constraints in relation to return perspectives are also illustrated by the situation of the ethnic minority communities that were forcibly displaced during the inter-ethnic violence in March 2004: one year later, more than half of the IDPs have still not returned to their home communities on security grounds, although their reconstructed houses offer better living conditions than the provisional IDP shelters.”

***For more information on the security situation see also:***

***Report of the Secretary General on the United Nations Interim Administration in Kosovo, UN Secretary General, S/2005/335, 23 May 2005 and S/2005/88, 14 February 2005***

### **Security concerns: overview by minority and vulnerable group (2005)**

- Main communities at risk are Kosovo Serbs, Roma and ethnic Albanians in a minority situation
- Other groups may have a well-founded fear of persecution
- Ethnically-motivated violence affects the Serb community most seriously
- Despite recent improvements, the Roma are still exposed to violence and discrimination
- The situation of ethnic Bosniacs and Gorani is comparatively better but most continue to live in enclaves

### **UNHCR, March 2005:**

“Against the described developments and constraints for ethnic minorities UNHCR is concerned in particular for Kosovo Serb and Roma communities as well as for ethnic Albanians in a minority situation. Therefore, the Office maintains and reiterates its position that members of these groups

should continue to benefit from international protection in countries of asylum under the 1951 Convention or complementary forms of protection depending on the circumstances of claims. For these groups and individuals return should only take place on a strictly voluntary basis in safety and dignity in a coordinated and gradual manner. Such return to be sustainable needs to be supported by reintegration assistance.

With regard to Ashkaelia, Egyptian as well as Bosniak and Gorani communities these groups appear to be better tolerated in spite of a single but very serious incident against the Ashkaelian community in Vushtrri/Vucitrn during the March 2004 attacks. In light of that incident, the August 2004 advice from UNHCR included the Ashkaelia and Egyptian communities among those with a continuing general need for international protection. However, in light of the developments since then, UNHCR's position is currently that these groups may have individual valid claims for continued international protection which would need to be assessed in a comprehensive procedure.

In the current complex situation of Kosovo, others groups not detailed above may have a well-founded fear of being persecuted for Convention related reasons. Under these categories may thus fall Kosovo Albanians belonging to the majority population and members of all ethnic minority groups, including those that UNHCR has not mentioned under the above "ethnic minorities at risk". Examples for these categories may include but are not limited to the following:

- Persons in ethnically mixed marriages and persons of mixed ethnicity;
  - Persons perceived to have been associated with the Serbian regime after 1990;20
- and
- Victims of trafficking. (...)

Individuals in a particularly vulnerable situation may have special needs that should be taken into account in the context of return and particularly bearing in mind the inadequate standards of health care and social welfare institutions. The following is a non-exhaustive list of persons falling under this category:

- Chronically or otherwise severely-ill persons whose condition requires specialized medical intervention of a type not yet available in Kosovo;
- Persons with severe and chronic mental illness (including post-traumatic stress disorders) whose condition requires specialized medical intervention of a type not yet available or rarely available in Kosovo;
- Severely handicapped persons (including their caregivers) whose well-being depends on a specialized support system not yet available in Kosovo;
- Unaccompanied elderly persons who have no relatives or any other form of community support in Kosovo; and
- Separated children without relatives or caregivers in Kosovo, and for whom it is found not to be in the best interest to return to Kosovo.

In addition, the return of separated children for whom relatives and caregivers have been identified should only take place after appropriate advance notification and arrangements have been made by the repatriating State so that there is no gap in the care and protection provided to the child."

**UNHCR, April 2002, paras. 15-23:  
"Kosovo Serbs**

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)**

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.

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.

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.

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**

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.

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 coordinated 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 destabilizing the whole return process for minorities in Kosovo.

### **Kosovo Gorani**

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.

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 the longer-term economic and social viability has compelled many Gorani to leave Kosovo."

***For more detailed information on the security conditions faced by the different minority groups in Kosovo, see [UNHCR-OSCE Ninth Assessment of the Situation of Ethnic Minorities in Kosovo \(Period covering September 2001 to April 2002\), May 2002 \[Internet\]](#)***

***See DPA, "[Serb seeking to return stoned by ethnic Albanian teenagers](#)", 7 November 2002 [Internet]***

***For information on the ethnic Albanian minorities in Kosovo, see "[The divided city of Mitrovica: Serb-controlled area resists international control \(1999-2002\)](#)" [Internal link]***

### **March 2004: the most serious outburst of violence since 1999 (2005)**

- The violence in March 2004 systematically targeted members of minority communities who had not been displaced over the past five years
- Kosovo Serbs were the primary target of this inter-ethnic violence, but other minority communities also suffered serious incidents
- Law enforcement authorities and political leadership were slow to condemn and stop violence
- Three days of violence left 19 civilians dead and over 950 injured
- Events showed that non-ethnic Albanians are at risk in Kosovo

- Ashkaelia community in Vushtrri/Vucitrn town attacked by aggressive crowds
- Return movements do not necessarily reflect a substantial improvement in the overall security situation

**UNHCR, 13 August 2004 :**

“A further and extremely serious confirmation of the fragile security situation for minority communities came with the March 2004 eruption of mass demonstrations leading to inter-ethnic violence and civil unrest of a scale not witnessed since 1999. The violence rapidly spread to all regions of Kosovo resulting in displacement among all minority communities. Notably, the violence systematically targeted mainly members of minority communities who had not been displaced over the past five years, although returnees also came under direct attack. The Kosovo Serbs were the primary target of this inter-ethnic violence. Equally, various serious security incidents affected Roma, Ashkaelia and Egyptian communities. This particularly concerned Vushtrri/Vucitrn town, where the entire Ashkaelia neighbourhood was systematically attacked, houses burned and looted. Likewise, some Albanian communities and families in a minority situation in the northern municipalities suffered security incidents. Finally, whereas Bosniaks and Gorani were not directly targeted, some felt sufficiently at risk to opt for precautionary self-evacuation, or were evacuated by police to safer places.

The law enforcement authorities and political leadership did not manage to stop the violence early on and the three days of violence left according to initial information 19 civilians killed and more than 950 civilians injured – both killed and injured were of various ethnicities. (...) Approximately 730 houses belonging to minorities were damaged or destroyed, as well as 36 churches, monasteries, religious sites and public buildings catering to minorities.<sup>2</sup> By 23 March, a total of more than 4,100 Serb, Roma, Ashkaelia, Egyptian and Albanian minority community members had been displaced as result of the unrest.

These developments clearly demonstrate that non-ethnic Albanians originating from Kosovo continue to face security threats which place their lives and fundamental freedoms at risk. The situation of members of the minority communities, and henceforth the level of risk which may affect them depend on a variety of factors as outlined below and in the more detailed June 2004 Update. (...) Kosovo Serbs and Roma are particularly vulnerable in terms of their security, but Ashkaelia and Egyptians also continue to face very serious security threats. (...)

The past year has witnessed an increase in serious ethnically-motivated crimes against the Kosovo Serbs, ranging from shootings, grenade attacks and use of explosives to arson and physical assault. During the inter-ethnic violence of March 2004, Kosovo Serbs were attacked, physically assaulted by aggressive crowds in their homes, from which they were forced out as these houses or flats were set on fire. Many had to be evacuated by KFOR, some from burning houses. Widespread looting and pillaging followed the arson and continued unabated for three days. Eight of the 19 persons killed were Kosovo Serbs, several hundreds of the injured as well, and the vast majority of the destroyed or damaged houses belonged to the Serb community. Over 3,400 persons or 82 per cent of the newly displaced were Kosovo Serbs who sought temporary safety in KFOR camps, public buildings and private accommodation.

The continued looting and attempts to destroy houses, churches, monasteries, religious institutions and public services that belonged to the Serb population for days following the departure of the displaced, sends a strong message of denial of the right to return, including and especially for those who had never before felt the need to leave Kosovo. This has adversely affected the Serb communities as a whole, halting or delaying voluntary return to Kosovo and prompting some departures of the remaining population. It is noteworthy that at the time of writing this report, vandalism and looting of damaged houses continues in many areas and is a source of serious concern. It underscores and maintains the Kosovo Serbs in a constant state of fear. This

is exacerbated by continuing violent incidents targeting individual Kosovo Serbs. In the most serious incident since the March events, a 16-year old Kosovo Serb was killed on 6 June 2004, in a drive-by-shooting. (...)

A number of individual members of the three communities came under attack in March 2004 but, more importantly, one of the most violent and destructive expulsions of a minority community during those days was that of the Ashkaelia community in Vushtrri/Vucitrn town. The entire community with the exception of three families was systematically attacked by aggressive crowds and, in the end, 65 Ashkaelia families had to be evacuated by KFOR troops. Their houses were subsequently systematically looted and burned down and all 65 families (259 persons) remain in displacement. Although this may be seen by some as a unique and isolated incident, the attack against this community is significant as it occurred where the first organized return movement of Ashkaelia IDPs from Serbia took place in 2002, after which a number of individual returns had since taken place. Therefore, the systematic attack on a partly integrated community (some members of the community remained in Vushtrri/Vucitrn town during the past five years) and partly returnee community coupled with the scale of the repeated harassment and crime that affect the Ashkaelia and Egyptian communities strongly point to their continued vulnerability and the possibility that they will be targeted in the future.

The Roma, Ashkaelia and Egyptians continue to seek safety in large communities, in overcrowded, often informal settlements without appropriate infrastructure. Their difficulties are compounded by property-rights-related problems. The March 2004 events demonstrate that, Vushtrri/Vucitrn being a case in point, the existence of return movements (whether spontaneous, facilitated or organized) does not necessarily or immediately reflect a substantial improvement in their security situation in general. In view of this, all three communities continue to feel threatened for well-founded reasons. (...)

Whereas the Bosniaks and Goranis were not directly targeted during the turmoil in March 2004, in some locations they felt insecure and opted for precautionary movements.”

***For more information on the March 2004 event see also:***

***Failure to protect: anti-minority violence in Kosovo: March 2004, Human Rights Watch, July 2004***

***The March violence: KFOR and UNMIK's failure to protect the rights of minority communities, Amnesty International, 8 July 2004***

***Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, S/2004/613, United Nations Secretary General, 30 July 2004***

***Human rights challenges following the March riots, OSCE Mission in Kosovo/UNMIK, 25 May 2004***

### **March 2004 violence severely affected freedom of movement (2005)**

- 25 percent of people displaced by the events of March 2004 are still displaced
- Violence increased the distrust and tension between majority and minority populations
- Security for minorities has improved since March 2004, but freedom of movement remained precarious
- Freedom of movement is better in central Kosovo than in western Kosovo
- Questions as to whether freedom of movement results of real or perceived security threat are open
- Freedom of movement has increased in all part of Kosovo except in the town of Mitrovica



- Opening of the Mitrovica bridge faced with strong opposition from Serb community
- KFOR has gradually and significantly decreased its troop numbers
- Restricted freedom of movement limits access of minorities to basic services

**Ombudsperson, 11 July 2005:**

“When talking about Serbs and Roma living in Albanian-dominated areas today, there are still many reminders of the riots that took place there in March 2004, resulting in the deaths of 11 Albanians and 8 Serbs and over 1 000 injured. In the course of these violent events, 36 orthodox churches, monasteries and other cultural and religious sites were damaged or destroyed, as well as some 730 houses belonging to Serbs and members of other minority communities in the area. As a consequence, approximately 4 100 people lost their homes.

After the riots, there were many public reactions, both international and local, although many local Albanian politicians only spoke out against the violence after having been prodded to do so. Unfortunately, many problems that resulted from the violent events of March 2004 still have not been resolved entirely. Approximately one-fourth of the persons driven out of their homes are still displaced. While before the so-called “March events”, the relationship between ethnic Albanians and certain minority groups, in particular Serbs and Roma, was very tense, last year’s violence increased the mistrust and tension between these groups even more. In particular the Serbian and Roma communities experience a heightened sense of insecurity, as the riots last March showed them that such events could happen in a matter of days and that if they ever happened again, their ethnic groups would be primary targets.

In his report on UNMIK to the UN Security Council of 14 February 2005, the UN Secretary-General noted that the Government of Kosovo had made the enhancement of minority rights a priority in its programme and that the Prime Minister had reached out to Kosovo Serbs in many public statements. He also stated that there had been no serious inter-ethnic crime – and no murder of a Kosovo Serb – in Kosovo since June 2004 and that UNMIK and KFOR continued to address minority communities’ fears regarding safety and freedom of movement, in particular through cooperation with authorities at the municipal level and community policing initiatives. According to the UN Secretary-General, security for minorities had improved since the violence in March 2004, allowing checkpoints to be removed from most major roads and police escorts minimised. Nevertheless, freedom of movement remained precarious. While Kosovo Serbs on the one hand considered themselves at risk and were thus reluctant to leave their communities or interact with the majority community (and vice versa), the PISG had not yet fully engaged in initiatives for inter-community dialogue. The employment of members of minority communities in the public sector remained at half the stipulated level and the need for an ethnically integrated transport system had not been addressed.

The UN Secretary General also confirmed that the fear of certain minority groups was fed by isolated incidents that were not always condemned or addressed by local leaders involving the stoning of transport services for minorities, hate graffiti on municipal buildings, the looting of unoccupied minority houses and no respect for minority language rights. Signs outside buildings and official documents were often only in the language of the dominant ethnic group. This and other factors led to a situation in which minority communities’ trust in Kosovo’s political and administrative systems remained low and their involvement in political process and in senior levels of the civil service remained marginal.

Since February 2005, not much has changed. The overall freedom of movement for Serbs and Roma in many Albanian-dominated areas continues to improve slowly, but is still far from satisfactory. There are still many areas where isolated villages inhabited by Serbs and Roma are only accessible through KFOR checkpoints.

While a train commuting between central Kosovo and Leshak in northern Kosovo is being used both by members of the minority communities and by ethnic Albanians, only special buses travel between the various enclaves or between enclaves and Northern Mitrovica, sometimes with Police or KFOR escorts, sometimes not, as public buses pass through enclaves but do not stop there. In some areas in western Kosovo, KFOR buses taking persons outside enclaves only drive once a week. School buses for Serbian and Roma children still drive through certain areas inhabited mainly by Albanians with Kosovo Police Service (KPS) or UNMIK Police escorts. While in central Kosovo, Serbs are commuting freely in their own vehicles with Kosovo license plates, the situation is different for certain Serbian villages in western Kosovo where the local inhabitants do not dare to move outside their villages without KPS or KFOR escorts. In such areas, the freedom of movement of the inhabitants depends very much on the respective KFOR units. According to the ICRC and other institutions, attacks against Serbs and Roma are no longer as grave, but at the same time such incidents have increased in number, so that the victims of such actions are subjected to a regular pattern of harassment and heckling.

The question of whether limits to the above persons' ability to move freely in the whole of Kosovo are real or merely perceived by the respective Serbian and Roma communities is still the subject of many discussions and can thus not be answered in a clear and unambiguous manner. A number of circumstances including the continuing presence of KFOR checkpoints in certain areas and harassment of members of these minority communities on a regular basis show that there is a continuing and mutual lack of trust between the Albanian majority and the Serbian and Roma minority groups. The fact that many perpetrators of criminal acts committed during and after the armed conflict in 1999 have still not been brought to justice and the considerable number of missing on both sides, but predominantly the Albanian one, only enhances this mistrust, while Albanian leaders are not always very outspoken when it comes to condemning attacks against members of minority groups. While for the moment, it has generally become easier for members of the last-mentioned communities to move around more freely, the reality, in particular in certain parts of central and in western Kosovo is still different. In general, due to different factors, the general situation on the ground, as admitted by UNMIK and KFOR, continues to be volatile. (...)

With regard to most cases where ethnic Albanian enclaves are situated in areas dominated by Serbs, freedom of movement on a daily basis is not so much of an issue. The situation changes drastically when looking at Mitrovica town, which since the armed conflict in 1999 has been split into a Serbian-dominated north and an Albanian-dominated south. In particular after violent attacks against Albanians in February 2000, many of these people have left the northern half, while the Serbian population of this part of town has swelled following the influx of Serbian IDPs from all over Kosovo. Ethnic Albanians wishing to go to Northern Mitrovica or needing to attend hearings in the courts located there are forced to rely on UN transport to get there and back.

In the first half of June 2005, UNMIK decided, for the first time in over a year, to open the bridge over the Ibar River linking both parts of Mitrovica for civilian traffic. The idea was to open the bridge first for one hour a day and then to increase the number of opening hours by one hour each following week. Due to mass protests on the side of the Serbian population of Northern Mitrovica and the stoning of Albanian cars trying to drive into North Mitrovica, as well as of Serbian cars trying to enter Southern Mitrovica, the opening of the bridge for civilian traffic has so far not been able to proceed as planned. (...)

In order to travel to Serbia proper or some other countries in the region, the inhabitants of Kosovo still need to go to parallel institutions that operate in enclaves or in Serbia proper to ask for passports or driving licenses. The KS license plates issued by UNMIK are also not recognised in Serbia proper and some countries in the region and persons wishing to go to Northern Kosovo are forced to change the license plates after having passed the KFOR checkpoints, or take off license plates altogether. The same procedure can often be witnessed at the administrative borders between Kosovo and Serbia proper.

On the other hand, the problem of license plates issued by parallel institutions in the rest of Kosovo now appears to have been resolved. UNMIK has issued a regulation stating in clear terms that license plates issued by institutions unrecognised by UNMIK could be exchanged for Kosovo license plates issued by UNMIK until 1 July 2005 free of charge. Recently, this date was extended until the end of December 2005. Persons wishing to travel to Serbia proper and other countries not accepting license plates and car documents issued by UNMIK will, however, be able to keep the now illegal license plates for further use in those places outside Kosovo. Unfortunately, the contents of this law were not made entirely clear to the officers of the KPS, many of whom began prematurely confiscating license plates and car documents issued by parallel institutions before 1 July 2005. In some cases, they also confiscated license plates legally issued by the normal non-parallel civil administration in Serbia proper, which are still permitted to circulate in Kosovo.

Next to the KPS, certain Serbian-speaking parts of the population also had difficulties understanding the new regulation as by the beginning of June 2005, it had still not been translated into Serbian.”

**UNHCR, 13 August 2004:**

“During past years, KFOR has gradually and in total significantly decreased its troops. It has moved away from fixed positions at entrances or in minority communities towards providing ‘area security’, leaving minority communities more vulnerable to attack. At the same time, the UN Civilian Police has turned over responsibilities to the Kosovo Police Service. With each security-related incident during the past year, the KFOR ‘unfixing’ strategy came temporarily to a halt. But as a result of the civil unrest in March 2004, reinforced security measures have been put in place in many locations. Entrances to mono-ethnic Serb villages are manned by 24-hour KFOR checkpoints in many places, some with stringent checks before allowing entry. The provision of escorts has been re-instated for particularly isolated Serb communities across Kosovo; however, the demand for escorts clearly outnumbers the possibilities of the security agencies, whether provided by KFOR or UN CIVPOL.<sup>5</sup>

Whereas the relative reinforcement of KFOR presence in Kosovo immediately after the riots provided some reassurance to affected communities, the early progressive following the violence, is now fast dissipating this confidence in a safer environment.

The limited freedom of movement has important consequences for the Serbs who face major constraints on their access to basic services including schools, health services, administrative offices and courts, as well as on their enjoyment of their economic, social and cultural rights. Economic sustainability is further hampered by persistent violations of property rights, such as illegal occupation of residential, commercial and agricultural property as well as destruction of property.”

**SG, 23 May 2005:**

“Improvements in freedom of movement and a diminishing reliance of Kosovo minorities on escorts when travelling across majority areas are encouraging developments. An assessment of the current security situation by the Kosovo Force (KFOR) has led to the continued dismantling of KFOR units providing static protection of designated sites, which has been carried out without incident. The Government and most municipalities have enhanced their official, public support for returns, which has been coupled with an increased readiness on the part of representatives of the Provisional Institutions to condemn violence that might be ethnic in nature. (...)

Freedom of movement improved in every municipality except northern Mitrovica. Escorts were less necessary (*priority*). A questionnaire survey by international police officers in mid-April interviewed 185 minorities, of whom 82% were Kosovo Serbs, 8% Roma, 7% Ashkali and 3% other minorities. Of those interviewed, 92% said that they travelled outside their resident areas to

other parts of Kosovo; of them, 8% used escorts and 9% United Nations transport. The remaining 83% used private or public transport. Only 3% (5 persons) said they were the victims of crime while travelling in the previous 6 months; 1 person reported that crime to the police. 32. Perceptions of security also improved. A total of 64% of those surveyed said that they were able to travel safely in Kosovo (up from 41% in March). Incidents particularly threatening perceptions of security were few: two of vandalism against mosques, one attempted burglary of an Orthodox priest's residence, three of damaged graveyards, and five crimes related to movement by minorities (including one attack against Kosovo Albanians). Condemnations by the Provisional Institutions of violence that could have been inter-ethnic in nature increased significantly."

### **Insecurity remains a major threat for minorities in Kosovo (2002-2003)**

- Series of high-profile murders in August 2003 has chilling effect on potential returns, but general decrease of inter-ethnic violence continues
- Fear of harassment, intimidation and provocation remains part of everyday experience for minorities
- Many incidents are not reported for fear of disturbing delicate relations with majority population and because of lack of trust in law enforcement forces
- Insecurity seriously affects sustainability of return
- General crime rate in Kosovo continues to decrease

#### **UNMIK, 15 December 2003:**

"21. Unfortunately, the improving political environment has only served to expose further the extent to which security concerns and limitations on freedom of movement impede more substantial progress in returns. Overall, freedom of movement and security for minority communities showed gradual but tangible improvement in 2003. This conclusion was largely eclipsed, however, by a spate of high-profile murders in August of this year. One of the most challenging aspects of returns work is ensuring that the displaced have an accurate picture of conditions in Kosovo, which reflects the substantial improvements that have occurred, but does not understate the continuing risks. As noted, this task has been made profoundly more difficult by a tendency on the part of the Serbian press – fostered by Serbian and Kosovo Serb politicians – to paint a one-sided picture of Kosovo, with little coverage of positive developments and sensationalistic, sometimes inaccurate stories regarding crimes with minority victims. The vicious murder to two Kosovo Serb teenagers in Gorazhdec/Gorazdevac on 13 August realized the worst fears of Kosovo Serbs, and constituted a huge setback for efforts to build confidence within the Serb community regarding security conditions in Kosovo. The failure to apprehend the perpetrators of that horrible crime, as well as murders of Kosovo Serbs in Obiliq/Obilic, Lipjan/Lipljan and Cernicë/Cernica, contributed to the perception of many that today's Kosovo is not a fundamentally different place than the one they fled in 1999.

22. The events of August 2003 undoubtedly had a substantial chilling effect on returns this year, an effect that was exacerbated as the murders occurred during the month in which many families set their course in advance of the school year and coming winter. While the heightened level of fear within the Kosovo Serb and other minority communities led to numerous postponements of returns activities, it did not result in the outright cancellation of any projects, an optimistic sign in an otherwise discouraging period. Similarly, anecdotal evidence regarding individual returns points to the fact that many may have delayed deciding whether to return to Kosovo, but few reached an outright negative decision in the wake of the August crime wave. However, given the late stage in the year during which these crimes occurred, delayed decisions ultimately meant that many who were considering returning in 2003, are now going to make their decision in 2004.

23. As stated, the violent crimes that occurred in August exacerbated existing fears within the Serb and other minority communities in Kosovo. In so doing, the murders undoubtedly widened the gulf between perception and reality regarding security conditions in Kosovo. Despite the gravity of the security downturn in August, the crimes each had an individual character that defies their grouping into an overall pattern of intimidation or upsurge in violence against minorities. Instead, at the same time as the level of interaction between communities has significantly increased, the level of inter-ethnic violence remains fairly small, and many of the crimes that are recorded are minor in nature (e.g., a single stone thrown at a bus). For example, in recent months, UNMIK police have recorded fewer than 12 crimes per month in which minority community members are victims that may have an ethnic motive or context.”

**UNSC, 15 October 2003:**

“The period since July [2003] has been characterized by a number of violent attacks, including shootings, in which the victims were members of the Kosovo Serb community, as well as UNMIK law enforcement authorities. On 13 August, two Kosovo Serb youths were killed and four injured in a shooting incident at the village of Gorazdevac near Pec. On 18 August, a Kosovo Serb male, who had been shot in the head while fishing on 11 August, died of his wounds, and another Kosovo Serb was seriously injured in a shooting on 26 August near the returns site of Bica near Klina (Pec region). On 31 August, four Kosovo Serbs were injured and one killed in an attack in the village of Cernica (Gnjilane region). No perpetrators have been identified in any of these cases. UNMIK police and KFOR have increased security in these areas following the incidents and are continuing to investigate the crimes. While it cannot be assumed that all these crimes were inter-ethnic in nature, they nevertheless had a significant effect on feelings of insecurity among Kosovo Serbs and led other minorities to keep a low profile. Although protests against the incidents in Kosovo Serb communities have largely been peaceful, there have been instances of intimidation and harassment in Kosovo Albanian, Kosovo Serb and other communities. “

“The increased feeling of insecurity following the violent incidents has taken a toll on the confidence of the minorities. Many are demanding the reinstatement of security escorts in places where, because of improvements in security, they had been previously discontinued. KFOR and UNMIK police have also received increased demands for school escorts. In some locations, parents have refused to send their children to school without escorts. The heightened tension and the related demands by Kosovo Serbs for greater and more efficient security measures have prompted both KFOR and UNMIK to reassess and enhance security in several locations.”

**UN SC, 26 June 2003:**

“While general crime statistics are encouraging, incidents of violence and crimes against minorities continued to be a cause for concern. Three Kosovo Serb residents in Obilic municipality (Pristina region) were murdered in the early morning of 4 June. UNMIK has taken a number of concrete steps to find and bring the perpetrators of this crime to justice, including the establishment of a nine-member Special Police Squad to investigate the crime, working with special advisers from the Kosovo Serb and Kosovo Albanian communities. UNMIK Police and KFOR have also put in place additional patrols and other security measures such as vehicle checks and increased community policing. Representatives of the Provisional Institutions and Kosovo Albanian and Kosovo Serb leaders have all condemned the murders. The Kosovo Serb former deputy mayor of Klokot was shot dead on 19 May. Among other incidents in the same area, two elderly Kosovo Serbs were assaulted. Incidents of harassment and intimidation directed against minorities continued throughout Kosovo.”

**UNHCR/OSCE, March 2003, pp. 12-13:**

Crime rates continue to decrease as the Kosovo Police Service (KPS) becomes more effective. Overall, the crime statistics for the first five months of 2003 showed a continued decrease of serious crimes in Kosovo; however, serious incidents, including murder, continued to take place.

The police now receive approximately 1,000 telephone calls per month from people providing information about crimes. However, there have been incidents directed against police and international staff. On 31 May, an explosive device was thrown at Kosovo Force (KFOR) guards in Urosevac; five people, including one KFOR soldier, were injured. On the same day, a KPS vehicle, carrying three Kosovo Serb police officers, was shot at in Novo Brdo; there were no injuries. On 8 May, close to Leposavic, nine shots were fired at an UNMIK Police vehicle; no injuries occurred.

“The reporting period [May – December 2002] saw a continued reduction in the level of ethnically motivated crimes, particularly violent crimes, committed against members of minority communities. These figures should be seen in the context of decreasing levels of serious crime in Kosovo generally.”

“Notwithstanding the stabilisation of the security situation, the fear of harassment, intimidation and provocation remains part of everyday experience for members of minority communities throughout Kosovo. Members of minority groups, whether living in mixed communities or moving outside their own enclaves can become targets for grenade attacks, arson or physical assault in particular against the Kosovo Serbs, Roma, Egyptians and in many cases, the Kosovo Ashkaelia throughout Kosovo. UNHCR surveys have revealed that harassment and assaults in many cases are linked to the issue of property, and are intended either to prevent returns or to force the minority members still living in the respective area to sell their property. Assaults on minority groups may also arise out of competition for already limited economical resources in the surrounding community. With the exception of Kosovo Bosniaks in Mitrovicë/Mitrovica, the general security situation for both Kosovo Bosniak and Kosovo Gorani communities has stabilised with no serious ethnically motivated acts of violence against them reported since 2001.

“Both minor and serious incidents go unreported, as the victims do not want to upset the delicate relations they have slowly established with the majority population. This reluctance to report incidents is exacerbated by a lack of faith in law enforcement agencies, especially the ability and/or willingness of these agencies to provide protection to the victims in case of reprisals. A survey undertaken by UNHCR in October 2002 on the perception of the Kosovo RAE minorities with regard to their security situation revealed a tendency to not report incidents of harassment and intimidation to the police. Furthermore, even when minorities report security incidents to law enforcement authorities those authorities do not always perform an adequate investigation. As a result of the dynamic noted above, the police’s ability to be a deterrent is impaired.”

**UNHCR/OSCE, March 2003, pp. 26-28:**

“An analysis of the UNHCR minority return statistics shows that the level of physical security and freedom of movement varies depending on the minority concerned and the location of the minority and are key factors affecting the pace of return. The 2,741 recorded minority returns to place of origin in 2002 exceeded the yearly returns reported thus far. In contrast to the year 2000 when 1,906 persons returned to their place of origin, nearly all of them Kosovo Serbs returning to mono-ethnic enclaves, the returns in 2002 have been more diversified in terms of ethnicity and regions.

However, these statistical data may be somewhat misleading in that they suggest improvements in the environment greater than have actually taken place. The increase in returns for 2002 must be seen within the context of an overall downward trend in returns, most significantly amongst Kosovo Serbs, witnessed in the previous year. Many factors contributed to this decrease, including violent attacks against the minority communities in 2000 and 2001 and the instability created in the region by the conflicts in fYROM and southern Serbia. Another determining factor was the saturation of the mono-ethnic enclaves, where large numbers of IDPs had sought refuge, over and above returnees going back home. Kosovo Serb families displaced from these locations

have continued to return. These returns are encouraged by the security provided by such concentrations of Kosovo Serbs. It should be noted that these Kosovo Serb mono-ethnic communities of return were mono-ethnic villages or separate Kosovo Serb parts of ethnically mixed villages or towns in the pre-conflict period. Thus, continued and justified concerns about security, the preference to return to areas with a concentration of Serb families, and the felt need for security surveillance by KFOR, UNMIK Police or KPS explain why the majority of Kosovo Serb returns occur to mono-ethnic areas, rather than to mixed ones. Security conditions therefore can safely be said to determine the location and the pace of return.

Such a pattern was seen in the Pejë/Pec region, where the pre-conflict demographic distribution was one in which most Kosovo Serb communities were relatively separate both physically and in terms of interaction with other ethnic communities. As returns have occurred in the region, the returning Serb population has reproduced the pre-conflict pattern of Serb settlement, by returning to mono-ethnic enclaves or villages. In the well-known return to the Osojan/Osojane valley in Istog/Istok municipality, the returnees have remained isolated, replicating the pre-conflict situation. This isolation also has resulted in heavy reliance on KFOR security and escorts<sup>24</sup>. Such security arrangements limit the returnees' freedom of movement and access to basic services, as well as employment opportunities outside the village. Security concerns of the returnees were reinforced when pensioners from the village were attacked in Pejë/Pec town in October 2002.

In contrast is the return to the two nearby mono-ethnic villages of Bica/Biqë and Grapç/Grabac in Klinë/Klina municipality. Immediately after the return, the returnees' determination to establish contacts with neighbouring Albanian villages was facilitated by KFOR's less stringent security controls. The initial positive interaction has tended to deteriorate. Not only did contact diminish, but also security-related situations occurred.

Concerning non-Serb returns, Kosovo Roma, Ashkaelia and Egyptians returns have been mostly to mixed communities throughout Kosovo. Examples include the Kosovo Ashkaelia returns to Magura, Mala Dobraja and Prishtinë/Priština town within the Prishtinë/Priština region. Non-Serb returns to ethnically distinct areas within mixed communities have also taken place, as is the case, for instance in all five municipalities of the Pejë/Pec region. Returns to ethnically mixed areas required intensified policing by KPS and UNMIK police. Despite lengthy and intensive preparations, as well as the encouraging involvement of local officials, the returns have faced security incidents targeting both the residing minority community as well as the returnees. A good example of this is the return of Ashkaelia to Vushtrri/Vucitrn town, where a series of serious incidents took place in 2002.

The continued security challenges present in all returns have highlighted the need to prioritise confidence-building and inter-ethnic dialogue in order to create minimum levels of stability before returns take place. In the absence of such dialogue the security conditions and freedom of movement remain problematic. Heavy reliance on KFOR and UNMIK Police is then necessary, as occurred in Osojan/Osojane. Such returns, unless followed by intense reconciliation efforts, leave the community vulnerable to violence or harassment as soon as the international military or police forces are reduced below a certain level.

When security issues remain unresolved, then the return movements have little chance of being sustainable. In another example, the spontaneous return of the first group of 26 Kosovo Albanians to their mono-ethnic but deserted village Donja Bitinja/Bitanja e Ultë in the Kosovo Serb majority Štrpce/Shtërpçë municipality met with initially strong opposition by the inhabitants of the neighbouring Serb village of the same name. Concerns for the security of both communities led the Polish-Ukrainian KFOR to temporarily impose restrictions on movements in and around the village. The international organisations intervened to allow the Kosovo Albanian IDPs to exercise their right to return. As a result KFOR agreed to maintain security arrangements

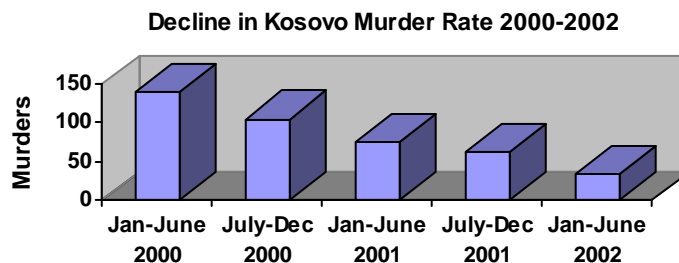
that were effective but less restrictive. Simultaneously the returnees took the initiative to engage in dialogue with the Kosovo Serbs. The close co-operation between civilian and military organisations had two important results. First, it allowed for a ground-breaking return. Second, despite initial concerns regarding the protection of the rights of the spontaneous returnees by KFOR in this case, the situation led to US KFOR's initiative to establish the common KFOR 'Guidelines for Procedures on Return of Refugees and Displaced Persons to the Gjilan/Gnjilane Area of Operations'.

During 2002, some Western European governments determined that security conditions had improved in Kosovo to the extent that large-scale forced returns of non-Serb ethnic minorities could commence in the spring of 2003. In response to these beliefs, UNHCR undertook a survey into the likely impact of such returns on non-Serb minority communities. The survey focused on the absorption capacity of established communities and on relations between minority and majority populations in locations where returns were on-going. In addition it looked at areas likely to undergo threats to the security and freedom of movement of returnees and the residual minority population. The survey concluded that returns to communities which are void of minorities since 1999 and only inhabited by majority groups are not viable return locations unless they are carefully prepared by inter-ethnic dialogue facilitation before the return occurs. The generalisation remains valid though there are exceptions, like the above mentioned return of Kosovo Albanians to Donja Bitinja/Bitanja e Ultë.

In conclusion, unplanned, even small scale returns to deserted areas or to areas inhabited only by the majority population would most likely result in secondary displacement into concentrated areas where already larger numbers of IDPs reside."

**UNMIK, 5 November 2002:**

"While the security situation facing minority communities in Kosovo remains very difficult, Kosovo's crime rate has fallen dramatically since 1999, and ethnically-motivated crime has decreased in similar proportions. The table below illustrates the substantial decrease in the murder rate in Kosovo. While two murders of Kosovo Serbs occurred through July 2002, in one case both the perpetrator and victim were Serbs, ruling out an ethnic motive for the crime. The second case remains unsolved."



Source: UNMIK Police

*For detailed information on the security conditions in the different regions, see UNHCR-OSCE, [Tenth Assessment of the Situation of Ethnic Minorities in Kosovo \(Period covering May 2002 to December 2002\)](#), March 2003 [Internet]*

*See also Amnesty International, [Kosovo/Kosova "Prisoners in our own homes": Amnesty International's concerns for the human rights of minorities in Kosovo/Kosova, 29 April 2003](#) [Internet]*



### **Minorities' freedom of movement still severely restricted (2003)**

- Freedom of movement has improved in 2003, but severe limitations persist
- Series of serious security incidents negatively impact on freedom of movement for minorities
- Dedicated transportation services for minorities still necessary
- Minorities call for more security escorts in areas where escorts were discontinued due to previous improvements in security situation
- Serbian authorities refuse to allow Kosovo vehicle license plates in Serbia

#### **UNMIK, 15 December 2003:**

“24. Freedom of movement has also improved in the past year [2003], as evidenced by the substantial reduction in police and military escorts for minority communities that occurred without deterioration in security conditions. Humanitarian bus transportation for minority communities is being transitioned to a local company, and escorts have been reduced by approximately 85 percent from 2002 requirements. The level of freedom of movement continues to vary significantly within the regions of Kosovo, with very limited movement in much of the Peje/Pec region, and substantial limitations in the Pristina and Mitrovica regions. In contrast, minority community members are able to travel without substantial restrictions in the Gjilan/Gnjilane region, while freedom of movement in the Prizren region continues to improve. Nonetheless, given continuing harassment faced by minority community members in Kosovo, the possibility of violence and the fear it engenders remains a significant barrier to free movement throughout Kosovo. The failure of the authorities of Serbia and Montenegro to recognize Kosovo license plates continues to impact negatively on the freedom of movement of the Kosovo Serb community.”

#### **UNSC, 15 October 2003, p.7-8:**

“Freedom of movement still remains an issue of great concern to minority residents, particularly after the attacks involving primarily Kosovo Serb victims that occurred during the reporting period. A number of dedicated transportation services for minority community residents remained in place. The civil service bus line, the UNMIK “freedom of movement” train and the humanitarian bus service networks all continued to operate. Discussions are under way between UNMIK and the Ministries of Public Services and Transport and Communications with a view to funding the civil service bus line - which transports Kosovo Serb and other civil servants to their workplace in Pristina - from the Kosovo consolidated budget. The bus line is currently funded from the Special Representative's contingency fund. An estimated 15 per cent of minorities continue to require special transport arrangements to reach their workplace. The UNMIK “freedom of movement” train currently transports a monthly average of 50,000 passengers. Plans are under way to provide connections to Belgrade and Skopje by the end of 2003. Normal service was resumed on 1 August on the segment of railway line where operations were severely disrupted by the explosion under the railway bridge near Zvecan (Mitrovica region) on 12 April.

The increased feeling of insecurity following the violent incidents has taken a toll on the confidence of the minorities. Many are demanding the reinstatement of security escorts in places where, because of improvements in security, they had been previously discontinued. KFOR and UNMIK police have also received increased demands for school escorts. In some locations, parents have refused to send their children to school without escorts. The heightened tension and the related demands by Kosovo Serbs for greater and more efficient security measures have prompted both KFOR and UNMIK to reassess and enhance security in several locations. The escorts of the buses of the humanitarian bus service, which had been lowered to 15 per cent, have been again increased to 26 per cent.

Freedom of movement for minorities was further hindered by the decision of the Serbian government authorities not to sign an agreement allowing the use of Kosovo licence plates in Serbia proper and their public calls for Kosovo Serbs not to register their cars with UNMIK. As at 5 September, only 82 vehicles had been registered in the northern part of Mitrovica since the process began on 29 April. The UNMIK vehicle registration campaign in other minority areas has also recorded unsatisfactory results. Only 1,139 more minority-owned vehicles were registered from the middle of May to the middle of September, bringing the total to 5,314. While the issuance of free vehicle licence plates has been extended until 31 December 2003, and also applies to non-Serb minorities, no concrete progress in vehicle registration within the Kosovo Serb community can be expected if the Government of Serbia does not adopt a positive approach to the use of Kosovo licence plates and driving licences.”

### **KFOR and UNMIK modify security arrangements (2002-2003)**

- KFOR continues to remove or reduce static security arrangements in favour of more flexible security operations
- Escorts have also been reduced and replaced with less visible forms of security
- These measures are aimed at gradually transferring security tasks to civil authorities
- Despite protests by Kosovo Serb leaders, general acceptance of this transfer grows among minority communities

### **UNHCR/OSCE, March 2003:**

“KFOR has continued its “unfixing” strategy whereby the number of KFOR personnel assigned to “fixed” tasks – such as guarding threatened patrimonial sites or providing static vehicle check-points – has been reduced. Throughout the reporting period there has been a continuation of the policy of discharging these “fixed” troops in order to render them available for more flexible, responsive and less intrusive security operations. The “unfixing” strategy also applies to reducing permanent protection for vehicle convoys. Although KFOR bus or convoy escorts continue in certain areas, such as in the Pejë/Pec and Prizren regions respectively, the general trend is for KFOR to reduce its close protection for vehicle convoys, and to provide route security only.<sup>1</sup> The above policy has been developed as part of a security transition strategy mutually agreed and implemented with UNMIK Police. The transition strategy aims to decrease KFOR’s profile in the civilian community, and continues the process of transferring defined KFOR security tasks to the civil authorities. UNMIK Police is gradually reducing its escort service, with Kosovo Police Service (KPS) taking over where escorts are still deemed necessary.

Both KFOR and UNMIK Police are aware that any change in security measures may cause nervousness amongst minority communities. Consequently the changes appear to have been gradual, proportional and have been combined with an effort to increase the involvement of UNMIK Police and the KPS in providing security through effective policing and confidence building. In this context, there has also been increased emphasis on the provision of mixed ethnicity KPS patrols, and the first police station to be run entirely by KPS is now operational in Gračanica/Gračanicë. Decisions on the operational aspects of the implementation of the security strategy have been devolved to the KFOR Multi-National Brigades (MNBs) and UNMIK Police Regional command. The police and KFOR have therefore been able to vary the implementation of the transition strategy in response to localised security conditions, albeit within the overall framework of the move from martial to civil security.

Kosovo Serb political leaders have voiced strong opposition to the removal of KFOR fixed security measures, most recently in the context of the bomb attacks that damaged two Serb Orthodox Churches in Istog/Istok municipality during the night of 17 November, shortly after the

removal of the KFOR fixed protection. However, amongst many members of the minority communities themselves, there appears to be a general understanding of the rationale behind the revised security measures, and a developing acceptance that their security is not being compromised by the new approach.”

## **SUBSISTENCE NEEDS**

### **Kosovo Serbs relationship with Kosovo electricity provider improves (2009)**

- Since 2004, the Kosovo electricity provider (KEK) has divided the territory of Kosovo in three service categories, based on the electricity bill payment levels
- All Serbian enclaves have been categorized as “zone C”, zones with a poor payment record. In these areas, the KEK carried out a policy of collective electricity disconnection.
- Kosovo Serbs, perceiving the disconnections as politically motivated and ethnically discriminatory, held protests
- In 2009, for the first time, Serb authorities advised Kosovo Serbs to sign contracts with the Kosovo Energy Corporation
- Initially reluctant, Kosovo Serbs eventually signed the agreements

#### **UN SC, September 2009:**

OSCE and UNMIK continued to promote the establishment of a dialogue between the Kosovo Energy Corporation, municipal authorities and the communities affected by the electricity disconnection policies of the Corporation, most frequently Kosovo Serbs. Contrary to previous years, the authorities in Belgrade advised Kosovo Serbs to sign contracts with the Corporation. The Corporation, with the support of international actors, reached out to the disconnected villages by offering payment arrangements. Some inhabitants of a few Kosovo Serb enclaves, some of the Serbian Orthodox monasteries, and communities in Graçanicë/Graëanica and Shtërpçë/Štrpce, were initially reluctant to sign agreements with the Corporation. Both towns and some monasteries, however, eventually signed the agreements so that power could be restored. A new wave of disconnections for unpaid bills took place in August, which affected Kosovo Albanian, Kosovo Serb and ethnically mixed villages. Most settlements were reconnected by the second half of August further to the signing of contracts and the payment of lump sums by residents. The process of payment collection and reconnection is ongoing.

#### **UN SC, June 2009:**

"During the reporting period, the Kosovo Energy Corporation carried out a policy of collective electricity disconnection of non-paying villages in Kosovo, aimed at enforcing payment. Repeated protests were staged in Kosovo Serb villages, where disconnections were perceived as politically motivated and ethnically discriminatory. Protests in Shillovë/Šilovo in early March 2009 and in Pasjane/ Pasjan on 10 May 2009 turned violent. The Kosovo Energy Corporation, with the support of international actors, reached out to the disconnected villages by offering payment arrangements. This led to the signing of collective agreements and the eventual reconnection of the majority of the affected villages by the end of the reporting period. Inhabitants of a few Kosovo Serb-majority areas, in particular Graçanicë/Graëanica, remain reluctant to sign agreements with the Corporation despite having been urged by senior representatives of the Serbian Ministry for Kosovo and Metohija to pay their electricity bills. Some Kosovo Serbs argue that a contractual relationship with a public entity would constitute implicit recognition of Kosovo's independence.

OSCE closely monitored the developments surrounding the electricity situation, with particular focus on establishing whether there were any grounds for claiming ethnic discrimination. It concluded that the disconnections were not based on ethnicity, but that the Kosovo Energy

Corporation still needed to assume a more conciliatory position given the complex political-legal context."

**UNIJA, October 2008, p. 40-41:**

The Kosovo electricity provider (hereinafter: "KEK") divided in 2004 the territory of Kosovo in three service categories, based on their electricity bill payment levels. The so-called "ABC policy" guarantees approximately 24 hours electricity supply for customers residing in areas with a very good bills payment record (zone A), while zone B and C, where customers have a poor and poorer payment record, will experience reductions. All Serbian enclaves are categorized as "zone C". According to the ESCR Document prepared by UNMIK, the "ABC Policy" was successful in improving collection rates. UNMIK justifies the fact that the Serbian areas are left without electricity also in winter - when the temperature in some areas of Kosovo can reach up to -20° - because of their bad payment records, not paying attention to the fact that most of minority community members are not in the position to afford the payment of high bills requested by KEK and around 80% of them are living under the poverty line. In addition, if they have any complaints, IDPs/refugees/ members of minority communities are forced to go to Prishtinë/Priština to the central KEK premises, as in most of the enclaves and Serbian inhabited areas there are no KEK offices.

Furthermore, as it will be illustrated through the case study provided below, the KEK policies, which do not take into account the specific position of returnees can be seen as one of the significant impediments to the sustainability of return.

*Case study: KEK and activation of electric meters for returnees*

Several problems are reported in relation to the activation of KEK electric meters in the returnees houses. KEK is charging high fees for the activation and it is not clear who shall pay for it, either the returnees themselves, the municipality in which the returnees are living or the NGO responsible for the return project. In Prizren a returnee was asked to pay all the basic fees for electricity for the period of his absence, although his house premises were damaged and he was in displacement. There are several cases reported of local Kosovo courts rejecting the appeals of IDPs against those kind of KEK decisions.

**IDPs living North Mitrovica camps still exposed to lead contamination (2009)**

- IDPs displaced from Roma Mahala living in camps in North Mitrovica have shown high level of lead contamination due to a combination of proximity from industrial toxic waste, bad living and hygienic conditions and melting lead activities carried out as an income-generating activity
- Some international organizations and international NGOs claim that no major progress has been achieved to improve the health status of the displaced, despite the relocation of the majority of IDPs in 2006 to Osterode barracks situated a few metres from the previous camp.
- According to IDMC, there is an improvement in living and housing conditions in Osterode camp.
- No health check has been made to compare the level of contamination of IDPs and the neighbouring population, who lives in close vicinity of the camp.
- In the meanwhile, reconstruction project initiated by the authorities and the international community have allowed some returns to Roma Mahala.
- Some IDPs who decided not to relocate are still leaving in the contaminated Cesmin Lug camp

**UN SC, 30 September 2009:**

"UNMIK remains committed to supporting the efforts of the Kosovo authorities and relevant partners to find a sustainable solution to the situation in the Roma, Ashkali and Egyptian IDP camps in northern Mitrovicë/Mitrovica, namely, Camps Osterode and Çesmin Llugë/Ēesmin Lug, the administration of which was taken over by the Kosovo Ministry of Communities and Returns last year. The Kosovo authorities have established a Steering Committee for the Roma, Ashkali and

Egyptian camps in northern Mitrovica to address this issue. UNMIK continues to play an active role in facilitating and coordinating efforts among international actors, providing good offices to local authorities and the Kosovo-Roma, Ashkali and Egyptian leadership, and placing particular emphasis on achieving policy coherence amongst donors and their implementing partners, in order to ensure that all efforts are strategically directed to addressing the immediate humanitarian challenge, facilitating the closure of the camps and ensuring the sustainable relocation of their residents.

There are some encouraging developments in this direction. In addition to the 102 Kosovo-Roma, Ashkali and Egyptian displaced families (462 individuals), mainly from the camps, who were relocated to the Roma Mahalla neighbourhood in southern Mitrovica in 2007, some 25 Kosovo-Roma, Ashkali and Egyptian families, including 15 families from the camps in northern Mitrovica, returned to the Roma Mahalla neighbourhood in July this year."

**MRGI, July 2009:**

"The problem of the lead-contaminated camps in which Roma internally displaced persons have been accommodated since 1999 has still not been resolved. "

**HRW, June 2009:**

"Roma leaders requested the Serbian Public Health Institute in Mitrovica (which had previously been conducting the testing under the auspices of WHO) to continue monitoring children's lead levels, and the institute carried out two more rounds of blood testing, most recently in April 2008. The results showed continuing high levels of lead contamination (lower than before, but still exceeding acceptable or moderate levels) in children coming from all the camps as well as the Mahalla.

The results of the blood testing done under the auspices of WHO in 2004-06v are not publicly available. Neither are the results of blood testing conducted by the Mitrovica Institute of Public Health in Mitrovica in 2008. Human Rights Watch was provided with a summary of the results of both sets of testing, but was denied access to detailed information about the results.

During our research in December 2008, Human Rights Watch visited Roma camps and settlements across Kosovo, including the camps at Cesmin Lug, Osterode, and Leposavic, and the Roma Mahalla.

In terms of the availability of basic medical facilities and medicine, the poor situation in the camps around Mitrovica is not entirely distinguished from similar camps in other parts of Kosovo: Human Rights Watch observed similar problems with access to medicine and specialized medical help in other Roma IDP camps and settlements we visited in November-December 2008. What is unique about the situation in the Mitrovica Roma camps is the lack of systematic efforts to monitor the levels of lead contamination and provide adequate remedy.

Among all the camps visited, Human Rights Watch observed the worst living conditions in the Cesmin Lug camp, located in the vicinity of the toxic slag heaps of lead-contaminated soil. The inhabitants there live in small shacks made of wood, some of them insulated with cardboard lining. There is no running water in the huts—the inhabitants collect water by bucket from outside pumps. [...]

Latif Musurica told Human Rights Watch that the camp children experience all kinds of serious health problems, which he attributed directly or indirectly to lead contamination. According to him, children often are “nervous, even hysterical, they have diarrhea all the time and wounds on their head.” During the winter season, they are “the first ones to catch pneumonia.” Medical literature explicitly links lead contamination with hyperactivity and impulsive behavior; the rest of the symptoms mentioned are not explicitly linked to lead in medical literature. However, according to a local Serbian doctor Human Rights Watch spoke to, skin diseases are widespread among Roma children due to poor hygiene, and they have overall weakening of their immune systems due to their difficult living conditions

[...] Osterode was selected by the multi-agency task force created by UNMIK in 2005 as the transition place for the Roma Mahalla return project, despite concerns among displaced Roma that the level of lead exposure is as high there as it is in Cesmin Lug. Notwithstanding claims by UNMIK and WHO that testing has shown that it is “lead safer” than Cesmin Lug (see Chapter V), common sense would suggest that a site located in a similar vicinity to the Trepca toxic slag heaps as Cesmin Lug would present similar health risks.

Javorka Jovanovic, a nurse working in the ambulanta located beside Osterode camp, told Human Rights Watch that in most cases of health problems she deals with every day, it is impossible to distinguish between purely lead-related medical complaints and those simply linked to poverty and deprivation, as they “go together and make each other worse.” She pointed out, however, that she observes some lead contamination symptoms in children on a daily basis, such as stunted growth, nervousness, fatigue, or epilepsy, and the children are more vulnerable to other diseases and epidemics (there was a large-scale chickenpox outbreak in the camps at the time of our conversation with the nurse). She suggested that the children’s health conditions are made worse “because their diet is only bread and tea, they are constantly cold, and do not have running water, soap and shampoo to wash themselves or their clothes.” A mother from the Osterode camp similarly complained about the poor hygiene and diet, which in her opinion exacerbated the health conditions in the camp, especially among the children. Jovanovic said the concentration of illnesses in the camps makes the medical situation unparalleled to “anything else I have seen

According to the Osterode camp leader, Habib Hajdini, the biggest problem in the camp is the health situation of its residents. He asserts that the stunted physical and mental growth of children is evidence of dangerous effects of the lead contamination there. Medical research offers plenty of evidence for a connection between lead exposure and intellectual deficits. For example, a 2004 study of Karin Koller et al. found an inverse association between blood lead levels and cognitive function in children exposed to low levels of lead and concluded that there is no safety margin for such exposure. And although no comprehensive research has been done on this issue, Human Rights Watch made a general observation in all the camps visited, as well as the Mahalla, that the children seem thin, pale, and fragile-looking. "

**OSCE, February 2009:**

"Based on field data and secondary research collected by the OSCE over the recent years, the findings of the report present a major human rights concern with regard to the right to health. Despite several initiatives, no major progress has been achieved to improve the health status of the displaced Roma population. [...] in April 2008 the Republic of Serbia Institute for Public Health

and Protection performed, upon request of the camps' leaders, a test on 104 children between one and 16 years of age residing in the camps. The results showed that the overall situation has not improved, and the Roma population still suffers from an extremely high level of contamination. In fact, according to the documents released to the camp leaders, only two children have a blood lead level below the level of concern (10 µg/dL), while 102 children are contaminated or in a risky health condition. Furthermore, out of these 102 children, the samples reveal that 22 children have such a high concentration of lead in the blood (over 60 µg/dL) that the testing instruments were not able to measure it. Therefore, it remains one of the most serious health crises in Europe, and it requires an urgent intervention.[...]

Several factors can be considered as causes for this major emergency:

- Historical pollution: Mitrovicë/Mitrovica region remains one of the most polluted areas in Europe, even after the closure of Trep\_a. However, there are no recent data available about the health conditions of Mitrovicë/Mitrovica general population, as the last research was performed before 1999.
- Soil and environmental contamination: lead does not decompose over the years, it remains in the soil, contaminating all products growing in it. Ongoing research conducted by Prishtinë/Priština University shows, for example, that the waters flowing in the Ibar and Sitnica rivers are still heavily polluted by heavy metals.
- Presence of lead mine tailings: the presence of open industrial toxic waste provides the area with a flow of fresh lead brought around by the wind. Inspections on environmental pollution and soil contamination declared Osterode as safe; however both \_esmin Lug and Osterode camps are located not far away from the open waste heaps that spread toxic dust when the wind blows.<sup>38</sup>
- Hygienic conditions: the living conditions and sanitation services are below average. Some basic hygienic procedures (e.g. washing hands) are not respected, and this increases the possibility, especially for children, to aggravate the contamination through ingestion. Hygienic standards inside the shelters tend to be lower than average and, among the community, it is not common practice to take off shoes at home. Hence, the carpets on which children are playing or laying are dusty. This increases the possibility to aggravate the contamination through inhalation.
- Lack of proper nutrition or poor diet: due to poor economic conditions, the Roma community has a diet basically based on carbohydrates. The lack of vegetables, lack of low fat fortified milk and a generally nutritionally deficient diet cause a greater absorption of lead. The lack of calcium has increased the cases of anaemia among children. Anaemia is, at the same time, a cause and a consequence of lead contamination.
- Presence of lead on the doors and window frames of the barracks: most of the shelters are painted with lead-based paint, as was the case in many places around the world until recently. Lead-based paint chip ingestion as well as the inhalation can be considered as additional pathways of contamination.
- Private smelting activities: some of the camp residents carry on smelting activities, although there are no exact data on the scale of such activities. Only 11% of the camps' residents have regular jobs; consequently, health hazardous activities such as smelting become a regular income generating activity for the families.

The combination of all these factors contribute, to a larger or smaller scale, to the lead contamination suffered by the Roma community. Currently, it is not possible to identify with certitude a single cause as the predominant one. The Roma community members, and particularly children, suffer from an excessive exposure to heavy metals and lead with extremely harmful and dangerous consequences on their actual health conditions; moreover, it is foreseeable that this situation will have catastrophic effects in the future. Relocation of the Roma



community out of the contaminated areas remains the most obvious solution in the short term. However, after nine years of displacement, it is necessary to find an agreeable and sustainable solution for the relocation of the families residing in the camps."

***In its field mission in May 2009, IDMC noted that the Osterode barracks represented an improvement of living conditions with water and electricity supply, heating/air conditioning and decent housing conditions (windows) in comparison with the situation of the Cesmin lug camp. The improvement of the living and housing condition could possibly bring the level of lead contamination to the same level of the neighbouring population, who lives a few meters from Osterode. However, no health check has been made to compare the level of contamination of IDPs living in Osterode and the neighbouring population.***

***70% of Roma IDPs in Osterode are from Roma Mahala. Authorities and the international community have initiated a reconstructed project of Roma Mahala to allow IDP return. So far 86 (families or individuals/check figure) have returned. Houses were rebuilt for those who had a property title while the municipality allocated land to build social housing for those who did not. Some 9 buildings of 12 flats each are planned. An ambulanta (health care facility) and a police station have also been built. Return has been mostly successful to flats but less to houses (explanation given is that those who owned their property were usually wealthier and often found other durable solutions in the meantime). The Mayor of South Mitrovica expressed his willingness to assist with reconstruction in Roma Mahala the IDPs who are not from South Mitrovica but would like to settle there. The returnees interviewed by IDMC expressed full satisfaction and did not report any feeling of insecurity. Although some of the IDPs who are reluctant to return give as a reason the fact that social benefits are higher in Northern Kosovo (Serbia system) or that their employment opportunities are in the North more than the South, the returnees reported that they keep working in the North while living in the South and still receive social benefits from Serbia despite their return (probably by keeping a fake address).***

#### **Access to health care is restricted by limited freedom of movement and urbanisation (2002-2007)**

- Minorities continue to face difficulties in accessing health care facilities
- Lack of freedom of movement and security remain important impediments
- Urbanisation movement increases demand on health services in towns and leads to closure of health facilities in rural areas, thereby limiting access to adequate healthcare
- Minority communities tend to use Serbian parallel structures to access health services
- There is no cooperation between the parallel health care system run by the Serbian Government and the one run by the PISG
- Improvement could be made through increased participation of minority communities into PISG structures and progress on decentralisation
- Minority communities do not feel confident enough to be treated in health facilities located in majority areas
- Trend continues towards monoethnic solutions rather than integrated healthcare system serving all communities
- New regulations on use of languages in healthcare facilities step forward, but implementation has been inconsistent

**Ombudsperson Institution in Kosovo, 11 July 2007, pp.36-7:**

"Another issue which continues to be a problem for many members of minority communities all over Kosovo is that of health care. In this context, the parallel health care system managed and funded by the Ministry of Health of the Republic of Serbia still offers services to the Serbian community and other communities living in Serbian populated areas, both in areas where Serbs form the majority and in the Serbian enclave of Gračanica/Gračanicë. This parallel structure is not recognised by UNMIK or the PISG and there is no cooperation between this health care system and the one run by the PISG.

Staff working for parallel health institutions receive their salaries only from Serbia proper and have been refusing salary payments from the Kosovo Consolidated Budget since March 2006, after the Serbian government's Coordination Centre for Kosovo and Metohija (CCK) had told them that they would need to choose whether to take their salaries from the PISG or from Serbia proper. Previously, the staff of these health institutions had been receiving salaries from both the Kosovo Consolidated Budget and the Budget of the Government of Serbia. It should be noted that the salaries from the Serbian Government Budget are higher than the ones previously received from the Kosovo Consolidated Budget and include social and other benefits."

**OSCE, 4 April 2007, pp.42-3:**

"The parallel health care facilities are located Kosovo-wide but primarily in the regions of Mitrovicë/Mitrovica, Prishtinë/Priština and Gjilan/Gnjilane. Parallel health care facilities exist on a smaller scale in the regions of Prizren and Pejë/Pec. In northern Kosovo these facilities appear to be the only health care providers to members of minority communities. Most but not all of these facilities provide primary health care with a few exceptions.[]

In northern Kosovo, parallel health care facilities operate in all the municipalities and constitute the majority of health care facilities available to the population. One hospital, five health houses and 16 clinics have been identified as belonging to the parallel health structure in northern Kosovo. In the municipalities of Zubin Potok, Leposavic/Leposaviq and Zvečan/Zveçan most of the healthcare facilities are parallel with the exception of Ministry of Health (MoH) operated facilities.[]"

*For more on the parallel health care structures, their causes and effects, see the above mentioned [report by OSCE](#), pp. 42-54.*

**SG, 23 May 2005, paragraph 16:**

"Significant parallel structures continue to exist in 13 municipalities. Kosovo Serb demand for the services they provide should be reduced by the reform of local Government."

**Ombudsperson, 11 July 2005, p.31-32:**

"The fact that many members of certain minority communities are afraid to move freely around Kosovo also seriously affects their ability to access various forms of health service. A number of villages have their own medical centres providing basic medical treatment. With regard to secondary health services, however, many members of minority communities, in particular Serbs and Roma, rarely visit those hospitals located in areas inhabited predominantly by the ethnic Albanian majority population. Another reason for these persons' reluctance to go to these hospitals is the above-mentioned lack of trust between the above ethnic groups, which causes Serbs and Roma living in the vicinity of Pristina to shun the local hospital there, while certain Albanian detainees in Northern Mitrovica refuse to be treated by Serbian doctors and nurses. If possible, members of the Serbian and Roma groups prefer to use the health care systems in enclaves supported in some cases by both UNMIK and the Serbian Ministry of Health, in some

cases only by the Serbian Ministry of Health, which supervises the primary health care facilities in enclaves, pays salaries and provides all related operational costs.

In central Kosovo, there is one hospital in the enclave of Gračanica/Graçanicë close to Pristina, which provides basic medical services including a maternity ward. Due to lack of space, however, mothers are usually sent back home immediately after having given birth. For complicated matters such as blood transfusions, patients are still taken to the hospital in Northern Mitrovica in cars with Kosovo license plates, or to clinics in Belgrade or Niš in Serbia proper. Villages still under KFOR protection rely on KFOR escorts to take serious cases to the hospital in Northern Mitrovica, but the availability and flexibility of such escorts depends very much on the different KFOR units. There is also an internal medicine clinic in Laplje Selo village close to Gračanica/Graçanicë, complete with a pediatric ward for urgent cases, where patients are offered basic health services and then sent on to either the hospital in Gračanica/Graçanicë or the one in Northern Mitrovica. In urgent cases, the clinic in Laplje Selo can also accommodate a few people at a time. (...)

Members of the Gorani and Bosniak groups have no problems accessing health services, but also complain about an unwillingness to help them on the side of the mostly Albanian staff of medical centres and that often, they cannot read what is written on doctor's recipes, as they are only written in Albanian. At the same time, this situation appears to have improved to a certain extent lately."

**SG, 14 February 2005, paragraph 18:**

"Ethnic minorities continue to face serious obstacles in accessing essential services in the area of health, education, justice and public administration. This is first of all a direct result of the above illustrated limitations to freedom of movement. Second, ethnic minorities continue to suffer from discriminatory behavior of public servants. And, third, the public services sector continues to present serious structural problems that negatively impact on the availability of services. For instance, while numerous donors have engaged in the construction or rehabilitation of infrastructure in the area of health and education, the massive population shift from rural to urban areas over the past years has seriously increased demand on already stretched urban resources. In contrast, in rural areas, the decline in population has seen infrastructure close due to decreased demand, resulting in reduced access for those who remain.

A particular case in point is the mental health sector which remains very inadequate and unable to cope with levels of demand. Despite continued efforts by the Ministry of Health, NGOs and donor support, large numbers of socially dependent and chronically mentally ill people are unable to receive adequate treatment in Kosovo. (UNHCR, March 2005)

"Further sustained effort is required in areas of importance to minority communities, notwithstanding the lack of engagement in the Provisional Institutions at the central level by the majority of Kosovo Serb political entities and leaders. Minority communities' trust in Kosovo's political and administrative systems remains low, and their involvement in the political process and in senior levels of the civil service remains marginal. Serbian parallel structures continue to exist in the health and education sectors. The outlook for improvement remains clouded by the Serbian government's opposition to meaningful Kosovo Serb engagement in Kosovo institutions and processes. I call on the Kosovo Serbs to engage in a constructive way in Kosovo's institutions and processes, and on the Serbian authorities to encourage this. In particular, I urge Kosovo Serbs to engage in their local government reform process."

**UNHCR/OSCE, March 2003, p. 41-43:**

"The right to adequate health care remains a fundamental issue for minorities who continue to experience problems in accessing health care facilities. In isolated villages across Kosovo, access to pharmacies is still limited but the delivery of drugs has relatively improved. As already highlighted in the previous Assessment, low levels of awareness continue to exist about the right

to healthcare services and the list of drugs that are provided free of charge by the Ministry of Health.

The recurrent issues of a lack of freedom of movement and security continue to impede access to healthcare for minorities. In northern Mitrovicë/Mitrovica, Kosovo Albanians access healthcare through alternative solutions to the hospital such as an UNMIK ambulanta where a medical technician is available daily and a general practitioner/paediatrician is available to visit patients weekly. KFOR organises transportation for patients who require hospital treatment. In Svinjare/Svinjarë, a mixed village in southern Mitrovicë/Mitrovica, access to healthcare for the Kosovo Serb community is provided through weekly visits of a doctor escorted from northern Mitrovicë/Mitrovica by KFOR and monthly visits by a doctor from Greek KFOR. The proposed establishment of an ambulanta to serve both ethnic communities has been pending for more than a year. In Osojane/Osojan, Crkolez/Cërkolez, and in Istog/Istok, primary healthcare is provided through ambulantas by a general practitioner together with a number of nurses (who are paid by the Ministry of Health in Belgrade). Where secondary healthcare is necessary, patients are escorted to the hospital in northern Mitrovicë/Mitrovica by Spanish KFOR. The medical equipment available in the two ambulantas is basic with a scarce supply of drugs. In Shtime/Štimlje, the remaining 20 Kosovo Serbs prefer to travel to Gračanica/Gračanicë health house rather than refer to the local one.

Since the last Assessment, it has been observed that initiatives continue towards providing monoethnic solutions to the problem of healthcare as opposed to providing an integrated healthcare system in Kosovo capable of serving members of minority communities as recommended. For example, in northern Mitrovicë/Mitrovica healthcare continues to remain under the control of the Ministry of Health in Belgrade despite the presence of UNMIK healthcare facilities (with doctors receiving two salaries if they visit enclaves in the south). A recurrent issue is the perceived lack of safety felt by the Kosovo Albanian population living in northern municipalities, and by Kosovo Serbs living in the southern municipalities, when being treated by doctors of a different ethnic community.

An additional issue, which was not been covered in the previous Assessment, is the access to health care for disabled persons among minority communities. The problems of the rudimentary form of health care facilities already available are compounded by the lack of ramps, elevators and toilettes for disabled persons.<sup>85</sup> Home visits by doctors are not common practice and disabled persons are required to be accompanied by a family member in case of further referral to a hospital or other healthcare facilities.

An improvement from the previous Assessment is in the use of one's own language to access healthcare. The Ministry of Health has distributed applicable regulations and an informational circular (6/2002) on the use of languages in healthcare facilities to the Directors of Hospitals and Health Houses in Kosovo.<sup>86</sup> However, the policy on use of languages has been inconsistently implemented, with Directors giving reasons for not posting signs in all languages, such as the possibility of provoking a security risk to healthcare officials or property damage, a lack of resources and a lack of knowledge of the procedures. Primary health care facilities in Prizren, Dragash/Dragaš and Rahovec/Orahovac are examples of inconsistent implementation of the applicable legislation on the use of languages in public services. In Dragash/Dragaš, informational signs are available in Albanian and Serbian, but drafted documents are available only in Albanian. In Rahovec/Orahovac, healthcare officials just commenced implementation of the use of Serbian in primary health care facilities. In Prizren, the Health Director is supporting efforts of the OSCE to implement the use of Serbian and Turkish in Health Houses, in addition to Albanian, but no positive results have yet been achieved. In Prizren Hospital, while most signs are in Albanian and Serbian, pre-printed documents are only in Albanian. The Director stated that the new supply of documents would be printed in Albanian and Serbian, however, little progress has been made in ensuring the use of Turkish. In Mitrovicë/Mitrovica, there has been little

progress in the written communication in primary healthcare facilities both in the northern and southern part of the town.”

### **Many IDPs still live in containers and collective centres in Kosovo with little return prospects (2007)**

**Ombudsperson, 11 July 2007, p.45:**

"[...]many Serbs, Roma, Ashkali and Egyptians continue to live in containers and collective centres in Gracanica/Gracanice and the Municipality of Fushe Kosove/ Kosovo Polje in central Kosovo, as well as Strepce/Shterpce and Prizren in the south. These settlements include displaced persons from 1999 and others who fled their homes during the riots of March 2004.

***Despite reconstruction of their homes or restitution of their property, many are reluctant to return due to the security situation and the lack of employment opportunities.***

***The Serbian Commissariat for Refugees reports the existence of 18 collective centres in Kosovo hosting some 800 IDPs (fax 24 August 2007 from SCR and UNHCR statistics on collective centres, July 2007)***

***See also in the property section: "Reconstruction and compensation of houses damaged in 2004 did not result in return"***

### **Improvement of shelter conditions for Roma displaced in Mitrovica and Plemetina (2007)**

- The majority of Roma IDPs living in camps in Northern Mitrovica under high risk of lead poisoning have been moved to a temporary camp in 2006
- Most of the displaced persons accommodated in Camp Osterode are from Roma Mahala
- Reconstruction of Roma Mahala houses will allow IDPs to return home
- As of June 2007, 280 persons out of an expected 412 have returned to Roma Mahala
- The Plemetina camp, where IDPs were hosted under very poor conditions is almost closed
- IDPs from Plemetina camps have been accommodated in social housing facilities during the course of 2006 and 2007

#### ***About camps in North Mitrovica:***

**Ombudsperson, 11 July 2007, p.46:**

"Up until recently, many displaced Roma, Ashkali and Egyptians were living in camps in different parts of Kosovo. [...]"

The majority of people previously living in camps in northern Kosovo have now been moved to the former KFOR Camp Osterode located nearby. For over six years, these people were living in unspeakable conditions, with constant exposure to lead pollution emanating from nearby waste dumps of the Trepça mining complex. Now, 105 families have resettled in Camp Osterode. Two of the camps in northern Kosovo have been closed and in the remaining camp Cesmin Lug, approximately 40 families still wait to be relocated to Osterode.

Camp Osterode is a well-organised and properly managed camp. Medical treatment has been offered to camp inhabitants to combat lead poisoning. The children are able to attend their old school in the northern part of Mitrovicë/Mitrovica with the aid of transport organised by the school principal, and there is a pre-school on the camp site.

Complaints about the number of toilet facilities have decreased after the camp management installed a number of new ones. An official working for the camp management informed the Ombudsperson Institution that there were still problems with the water and plumbing supply, although one of the main reasons for this appeared to be the constant theft of parts, keys and locks. There have been some recent complaints regarding the lack of medicine and the closure of a medical centre in Camp Osterode as a result of budget cuts.

It should be noted that Camp Osterode is only a temporary settlement until the majority of its inhabitants can return to their homes in the Roma Mahalla neighborhood in the southern part of Mitrovicë/Mitrovica; this neighborhood had been completely destroyed after the end of hostilities in summer 1999. The reconstruction of the Roma Mahalla is one of the largest return projects of the last few years and is still ongoing. Eight families from Osterode have now returned to newly constructed houses and apartments; an additional 19 families have returned from settlements for displaced persons located in Serbia proper and Montenegro."

**SG, 29 June 2007, par.27 and Annex par.44:**

"Individual returns have already begun this year. Returns to the Roma settlement in southern Mitrovicë/a began in early March and have now reached a total of 280 persons out of an expected 412. Though small in number, these returns are a highly symbolic breakthrough. They are expected to foster additional return movements, provided that international donor contributions and assistance to the Ministry continue."

***For more details on the reconstruction of Roma Mahalla, see under Property section***

***About the Plemetina camp***

**Ombudsperson, 11 July 2007, p.46:**

" Camp Plemetin/Plemetina in central Kosovo, which also housed Serbs and some other non-Albanians under very poor sanitary and health conditions, has now almost ceased to exist; most of its inhabitants were transferred to apartment houses nearby in mid-2006 and early 2007. The ten remaining families living in the camp will receive proper housing in the near future and the Municipality of Obiliq/Obilic plans to close the camp at the end of 2007."

***On Plemetina camp, see also ["Leaving Plemetina"](#), Southeast Europe Online, 15 December 2005***

**SG, 1 September 2006, Annex par.56:**

"On 8 May, the Deputy Prime Minister inaugurated a social housing complex in Magurë/Magura village (Lipjan/Lipljan municipality) for 22 Roma, Ashkali and Egyptian families from Plementina camp. On 26 May, the Prime Minister inaugurated the second social housing building in Plementina village, which will house 40 internally displaced Roma families from the camp. Both were funded by the Kosovo Consolidated Budget."

***About Lepasovic camp:***

**Ombudsperson, 11 July 2007, p.46:**

One of the remaining camps for Roma, Ashkali and Egyptians in northern Kosovo is located in Lepasovic/Lepasaviq. In this camp, living conditions are also quite poor, although not as bad as in other camps in northern Kosovo. Most of the inhabitants of this camp used to live in the Roma Mahalla in the southern part of Mitrovicë/Mitrovica and are currently waiting to return there".

### **Roma IDP lead poisoning in North Mitrovica illustrates Roma's disastrous health and shelter conditions (2005)**

- Roma communities have particular problems in accessing healthcare due to documentation problems
- Roma IDPs are usually accommodated in unofficial settlements and camps in very poor conditions which impacts the health conditions of residents
- Residents of camps in North Mitrovica suffer from exceptionally high level of lead poisoning aggravated by their living conditions
- WHO recommended evacuation of the residents to a safer location
- Plan to rebuild destroyed houses of IDPs in South Mitrovica will not address the need to evacuate the camps in the short term
- 30% of IDPs in the camps are not from Roma Mahalla where the reconstruction will take place

#### **Ombudsperson, 11 July 2005, p.31:**

"Many members of the Roma communities live in dwellings with non-existent or very basic sanitary facilities that often do not even include running water, so that these people are particularly in danger of catching certain diseases and infections. In certain Roma camps situated in Northern Kosovo, the situation is worse than in Plemetina/Plemetin in central Kosovo, in particular as the proximity to the Trepca/Trepça lead mines appears to pose a grave risk to the health of the inhabitants of these camps. Although there have been many plans on how best to evacuate the camps, there are still no concrete evacuation plans. One positive aspect of this matter is the fact that for the first time since 1999, there appears to be a concrete project to rebuild the former houses of a majority of these people in the Roma Mahalla district in Southern Mitrovica."

#### **Refugees international, 15 June 2005:**

"Three camps for Roma, Ashkali, and Egyptian (RAE) internally displaced persons in Kosovo are on sites irretrievably polluted with lead and must be evacuated immediately. The World Health Organization and other UN organizations in Kosovo believe that the situation, which affects more than 600 people, constitutes a health emergency and that urgent action is necessary. The leadership of the United Nations Mission in Kosovo (UNMIK) acknowledges that delays and lack of leadership have kept the displaced in a dangerous situation. UNMIK has not acted despite the fact that as early as November 2000 its report, "First Phase of Public Health Project on Lead Pollution in Mitrovica Region," recommended that the Roma camps be relocated and that their residents receive continuous education and support for the eradication of lead poisoning.

The RAE camps were never intended to become semi-permanent settlements in the midst of an environmental disaster area. The Office of the United Nations High Commissioner for Refugees (UNHCR) constructed the three internal displacement camps of Chesminluk, Kablare and Ztikovac for the RAE populations who fled from South Mitrovica to North Mitrovica during the Kosovo conflict in 1999. UNHCR built these camps as a temporary solution. At the time UNHCR believed that the RAE displaced would remain for 45 to 90 days, after which they would return to South Mitrovica. Continued inter-ethnic conflict prevented return to South Mitrovica by the RAE population and thus the camps have remained occupied since 1999.

Mining and metallurgic economic activities have a long history in Mitrovica and Zvecan municipalities of northern Kosovo. After these activities closed down in 2000, UNMIK, in November of that year, produced an environmental report on the lead situation in Mitrovica. In

2004, WHO, in collaboration with UNMIK and local institutions, conducted a Health Risk Assessment to determine the extent and routes of exposure of children to heavy metals in these municipalities. According to this study, the overall population in Mitrovica has elevated levels of heavy metals, especially lead, but the samples from the three RAE IDP Camps had the most alarming lead levels in the blood. More than four years earlier the 2000 UNMIK report had also noted higher levels among RAE internally displaced persons (IDPs) According to WHO, a blood lead level of 10 micrograms per deciliter or below is acceptable. The measurements from the IDP camps were much higher than in the surrounding population and at levels which exceeded any region WHO had previously studied. Twelve children had exceptionally high blood lead levels, greater than 45 micrograms per deciliter.

Lead can enter the body through the following means: inhalation, ingestion of the soil itself or food grown where the soil is contaminated, and through the placenta of the fetus in the womb. Nutrition, hygiene, ratio of body fat, fiber intake, age and overall physiological makeup all affect the speed at which the body absorbs lead. Children between birth and six years old are the most vulnerable as they are in the primary stages of growth and development. Lead poisoning affects the entire body and has severe and permanent health consequences. Potential symptoms of exposure to lead, even at low levels, include loss of appetite, lethargy, high blood pressure, fertility problems for men and women, premature birth, stunted growth, hearing damage, neurological damage, seizures, pain and/or paralysis in the legs, dropping in and out of consciousness, anemia, increased aggression, stomach cramps, and vomiting. People suffering from lead poisoning can be asymptomatic. According to the WHO reports, the most significant and irreversible effect is on IQ levels. An increase in blood lead level from 10 to 20 micrograms per deciliter has been associated with a decrease of 2.6 IQ points, but any incremental increase above 20 further reduces IQ levels. As one international health worker told Refugees International, "These children who are affected will never reach their optimal mental potential which is a basic right of each child. There is an emergency in these camps."

Since July 2004, WHO has categorized the lead intoxication as a severe health crisis. For the past 12 months, WHO and other international agencies have recommended the immediate evacuation of pregnant women and children up to six years of age and quick relocation of these IDP camps into temporary sites until a final and sustainable solution can be achieved. This has yet to occur despite the clear warning from WHO that inaction would allow for continued exposure to lead and "with these excessive blood levels these children are at a true risk of encephalopathy, [delayed mental development], and possible death."

**Ombudsperson, 11 July 2005, p.36-37:**

"The inhabitants of the Žitkovac camp, as well as those persons living in the Kablare and Cesmin Lug camps in Northern Mitrovica, are worse off than their counterparts in Leposavic/Leposaviq, mainly because they are situated dangerously close to waste dumps belonging to the remnants of the Trepca/Trepça mining complex which used to be part of the largest lead and zinc producer in Yugoslavia.

Regarding the Žitkovac camp, the last months have seen an increase in media coverage on the conditions there, in particular the fact that the proximity to the Trepca/Trepça waste dumps leads to severe health problems for the inhabitants of the camp. Strangely enough, the media reports have almost exclusively been focused on this camp, although the camps in Northern Mitrovica suffer from the same problems. Even if many voices, some of them from inside UNMIK itself, have been complaining about the bad health conditions in these camps, there has so far not been any concrete and workable plan to evacuate the people living there.

In 2004, the World Health Organisation (WHO) described the situation in Žitkovac as "urgent" and the ICRC called for the immediate evacuation of the camp, but both calls were so far to no avail. In the middle of last year, the WHO examined twelve children living in the camp and found



exceptionally high levels of lead in their blood. Six of these cases were considered to be medical emergencies. These findings only added to a general and growing suspicion that the inhabitants of this camp, but also of the camps in Northern Mitrovica, are being poisoned by toxic waste, which according to many is contaminating the very soil on which the camp is built.

In February 2005, a so-called Risk Management Plan intending to decrease the lead exposure for the inhabitants of the Žitkovac, Kablare and Cesmin Lug camps, was proposed. This plan was eventually implemented in April 2005 and by the beginning of May, mainly the Danish Refugee Council and municipalities had begun distributing hygiene packs, wood stoves and increasing access to clean water, as well as low fat fortified milk and nutritional supplements. This led to a significant improvement of sanitation in and around the camp. Twelve children were taken to Belgrade to be tested and treated, with the aim of relocating them somewhere else permanently. These measures, however, do not do much to take care of the real problem faced by all inhabitants of this camp and the camps in Northern Mitrovica— namely that as long as they continue to live in these camps, their health will keep on deteriorating.

Given the fact that the reconstruction of the Roma Mahalla may take years, it is important that the urgent question of evacuating the people from the Žitkovac, Kablare and Cesmin Lug camps be treated separately. Leaving aside the question of why these camps were built in such a high-risk area in the first place, it is paramount that UNMIK, together with the local authorities and other entities involved take concerted and immediate steps to move these people. According to recent information, the international and local authorities and institutions involved are shuttling back and forth in an attempt to resolve this issue as soon as possible. (...)

However, the rebuilding of the Roma Mahalla, which has already been described as the largest returns project hitherto undertaken in Kosovo, will take time. Even after the details of organising, funding and eventually rebuilding it have been resolved, there are also certain practical issues that will need to be taken care of, for instance, the question of what will happen to those inhabitants of the camps who are not from the Roma Mahalla and who form 30% of the camps' population. Another question that begs asking is whether the return of people to a reconstructed Mahalla would actually work, namely whether it would be possible for the returnees to live a peaceful and normal life in the midst of a majority of ethnic Albanians."

**Ombudsperson, 11 July 2005, p.31:**

Roma are usually only able to access the most basic health services, as the vast majority of them are not covered by any form of health insurance and do not have the money to pay for medical treatment in hospitals. Members of the Albanian-speaking Ashkali and Egyptian communities have fewer problems, but complain that they are often insulted or treated badly when going to health centres or hospitals."

**UNHCR/OSCE, March 2003, p. 41-43:**

"Particular problems of access to healthcare for Kosovo RAE communities remain an issue. In Mitrovicë/Mitrovica, Kosovo Roma communities reside in camps, which are situated some distance from the nearest ambulanta (...) and even when they do access healthcare, many may not qualify for assistance due to not possessing the required identification documents or medical books. The number of Kosovo RAE referring to hospitals and health houses for assistance continues to be relatively low, 81 even in cases of serious disease. For instance, while conducting a medical examination for the re-schooling of Kosovo Ashkaelia children in Vushtrri/Vucitrn, doctors reported that five (5) out of eight (8) children were suffering from contagious diseases. Regarding the particular situation of the Kosovo RAE community residing in Plementin/Plementina camp, which was previously reported as being unsustainable, the situation has partially improved with the establishment of an ambulanta in the camp. The ambulanta offers daily primary health care by nurses, and weekly care from a general practitioner and other specialists. For secondary health care, patients are sent to Obiliq/Obilic Health House or to

Prishtinë/Pri\_tina Hospital, with transport provided by Obiliq/Obilic Health House Ambulances or the American Refugee Committee (ARC). The LCO in Obiliq/Obilic reported that Kosovo RAE members of Plementin/Plementina camp are more confident about approaching Obiliq/Obilic Health House or the ambulanta in the camp. The previous Assessment recommended that the Ministry of Health ensure information about healthcare through an awareness campaign for the RAE community. However, no such campaign has taken place, while a Charter of Patients Rights, sponsored by the Ministry and including a provision on "care without discrimination", remains still in draft form."

***Regarding lead poisoning in Roma IDP camps of Mitrovica, see WHO reports of [July](#) and [October 2004](#)***

***For more details on the reconstruction project of Roma Mahalla : Ombudsperson Institution in Kosovo, [5th Annual report](#), 11 July 2005, p.35-36***

### **High level of destruction and population influx leave many without proper shelter in Kosovo (1999-2000)**

- 49,000 houses damaged beyond repair as a result of the conflict
- Shortage of shelter throughout the province triggers migration to urban areas where housing capacities are equally insufficient
- Returning refugees force families occupying their premises to leave for more precarious shelters

#### **USAID, 9 December 1999:**

"The pre-conflict housing stock of Kosovo was approximately 365,000 dwelling units. Of these, approximately 125,000 houses were damaged, according to estimates from UNHCR and the International Management Group (IMG).

49,000 houses were damaged beyond repair. The remaining 76,000 houses are repairable.

The fact that approximately 49,000 dwellings sustained serious structural damage and are uninhabitable and beyond repair means that 49,000 families - some 294,000 people, given an estimated average family size of six, must have alternate means of shelter this winter."

#### **Refugee Daily, 7 July 2000:**

"A year after war ended in Kosovo, chaos and dislocation continue, manifested in the doubling or even tripling of the population of Pristina, now home to more than half a million people, reports the New York Times. Mostly they are people from the villages, refugees who have abandoned their burned and sought work and shelter in the capital.

As more than 700,000 Kosovo flocked from refugee camps last summer, or came down from the hills, many seized Serbian houses in Pristina, forcing Serbs and Gypsy residents to flee. The Kosovo war forced about two-thirds of the province's two million people from their homes. Hundreds of thousands remain displaced, living in tents and shacks in villages, in drab refugee centres, or doubled up with relatives in the cities, as many as 30 to an apartment. Only a few thousand mostly old and sick refugees remain in Macedonia and Albania.

In Kosovo, people are still returning every day. In front of Pristina airport stand two large white tents where local officials register the hundreds of refugees returning on daily flights from Western Europe or further afield. As many as 140,000 people will be returning to Kosovo this summer.

Despite the enormous building activity obvious in every corner of Kosovo, UN officials are growing concerned that Kosovo simply does not have enough housing. 'Capacity is limited,' said Gottfried Koefner assistant chief of UNHCR in Kosovo. 'People are squeezing, and we are already seeing secondary displacement. People are ending up in tents.' Some of those returning are forcing other families out on the streets." [based on "In the Hundreds of Thousands, Kosovo Homeless Feel Forsaken", The New York Times]

**See also Refugees International ["Ensure Shelter for the Most Vulnerable in Kosovo this Winter"](#), 10 July 2000 [Internet]**

## ACCESS TO EDUCATION

### **Kosovo Albanian and Kosovo Serbs students attend parallel educational system (2009)**

- Two education systems created along ethnic lines continue to exist in Kosovo, with parallel schools managed by the Serbian Ministry of Education
- Institutions managed by Serbia follow Serbian curriculum, offer lessons in Serbian, and their staff receive salaries from the Serbian Government
- Most of Kosovan schools do not offer lessons in Serbian and the curriculum they follow differs from curricula in Serbia Albanian and Serbian pupils attend separate schools, which not only creates challenges to the building of trust and reconciliation between the communities but contributes to reinforce and perpetrate separation
- There is no comprehensive approach to the issue of minority education and many minority children miss out on school
- In some isolated cases, Kosovo Albanians and Kosovo Serbs attend education under the same roof, but separate educational shifts are in place and there is no interaction between the different communities. In some cases Kosovo Serb pupils stopped using the multi-ethnic schools due to perceived lack of security.
- Kosovo Albanian and Serbian textbooks are an additional source of segregation, since they present a one-sided view of history

#### **UNHCR, 9 November 2009, p.15:**

"Official Kosovo curricula in the Serbian and Romany languages have yet to be developed. Education for Kosovo Serbs and Kosovo Roma is still generally accessed through the parallel system in separate schools using the Serbian curricula and textbooks. Some Serb parallel schools in Kosovo have introduced classes in the Romany language. The lack of education offered in Serbian and Romany languages is contributing factor, along with poverty and issues of freedom of movement, in the significant drop-out rate among members of these communities"

#### **OSCE, Mission to Kosovo, April 2009:**

"In practice, there are two competing and separate educational systems. Kosovo Albanian students follow Kosovo's curriculum without any instruction in Serbian language, while Kosovo Serb students are educated according to curricula of, and schools run by Serbia and do not receive instruction in Albanian. The Kosovo educational system provides curricula for primary and secondary mother-tongue education in the Albanian, Turkish and Bosnian languages, but not in Serbian. A system for the recognition of Serbian curricula and textbooks to be used at the municipal level is not yet in place. The Serbian educational system imparts education only in the Serbian language, with scattered examples of language classes in Romani, Croatian, Bosnian and Albanian in a limited number of schools.(...)"

To a certain extent, the separate curricula and systems provide for the intra-cultural educational needs of specific communities, but fall short of promoting intercultural education and sustained exchanges between students and teachers of the two systems.(...)"

In both Kosovo Albanian and Kosovo Serb majority areas, the Kosovo and the Serbian

educational systems seclude Kosovo Serb and Kosovo Albanian students from the surrounding social environment of the majority community, as much as they ensure education in the mother tongue. In this way, education perpetrates and reinforces separation. (...)

Based on the educational system attended, there are multi-ethnic schools with either Kosovo Albanians or Kosovo Serbs and other communities, but schools combining Kosovo Albanian and Kosovo Serb students are rather the exception. Even in the isolated cases in which students of these communities attend education under the same roof, separate educational shifts are in place, and with few exceptions, there is no interaction between students of the Kosovo Albanian and Kosovo Serb communities. The fact that Kosovo Serb students learn only Serbian and Kosovo Albanian students learn only Albanian further prevents communication(...)

The school in Poneš/Ponesh (Gjilan/Gnjilane) is another example of division of the the Kosovo Albanian and Kosovo Serb communities along political lines. The school building was constructed with financial support from the British Embassy for the two communities to be taught in their own language and curricula, but to share classes such as physical education. However, the setup of a sign naming the school after a Kosovo Liberation Army member and a "Republic of Kosovo" sign proved too divisive and ran counter to the spirit of the project, which endeavoured to bring communities together under a shared roof with common values. In Rahovec/Orahovac, a multi-ethnic primary school established in 2001 in an attempt to bring Kosovo Albanian, Kosovo Serb, Roma and Egyptian students together, is not used by Kosovo Serb pupils due to perceived lack of security and parents' concerns that Kosovo education may limit the possibility of pursuing education outside Kosovo.(...)

In some cases, the mere fact of sharing the same school or class does not mean that integration is achieved. In Ferizaj/Uroševac, Ashkali respondents have highlighted how, in some cases, during the winter, students of their community are being placed in seats far from the stove and close to the window. Outside the school, they are often bullied, addressed in a derogatory manner or even beaten up by Kosovo Albanian students. After a series of recent alleged beatings by Kosovo Albanian students,<sup>73</sup> Ashkali parents appear increasingly afraid of sending their children to school

In practice, in a post-conflict environment, the existence and practices of two separate school systems is not conducive to the creation of a system of inter-cultural education where the identity of each group is preserved, the identity of other groups is learned and acknowledged, and mutual understanding, acceptance and tolerance is promoted. Conflicting historical representations tend to prioritize either the Kosovo Albanian or the Kosovo Serb community.

The two educational systems have, in fact, contributed to entrench the chasm which divides communities in Kosovo. That both Kosovo Albanian and Serbian textbooks tend to present a slanted and one-sided view of history is a case in point. They do not confine themselves to present a history of Kosovo, but tend to be more geared toward presenting the history of either the Albanian or the Serb community."

**EC, November 2008, p. 41**

"In addition, parallel and ethnic-based structures using different curricula and textbooks are a source of segregation."

**OSCE, Mission in Kosovo, September 2008, p. 11:**

"The education system in Kosovo is characterized by separate schools for Kosovo Albanian and Kosovo Serb students. Kosovo Albanian students follow a curriculum without any instruction in Serbian language. Similarly, Kosovo Serb students are educated according to Serbian curricula and do not receive instruction in Albanian. Kosovo still has not developed primary and secondary education curricula in Serbian."

**OSCE, 4 April 2007, pp.32-3:**

“Two systems of education operate in Kosovo. Schools in Kosovo Serb and Gorani inhabited areas or in municipalities where the Kosovo Serb or Gorani communities constitute the majority use the curriculum of the SMES. The SMES also supplies these schools with textbooks, diplomas and stamps. Teachers and other support staff are supervised and directed from Belgrade and until recently, received salaries from SMES and the MEST.[] To date there is still no recognition of certificates and diplomas between the two systems.

Parallel Schools operate in all regions of Kosovo.[] In Prishtinë/Priština region, 19 primary and nine secondary schools have been identified in the municipalities of Fushë Kosovë/Kosovo Polje, Prishtinë/Priština, Lipjan/Lipljan and Obiliq /Obilic.

In Prizren region 11 parallel education facilities exist in Rahovec/Orahovac and Dragash/Dragaš with eight primary and two secondary schools.

Thirty four parallel schools are located in Mitrovicë/Mitrovica and in northern Kosovo, where all educational facilities are parallel. There are also parallel schools located in Skenderaj/Srbica and Vushtrri/Vucitrn.

In Pejë/Pec region three primary and three secondary parallel schools are located in Istog/Istok, Klinë/Klina and Pejë/Pec municipalities.

In Gjilan/Gnjilane region 21 primary and 10 secondary schools under parallel structures have been identified in Gjilan/Gnjilane, Viti/Vitina, Novobërdë/Novo Brdo, Štrpce/Shtërpçë and Kamenicë/Kamenica.”

*For more on the parallel education system in Kosovo, its causes, effects and impact on children, see the above mentioned [report by OSCE](#), pp. 32-42.*

**Ethnic minority children face difficult schooling conditions (2009)**

- Limited access to mother tongue education and textbooks negatively affects the quality of education for ethnic minority children
- Transportation and physical access to schools remain pressing problems for minorities
- At school, children of minority communities are exposed to various forms of discrimination
- Often, Kosovo Roma, Ashkali and Egyptian are not enrolled in schools or are affected by high drop-out rate
- IDPs, especially from minority communities, face obstacles to accessing education due to lack of documentation and registration
- The social exclusion of Roma IDPs as far as education is concerned starts from an early age and is sharper than for non-Roma IDPs. There are no Roma IDPs at university and the number of those who attend secondary education is very low.

**OSCE Mission in Kosovo, April 2009:**

"(...) curricula for community-specific “national” subjects for the most vulnerable Roma, Ashkali, Egyptian, Gorani, Kosovo Croat and Kosovo Montenegrin communities have not been developed yet. Insufficient availability of primary and lack of secondary education textbooks in the Turkish and Bosnian languages negatively affects the quality of education and prevents adequate learning of national subjects.(...)

None of the educational systems contains curricula and textbooks specific or adequately tailored to the culture and history of the Roma, Ashkali, Egyptian, Gorani, Kosovo Croat and Kosovo Montenegrin communities.

#### Access to mother tongue education and textbooks

(...) Gorani pupils experience difficulties to access Serbian curriculum education as they wish. Kosovo Bosniak pupils who attend Serbian-curriculum education consider that this lacks sensitivity and adaptation to their cultural diversity. Roma students have access to classes on their mother tongue only in some schools of the Serbian curriculum system. Within the Kosovo-curriculum, Kosovo Bosniak and Kosovo Turk students have access to mother tongue education but there are no books in their languages for secondary and, in some cases, primary education. Kosovo Albanian students in northern Kosovo have access to primary education in their mother tongue, but have no support from their municipalities. The Gorani, Kosovo Croat, Roma, Ashkali, Egyptian, and Kosovo Montenegrin communities have no access to community-specific educational subjects enabling the preservation of their identity.

#### Transport arrangements

In practice, where mother tongue education is not available, alternative solutions are mainly limited to transport arrangements. However, Kosovo Serb majority municipalities in northern Kosovo do not support transportation of Kosovo Albanian pupils.(...)

At present, walking is not considered safe for the Kosovo Albanian students of the Mikronaselje/Kodra e Minatorëve enclave (northern Mitrovica/Mitrovicë), who have to pass through Kosovo Serb areas. Thus, children whose families cannot afford private transport receive education in a temporary, inadequate school container lacking the necessary logistical conditions.(...)

For Kosovo Bosniak students, attending secondary education often implies travel and transport costs that are not covered by municipalities. In Podujevë/Podujevo, Ashkali and Roma pupils living in remote areas have no access to school transport."

#### **US Dos, February 2009:**

"While education is free and compulsory up to age 15, statistics from 2005, the most recent year for which data was available, indicated that only 77 percent of children between the ages of seven and 14 from non-Serb minority communities (Roma, Ashkali, Egyptian, Turkish, Bosniak, Gorani, and others) attended school. Girls from non-Serb minorities attended school at a rate of 69 percent. In contrast, 97.5 percent of Kosovo Albanian and 99 percent of Kosovo Serb children were enrolled in primary school. "

***In the answers to the Committee on Economic Social and Cultural rights, the UNMIK Delegation states that educational programmes are taught in the language of minority communities in 28 elementary schools and 14 high schools. The Delegation also underscores the steps taken by the Government to address the drop-out rates of ethnic minorities:***

#### **UN ESC, 10 November 2008:**

"In Kosovo 28 elementary schools and 14 high schools were mixed schools comprising of pupils from Bosnian, Ashkali and Egyptian communities. Further more, educational programmes were taught in the language of minorities which included among others, Bosnian, Roma, Egyptian and Ashkali languages. A campaign was recently launched aimed at life long learning, and was promoted to all ethnic communities in Kosovo. In addition, the majority of high education

institutions integrated the different ethnic languages in Kosovo. (...) In addressing the drop-out rates of ethnic minority communities, the Government through the Ministry of Education, Technology and Science took measures to implement a special form of education called "Intensive Catch up Classes" from 2002-2003. This programme gave students the opportunity to catch up a total of two years of schooling in a shorter period of time, and included students between the ages of 6 to 19.

**EC, November 2008, p. 41:**

"There has been no progress as regards the inclusion of the Roma, Ashkali and Egyptian communities into the mainstream education system. The relevant legislation and strategy are poorly implemented and teachers with minority language skills are in short supply."

**UNIJA, October 2008, p. 45:**

"Upwards of 70% of the RAE population did not attend school beyond the age of 12, and the illiteracy rate was estimated at more than 16% of the population. The lack in educational opportunities and participation of the RAE community is exacerbated by the problem of the registration of its members. More than 10.000 out of the estimated 30,000 members of RAE community in Kosovo are estimated to be unregistered, which directly affects their access to basic documentation, public services and education."

**OSCE, Mission in Kosovo, September 2008, p. 11:**

"No curriculum-based textbooks in Turkish and Bosnian are available for secondary education. These are fundamental deficiencies that drive the Kosovo communities apart.

Kosovo Roma, Ashkali and Egyptian pupils, and in particular girls of these communities, are in many cases not enrolled in schools or affected by a high drop-out rate. Action to ensure compulsory enrolment and increased access to education is insufficient. Romani language subjects are not available. Gorani pupils face great difficulties in receiving education in Serbian, as they desire, due to the lack of a curriculum in Serbian."

**Ombudsperson Institution in Kosovo, 21 July 2008, p. 45:**

"Roma, Ashkali and Egyptian communities still faced a very low level of education and high rate of school drop-outs. The factors leading up to this situation are numerous, but the ones that should be mentioned here are poverty, which in many cases leads parents to push or at least to not prevent their children from dropping out of school, as they often find themselves unable to finance their children's education. Another problem in this regard is the fact that many children are working in order to ensure the existence of the families. Also, the parents' generally very low level of awareness of the importance of education also contributes to a higher level of school drop-outs by children at very early ages, especially of young girls. However, one of the most important problems, especially for Roma children, is the lack of an adequate level of knowledge of the Serbian or Albanian languages when entering school. This usually leads to bad results in school and ensuing drop-outs from school.

At the same time, there are near to no schools in the Roma language for students of the Roma community. In order to improve the situation in this field, some parallel schools in Kosovo working with the curricula of the Republic of Serbia have introduced the subjects of Roma language and culture, aimed at helping Roma children develop or improve their knowledge in that field. This is not yet the case in schools that function with the Kosovo curricula. However, the Kosovo Ministry for Education, Science and Technology has established working groups to develop a curriculum in the Roma language. The action plan for the implementation of this curriculum has been drafted and also addresses the high rate of drop-out of Roma, Ashkali and Egyptian children.

Gorani teachers, pupils and parents still refuse to integrate into the Kosovo education system, above all because of the impossibility to pursue higher education in the Serbian language within



the scope of the Kosovan education system. Members of the Gorani community thus also follow the curricula used in Serbia. "

**Ombudsperson Institution in Kosovo, 11 July 2007, p.39**

"Children of the Roma community either follow the Kosovo education system or attend parallel schools, depending on their proficiency in Albanian. The high level of poverty in this community continues to present serious difficulties for the education of its youth, and consequently many families simply cannot afford textbooks for their children. Roma children tend to drop out of school early, which contributes to the low level of education within this community. A similar phenomenon was noticed in the Ashkali and Egyptian communities.

Another problem that results from the high drop-out rate of Roma, Ashkali and Egyptian children and affects all of these communities is illiteracy. Despite the existence of a number of programmes and projects aimed at eliminating illiteracy, there are still many people in these communities who have great difficulties taking part in general public life due to their inability to read and write. This problem already existed before 1999, but a lack of security for parts of these communities and their children's lack of school attendance has aggravated this issue since."

**Ethnic minority IDPs' return hindered by lack of access to school facilities at their place of origin (2009)**

- Displaced Kosovo Serbs have access to schooling at their place of displacement
- However, the lack of facilities for minority education at their place of origin prevent them to return

**OSCE, Mission to Kosovo, April 2009, p.4:**

Displaced Kosovo Serbs have full access to schooling at the site of their displacement. However, Kosovo Serb displaced families with school aged children deem lack of access to school facilities at their place of origin a major obstacle to return, second only to lack of job opportunities.

**U.S.DoS, February 2009:**

The UN Children's Fund (UNICEF) reported that the lack of facilities for minority education in parts of Kosovo made it difficult for some IDPs to return to their homes.

**Members of non-Albanian communities have limited options to access higher education (2009)**

- Officially in Kosovo there are no higher educational programs other than those provided in the Albanian language
- The University of Mitrovica is the only opportunity for non-Albanian speaking minorities to attend higher education in Kosovo
- The non-recognition by Serbia of the Kosovo diplomas might prevent access to higher education for those non-Albanian speaking students wanting to follow the higher education in their language in Serbia proper.

**UNIJA, October 2008, p. 45:**

In Kosovo there are no higher educational programs officially recognized by UNMIK other than those provided in the Albanian language. The University of Kosovska Mitrovica (placed in the northern part of Mitrovicë/Mitrovica) represents the only opportunity for the Serbian and Gorani, Roma and other non-Albanian speaking minorities to attend the higher educational programmes. For the non-Albanian speaking students there is no other choice than to follow the courses in the University of Mitrovicë/Mitrovica or move out from Kosovo and choose a different university in Serbia *proper*

Members of the non-Albanian communities in Kosovo who don't speak Albanian and wish to pursue education in their native language already were experiencing extremely limited options of higher education. Nowadays they show concerns over additional complications particularly for those ethnic groups as Bosnians or Gorani, who until now to large extent have been studying in the Kosovo schools instead of parallel educational facilities that follow Serbian curriculum.

Serbian Minister of Education stated in the media Press release of the Serbian government from 01.09.2008: in August and September 2008 that Serbia no longer recognizes University of Prishtinë/Priština diplomas that carry the UNMIK logo and seal. If no agreement is reached between UNMIK/Kosovo Government and Serbian authorities, minority students that decided to follow Kosovo educational institutions will experience more complications with pursuing their education in Serbia or get employment if they choose to move to Serbia proper.

**OSCE, Mission in Kosovo, September 2008, p. 11:**

Since 17 February 2008, it can be assumed that secondary education diplomas from Kosovo educational institutions will not be recognized by a number of countries in the region. This might prevent access to higher education for Bosnian and Serbian-speaking students."

**Ombudsperson Institution in Kosovo, 11 July 2008, p. 44:**

"The situation with regard to education is in general similar to that of the health sector, as two education systems continue to co-exist in Kosovo. In areas inhabited by members of the Serbian community and parts of the Roma and Gorani communities, the Serbian school curriculum is followed and the staff and the schools are now exclusively financed by the Ministry of Education of the Republic of Serbia. The curriculum used in Serbian schools is considerably different from the curriculum and education system applied in the schools and higher education institutions in most parts of Kosovo. Since the Kosovan curriculum differs from the curricula in Serbia and Bosnia-Herzegovina and is not recognized in either place, students wishing to pursue higher education there or in the university in north Mitrovicë/Mitrovica can only do so if they follow the Serbian curriculum."

**Postive measures to integrate children of the Roma, Ashkali and Egyptian communities into the educational system (2009)**

- Positive steps have been taken by some municipalities and by the international community to improve integration of Roma, Ashkali and Egyptian children into the educational system

- In Prizren and Gjakovë/Dakovica the municipalities have organized public awareness campaigns encouraging parents to enrol their children
- Prizren municipality and Caritas Swiss have established two pre-school education facilities where half of the staff belongs to the Roma community
- In Prizren and Ferizaj, UNDP has provided scholarships to RAE students attending secondary school and university
- In Pejë, Istog and Klinë there are catch-up classes for RAE children
- Caritas Kosovo provides supplementary education for Roma children in Serbian and Romani in northern Mitrovica and Padern.

***Although the educational integration remains very difficult for the majority of the Roma, Ashkali and Egyptian children, the need for sustained measures has been recognized in a 10 year strategy of the Ministry of Education (Strategy for Integration of Roma, Ashkali and Egyptian communities in Kosovo - education, 2009 -2015, see in sources below). Some positive steps have been taken by some municipalities and by the international community:***

**OSCE, April 2009:**

"In Prizren and Gjakovë/Đakovica, where Roma, Ashkali and Egyptian pupils, and particularly girls, are affected by high drop-out and low enrolment rates mostly due to a poor economic situation, the municipalities have organised public awareness campaigns encouraging parents to enrol their children into schools. The Gjakovë/Đakovica municipal directorate of education has instructed school directors to monitor and submit regular reports on school attendance of children belonging to non-majority communities. Aiming at supporting educational integration through enhanced access to pre-school education, the Swiss Caritas and Prizren municipality jointly established two pre-school education facilities where half of the staff belongs to the Roma community in November 2008. Roma parents requested that their children be taught in Albanian. In Prizren and Ferizaj/Uroševac, the United Nations Development Programme (UNDP) has provided scholarships to Roma, Ashkali and Egyptian students attending secondary school and university. Other scholarships for the same communities are distributed in 2009 by the Ministry of Communities and Returns and envisaged by the Prime Minister's Office for Community Affairs. (...)

In Pejë/Peæ, Istog/Istok, and Klinë/Klina, there are catch-up classes for Roma, Ashkali and Egyptian children or parents request that they resume. The NGOs Caritas Kosovo in northern Mitrovica/Mitrovicë and Padern in Leposavië/Leposaviq, provide supplementary education for Roma children in Serbian and Romani.(...)

## ISSUES OF SELF-RELIANCE AND PUBLIC PARTICIPATION

### **IDPs from minority communities have limited opportunities to sustain themselves (2009)**

- While unemployment affects Kosovan society in general, vulnerable groups including minorities and IDPs suffer most from poor economic situation
- Serb and RAE communities, for example, have limited access to regular Kosovan job market and are mainly closed off to local markets and trade
- Unemployment within Serbian community is 70%, but in returnee villages it can reach 100%
- After the Declaration of Independence the unemployment rate deteriorated even more since a large number of Serbs working in the Kosovo Institutions left their job temporarily or permanently.
- Many inhabitants of returnee villages do not have access to their land and live from social welfare
- RAE communities' unemployment rate reaches approximately 98% and people live from collecting and selling parts of discarded materials
- Roma IDPs, who often lack documentation and officially registered residence, are particularly vulnerable since they cannot register with the National Employment Service
- IDPs from the RAE community themselves express concern about the economic opportunities if they decide to return
- The UN Committee on Economic, Social and Cultural Rights recommended that UNMIK and the Kosovo authorities, intensify efforts to promote employment opportunities for minorities, IDPs and refugees.
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### **UNHCR, 9 November 2009:**

"The lack of employment opportunities affects minorities disproportionately. Aside from employment in the parallel institutions, Kosovo Serbs and Roma have particular difficulties accessing employment or otherwise engaging in economic activity in Kosovo, and have markedly lower employment rates."

### **COE, Commissioner for Human Rights, 2 July 2009, p.23:**

"The Kosovo Roma, Ashkali and Egyptian communities face significant challenges to their everyday life. Years after the conflict, thousands remain IDPs in Kosovo (approximately 18%) or refugees in other Balkan countries and EU states, and many of them remain practically stateless. Members of the community face marginalization and discrimination in the areas of education, social protection, health care and housing. Poverty and unemployment touch them more profoundly than the rest of society. "

### **USDOS, February 2009, Kosovo:**

"Official and societal discrimination persisted against Kosovo Serb, Roma, Ashkali, and Egyptian communities in employment, social services, language use, freedom of movement, the right to return, and other basic rights. Members of the Kosovo Bosniak and Gorani communities also complained of discrimination.(...) Minority employment in public institutions continued to be low

and was generally confined to lower levels of the government; members of minorities occupied 10.4 percent of government jobs despite a government target of more than 16 percent. In July 2007 the human rights ombudsman issued a report that concluded ethnic discrimination was a prevalent and constant problem, particularly in the areas of health care and employment."

**UN, Realizing Roma Rights, 30 September 2008, p. 13:**

"As with other priority areas covered by the National Action Plans there is no official and reliable data on the employment situation of the Roma population. Surveys reveal that up to 60% of the Roma are unemployed and more than half of the Roma have been looking for a job for over five years without success.

Those that do have employment, however, fare little better. Two-thirds of Roma included in the research fall into the categories of either of low-skilled or unskilled labour. Their comparative lack of qualifications leaves them open to abuse of power by their employers - approximately 20% of those in employment have not signed a contract. Of those Roma who do work, the overwhelming majority tends to be male, with only a third of the women legally employed. Of course, discrimination against the Roma in the employment sector plays a significant part in the lack of opportunities afforded to them in the labour market. In addition, the issue of documentation once again hampers the search for employment, as those without an officially registered residence cannot register with the National Employment Service, and are therefore ineligible for services aimed at getting the unemployed back to work."

**UNHCR, December 2008, p.5, p. 8:**

"Apart from the expected housing assistance, the RAE displaced persons expressed their concern on their future living conditions when returning. (...) Displaced persons were concerned because they didn't get any positive reflection from the other returnees and saw a large number of vulnerable families. They said that in displacement they have some possibilities of employment and of receiving children allowance."

**EC, November 2008 (Kosovo progress report), p. 25:**

"Members of Roma, Ashkali and Egyptian communities remain marginalised. (...) The level of employment of these communities is still much lower than the average. The majority does not benefit from social welfare and has only limited access to health care."

**UNHCR, October 2008:**

IDPs/returnees and minorities in Kosovo are particularly vulnerable groups in relation to job market. Non-Albanian communities and in particular IDPs and returnees are faced with the lack of implementation of affirmative actions, which are supposed to enable their access to the job market, they cannot realize their right to be informed in relation to the right to benefit from the privatisation of the enterprises in which they worked, and they are exposed to constant violations of the provision on the official use of the Serbian language in relation to job accessibility and lack of solutions for employment re-instatement.(...)

The key market indicators indicate a clear difference in employment opportunities between Albanian-speaking majority in Kosovo and minority communities . Apart from the generally unfavourable conditions of the labour market in Kosovo, IDPs/returnees and minorities "are a particularly vulnerable population" in relation to the job market.

According to the Statistical Office of Kosovo, the average income in Kosovo is 2,032 Euro/year (statistics from 2005). Kosovo Serbs earned only 1,400 Euro compared to 2,100 Euro for Kosovo Albanians. Most of IDPs and returnees live from different forms of assistance or are forced to work in the grey economy. The economic activity of the returnees' and IDPs' population is characterized by an extremely high unemployment rate interrupted with the rare opportunities to earn through the shares of irregular and informal work. The difficulties in finding a stable job and

to create a minimal economical sustainability associated with the isolation that characterizes the life in the enclaves makes most of the returnees who have grown up children to plan to move out of Kosovo because of the almost non-existing employment opportunities for their children.

Because of the short initial period of humanitarian assistance, that in most of the cases lasted no longer than 6 months to one year, the majority of IDPs/returnees are surviving only through daily wages, petty trade, and other unregulated and irregular forms of income generation (...)

It is estimated that 90% of Kosovo IDPs/returnees live under the poverty line.(...)

The poor fundamentals of the Kosovo economy and the continued donor withdrawal will further hamper the economical sustainability of the minority communities – in particular IDPs/returnees.

**Ombudsperson Institution, July 2008, p. 42:**

Unemployment is a problem which affects all communities in Kosovo in general. However, because they are more vulnerable and/or sometimes not integrated in the society, many communities, especially the Serb and Roma communities, have very limited access to the regular Kosovo employment market. The unemployment rate within the Serbian community is as high as 70%; in some Serbian returnee villages, it may even reach 100%. The issue of unemployment deteriorated after a considerable number of Serbs working in the Kosovo institutions left their jobs temporarily or permanently. There were various reasons reportedly motivating this situation. Some people, especially those coming from the northern part of Kosovo were subjected to social pressure and therefore afraid to be stigmatized after crossing the bridge. Some people wanted to protest against Kosovo's Declaration of Independence, and the Government of the Republic of Serbia also promised to pay the salaries of many persons and even to employ them in government structures as long as they were to leave their jobs with what was formerly the Provisional Institutions of Self-Governance (PISG).

Serbs and Roma in enclaves and in northern Kosovo who do work, are often employed in parallel institutions of administration, education and health care financed by the Government of the Republic of Serbia. However, for a large number of members of these communities, the main source of income continues to come from agriculture, when their agricultural lands are located close to their villages. Agricultural lands that are further away generally remain not cultivated, either because the owner of the land has a real or perceived fear for his safety or because it is occupied by third persons. Therefore, a considerable number of people from these communities rely on social assistance and, to a lesser extent, on humanitarian assistance by international organizations and organizations financed by the Republic of Serbia.

Poverty is still a common phenomenon all over Kosovo which affects in particular the Roma, Ashkali and Egyptian minority communities. There is indeed a very high level of unemployment within these communities, which is far higher than the general level of unemployment in Kosovo and reaches circa 98%. This high level of unemployment is partly a consequence of the fact that many people lost their jobs after the armed conflict in Kosovo in 1999. But the lack of adequate education and qualifications of many members of these communities who very often drop out school at an early age, in particular young girls, also plays an important role. The majority of the members of these communities live at the margins of society from occasional day work and social assistance or collect of metal and other discarded materials in order to survive.

**UN ESC, November 2008:**

"The Committee notes with concern that 30 to 40 percent of Kosovans are unemployed, in particular women, young persons, non-Albanian communities, returnees and internally displaced persons, and that there are no specific measures to regularize the situation of persons working in

the informal economy. (article 6) The Committee recommends that UNMIK, in cooperation with the Kosovo authorities, intensify efforts to promote employment opportunities, especially in the formal sector, including for women, young persons, non-Albanian communities, returnees and internally displaced persons, e.g. through job training, the adoption of the Active Labour Market Programme for youth employment and increased incentives and subsidies for private businesses. It also recommends that UNMIK, in cooperation with the Kosovo authorities, regularize the situation of workers in the informal economy by progressively including them in social security schemes and by adopting a plan of action for the informal economy."

**UNHCR, November 2006:**

"But Roma are not only vulnerable as displaced persons: as a recently issued UNDP report argues, 25 unlike other IDPs, they were already vulnerable before displacement owing to their marginalized and discriminated status, particularly in the fields of education and employment. In addition to socio-economic vulnerability, Roma in general, and IDPs in particular, are also legally vulnerable as they suffer from what may be described as a chronic lack of documentation. To be sure, lack of documentation is a problem affecting all IDPs to a certain extent, but it is particularly acute for the RAE. This is probably due in part to discrimination and illiteracy, but also to a deep-seated cultural attitude that makes them wary about declaring themselves to the authorities for fear of being targeted. Whatever the reason, lack of documentation is a serious handicap to accessing rights, as persons who cannot prove their original residence cannot have access to IDP status. One of the consequences is that many live in "illegal" settlements, mostly in even worse conditions than "official" collective centres. Hence RAE IDPs are probably more numerous (possibly twice as many) than current statistics reveal. But even for those who are recognized as IDPs, lack of documentation means difficult or no access to education, citizenship, employment and pension."

**IDPs' return hampered by lack of economic opportunities in Kosovo (2009)**

- Lack of access to employment opportunities in Kosovo is one of the main obstacles for the sustainable return of IDPs

**BalkanInsight, 14 January 2009:**

""The Serbs' return is not the difficult part, "Sasa Rasic, one of a handful of ethnic Serbs to participate in the Albanian-dominated government, told Radio Free Europe. "Their integration is a problem. Economic and political insecurity pose the greatest obstacles rather than return per se".

**UN HRC, 7 July 2009:**

"Persons who were internally displaced from and within Kosovo still face serious obstacles to return and local integration" said Walter Kaelin, Representative of the United Nations Secretary-General on the Human Rights of Internally Displaced Persons (...). Mr. Kaelin found that entrenched patterns of discrimination, lack of access to employment and livelihoods, too few schools for minorities and difficulties in repossessing property and having houses reconstructed are among the chief obstacles to return."

**OSCE, 19 June 2009:**

"The sustainable return and reintegration of displaced persons from Kosovo continues to be a major human rights challenge despite the efforts undertaken by the authorities and the international community. (...) The OSCE Mission in Kosovo monitors human rights and rule of law issues in areas affecting the rights to return, such as housing and property rights, non-discriminatory access to public services, and employment opportunities, (...)"

**UNSC, 10 June 2009, p.7:**

"According to the Ministry of Communities and Returns, reintegration of minority communities, especially the Kosovo Serb community, continues to be a challenge. As the primary factors affecting reintegration include lack of employment opportunities, a fragile economic situation and limited access to public services and security, the Ministry intends to place greater focus on promoting economic development and sustainability of minority communities in order to encourage more returns."

**UNHCR, December 2008, p.5, p. 8:**

"Apart from the expected housing assistance, the RAE displaced persons expressed their concern on their future living conditions when returning. (...) Displaced persons were concerned because they didn't get any positive reflection from the other returnees and saw a large number of vulnerable families. They said that in displacement they have some possibilities of employment and of receiving children allowance."

**See also in return section: "Main obstacles to return and reintegration"**

**Returnees face difficulties in accessing their land and have to rely on social welfare (2009)**

- Crimes committed against property and movable personal estates necessary for working are rarely prosecuted
- Land is often illegally occupied or the owner does not dare to travel to the field due to real or perceived insecurity
- The possibility for minority members and especially for returnees in rural areas to gain their living by work is undermined
- Many inhabitants of returnee villages do not have access to their land and have to rely on social assistance

**UNIJA, October 2008:**

"Crimes against property and movable personal estates necessary for working, in particular "theft of livestock and agricultural equipment belonging to minorities and illegal use of agricultural land — are rarely prosecuted. In this way, the right to work and the possibility for minority members to gain their living by work is seriously undermined. This reinforces the sense that criminals can operate with impunity" says Kai Eide, in "A comprehensive review of the situation in Kosovo", UN, S/2005/635, p. 13. and hampers the economical sustainability of the minority communities in Kosovo. The fact that the authorities and judiciary in Kosovo were not that effective in prosecuting these types of crimes had very bad repercussions on returnees, especially in rural areas, as they are basing their survival on the agricultural machines donated by the international donors.(...)"

The right to work of returnees is hampered by the continuous theft of property and movable personal estates necessary for exercising the right guaranteed by Art. 6 and by the illegal occupation of agricultural land belonging to returnees. The illegal use of agricultural land and the



theft of agricultural equipment is rarely prosecuted and hampers the economic sustainability of minority communities in Kosovo."

**Ombudsperson Institution, July 2008, p. 42:**

"Serbs and Roma in enclaves and in northern Kosovo who do work, are often employed in parallel institutions of administration, education and health care financed by the Government of the Republic of Serbia. However, for a large number of members of these communities, the main source of income continues to come from agriculture, when their agricultural lands are located close to their villages. Agricultural lands that are further away generally remain not cultivated, either because the owner of the land has a real or perceived fear for his safety or because it is occupied by third persons. Therefore, a considerable number of people from these communities rely on social assistance and, to a lesser extent, on humanitarian assistance by international organizations and organizations financed by the Republic of Serbia. "

**IDPs and returnees excluded from the privatization process of Socially Owned Enterprises (2009)**

- IDPs and returnees that were employees in the Socially Owned Enterprises (SOEs) were excluded from the privatisation process by UNMIK regulations
- The Kosovo Trust Agency, in charge of the privatisation process, advertised privatisation in the major Serbian newspaper but most of IDPs never received this information since Serbian newspapers do not regularly arrive in the isolated enclaves in Kosovo where they were living.
- IDPs and returnees also faced difficulties in understanding the complex legal procedures related to the privatisation process and in collecting the required documents, many of which had been destroyed during the conflict
- The financial investment necessary to obtain such documents was an additional obstacle for IDPs and returnees to realise their rights.
- Finally, KTA often sent forms in Albanian language to Serbian-speaking workers
- The privatization process has further increased the unemployment rate among minority communities in Kosovo
- Former employees can challenge the KTA decision submitting a complaint to the Special Chamber of the Supreme Court, but several practical obstacles related to the fact that people are displaced hamper this procedure.

**UNIJA, October 2008:**

The process of privatisation of the Socially Owned Enterprises (SOEs), which represent 90% of Kosovo industrial assets, was conducted without paying attention to the delicate situation of the former employees of SOEs belonging to the minority communities. Unfortunately, the privatisation process resulted in what Kai Eide feared, i.e. "discrimination in employment along ethnic lines" (...), and worsened the already precarious economical sustainability of minority communities (see E/C.12/UNK/1, para. 169). (...)

Most of the SOEs employees belonging to minority communities were forced to stop working after being threatened or being exposed to violence in the period 1999-2000. The privatisation process of SOEs was initiated in 2003, long after the initial displacement of non-Albanian communities and just before the March 2004 violence the consequence of which was a new displacement wave.

UNMIK did not take into consideration the situation of IDPs/returnees when enacting UNMIK Regulation No. 2003/13. UNMIK Regulation No. 2003/13 On the Transformation of the Right of Use to Socially-Owned Immovable Property of 9 May 2003. , amended with Regulation No. 45/2004, which provides that “an employee is eligible if such employee is (...) registered as an employee with the Socially-Owned Enterprise *at the time of privatization*” UNMIK Regulation No. 2004/45, Section 10.4. In this way, UNMIK excluded most IDPs/returnees, since they were forced to leave Kosovo before 2003 and were no longer SOEs employees (see E/C.12/UNK/1, para. 168). For instance, according to Regulation No. 45/2004, “an employee shall be considered as eligible, if such employee is registered as an employee with the Socially-owned Enterprise at the time of privatisation or initiation of the liquidation procedure and is established to have been on the payroll of the enterprise for not less than three years” UNMIK Regulation No. 2004/45, Section 10.4.. The regulation prescribes as well that “this requirement shall not preclude employees, who claim that they would have been so registered and employed, had they not been subjected to discrimination, from submitting a complaint to the Special Chamber” Ibid.. Notwithstanding the regulation, the Kosovo Trust Agency (KTA) recalled only on its Regulation 2002/13, which accept only current employees.

Although KTA, in charge of the privatisation process in Kosovo, advertised privatisation activities in the major Serbian newspapers, most of IDPs never received adequate information on ongoing privatisations since Serbian newspapers do not regularly arrive in significant parts of Kosovo, in particular in the most isolated enclaves. In Kosovo, the privatisation tenders are advertised only in newspapers in Albanian language and for this reason are inaccessible to the members of non-Albanian speaking communities.

IDPs/returnees have also troubles in understanding the complex legal procedures related to the privatisation process and in collecting the required documents (such as working booklets and other relevant evidence of worker's engagement in the company undergoing the privatisation), also because many of the required documents were destroyed during the 1999 conflict or are otherwise unattainable. The collection of necessary documents also requires considerable amount of time and financial resources thus often being an insurmountable obstacle for many of returnees/IDPs in realizing this set of rights. According to the statements of several returnees/IDPs, a serious impediment to the participation in the privatization process in Kosovo is also the fact that KTA often sends to the Serbian-speaking workers forms only in the Albanian language.

The privatization process has amplified the unemployment rate among the non-Albanian communities in Kosovo as the privatization policies “do not provide any safeguards for the adequate application of non-discrimination employment policies in the privatized companies” Milica V. Matijevic - Stefano Giantin, *Human Rights Situation in Kosovo and Metohija under UN Administration*, Human Rights in Serbia 2007, Belgrade Centre for Human Rights, Belgrade 2007, p.

The provisions on the reorganization and/or liquidation of SOEs UNMIK Regulation 2005/48 determine the role of non-price criteria aimed at safeguarding the employees' rights during the selection of the winners amongst the bidders for the reorganisation of SOEs. One of the criteria applied in selecting the bids, according to Section 27.3 (d), is “the extent to which a plan will achieve the preservation of employment for the current employees of the Enterprise”. The rule contained in Section 27.3 (d) is a typical “ethnically-blind provision”. The provision aims at preserving the employment for the *current employees* of a SOE undergoing privatization without taking into account that the ethnic composition of SOE at the time of privatization had already been changed by the forced migrations/ethnic cleansing in the aftermath of the conflict.

The mentioned provisions regulating the privatization process treat equally the SOE employees from the majority community and the members of the minority communities without taking into consideration the reality in the field. For this reason they clearly are in breach of Articles 2 and 3 of the Kosovo Anti-Discrimination Law, of international standards prohibiting discrimination and of the ICESCR.

The legal framework regulating the privatization process in Kosovo envisages a right to submit a complaint to the Special Chamber of the Supreme Court on KTA-Related Matters. Former employees who were not placed on the list of eligible workers can challenge the KTA decision and claim discrimination. However, this right is hampered by several practical obstacles which originate in the particular position of the communities in displacement. For instance, the complaints should be lodged within 20 days after *the publication in the media* of the list of eligible employees by KTA. Unfortunately, IDPs, as already mentioned, frequently do not have access to newspapers in their place of displacement (often in Serbia *proper*) and they do not have the financial means to go to Prishtinë/Priština to lodge the claim before the Supreme Court.

Moreover, although the procedures for lodging the claims required high legal skills, no legal aid was provided to claimants intending to initiate the procedure against KTA before of the Supreme Court. Until recently there was almost complete lack of both pro bono and commercially based legal assistance in majority of the Serbian populated areas in Kosovo. Most of the lawyers from Serbia *proper* are not in the position to represent IDPs and returnees in litigations in Kosovo since they often even do not have enough knowledge of the legal provisions introduced in Kosovo since 1999. On the other side, the majority of the local lawyers are unwilling to assist to the non-Albanian applicants in lodging procedures before the Supreme Court and are limiting their support only in concluding contracts on the sale of property or in obtaining documents such as working booklets and possession lists.

**UN ESC, November 2008, p.4-5:**

The Committee notes with concern reports that UNMIK has failed to provide adequate safeguards during the privatization of former Socially Owned Enterprises aimed at preserving the pre-armed conflict ethnic composition of the workforce, and that it has set discriminatory deadlines precluding many internally displaced persons and returnees from applying for inclusion in the list of former employees eligible to participate in the distribution of the proceeds from the sale of such enterprises, and from appealing to the Special Chamber of the Supreme Court in case of their non-inclusion. (article 6). The Committee recommends that UNMIK consider reviewing its Regulation 2005/48 and 2004/45 in order not to perpetuate the effects of forced migrations during and after the armed conflict in 1998/1999 on the ethnic composition of the workforce of former Socially Owned Enterprises and to provide internally displaced persons and refugees with adequate time and information to obtain the documents required for applying for inclusion in the list of eligible employees entitled to payments from the sales proceeds of former Socially Owned Enterprises, or otherwise to appeal to the Special Chamber of the Supreme Court.

**Ethnic minorities are underrepresented in the central and local government, in the judiciary and in the public service (2009)**

- Although the Constitution provides for mechanisms to guarantee representation of non-majority communities, minority communities, and women in particular, are underrepresented

- The goal of establishing a multi-ethnic judiciary has not been achieved and minority communities do not trust the Kosovo judiciary system.
- 1/3 of Kosovo Roma, Ashkali and Egyptians living in Kosovo lack personal documents and can therefore not participate in public life, vote or access justice.
- Roma communities are systematically underrepresented in the Kosovo civil service
- Serious obstacles remain in the area of minority participation at various levels such as the minority community sentiment that minority members of the Assembly do not represent their interests and language barriers

**Freedom House (Serbia), 16 July 2009:**

"Cultural and ethnic minorities have access to media in their own language , their own political parties, and other types of associations. Nevertheless, they are underrepresented in government."

**CoE Commissioner for Human Rights, 2 July 2009:**

"Despite the structures in place, the Kosovo judicial system remains weak at all levels. Shortcomings include excessive length of criminal and civil proceedings which results in a large backlog of cases and delayed enforcement of court decisions with an insufficient number of court bailiffs. In criminal cases, the non-execution of judgments results from insufficient capacity in the prisons and the application of time-bars.

A crucial issue is the widespread public perception of corruption in the judiciary. According to a number of the Commissioner's interlocutors, there is a total lack of confidence in the justice system.

The minority communities also express their lack of trust in the judicial system. There is a need to increase the number of judges and prosecutors from minority communities.

Discrimination on ethnic grounds is a concern raised by many members of minority groups, especially Kosovo Serbs and Roma (including Ashkali and Egyptians) living in Kosovo, as well as by returnees. They claim that they face discrimination in all areas of their daily life including employment, health, education, right to property and access to police services and the courts. "

**USDOS; February 2009.**

"Following the November 2007 elections, there were 24 ethnic minority members in the 120-seat Assembly, including 10 Kosovo Serbs and 14 members of other groups, including ethnic Turks, Bosniaks, Gorani, Roma, Ashkali, and Egyptians. There were three minority government ministers--two Kosovo Serbs and one Kosovo Bosniak--and two Serb and two Bosniak deputy ministers. One Kosovo Bosniak; one Kosovo Turk; and a representative of the Roma, Ashkali, and Egyptian communities held a rotating seat on the Assembly presidency. Kosovo Serbs from several political parties won the 10 set-aside Assembly seats in the 2007 election. Before that election, the holders of those seats did not claim their set-aside cabinet posts and continued to boycott Assembly votes, although they did participate in committees. A Kosovo Serb led the Ministry of Returns. The constitution requires that the Assembly reserve 10 seats for Kosovo Serbs and 10 for members of other ethnic groups, but ethnic minorities were underrepresented at the municipal level where there were no similar quotas. "

**MRG, 2009:**

"At the municipal level, guaranteed representation for non-majority communities in the municipal executive exists only where residents from minority communities exceed 10 per cent of the population. The same threshold applies for a guaranteed municipal assembly vice-president. This vice-president can assess and refer for judicial review claims that the municipal assembly has violated minority community constitutional rights. Unfortunately, for smaller minorities who do not represent 10 per cent of the population in any given municipality, this system does not ensure their representation or protect their constitutional rights at the municipal level. In this regard, the AC

FCNM's opinion in 2005 highlighted the existing difficulties for numerically smaller minorities to be adequately included at the municipal level in Kosovo, noting that Roma community members, for example, were not represented at all among Kosovo municipal assembly members. (...)

Further, as the AC FCNM has recognized, serious obstacles remain in the area of minority participation in decision-making processes at various levels. Until more fundamental institutional barriers to participation are addressed, the ability of minority communities to effectively utilize the above mechanisms and opportunities will remain limited. Such obstacles include minority community sentiment that minority members of the Assembly are not representative of their communities as a whole, and language barriers to participation for all minorities. For Roma, Ashkali and Egyptians, addressing structural inequalities such as lack of registration and documentation, and improving literacy, is also imperative. For minority women in particular, these structural inequalities should be addressed to ensure they can effectively participate in public life, including through accessing seats in the National Assembly reserved for minority groups and the one-third of political candidacies reserved for women, and access to judicial and civil service positions.

Affirmative action policies to recruit minorities to the civil service have existed under UNMIK for a number of years, but structural inequalities have meant that positions for minorities remain unfilled. A commitment to address multiple discrimination by developing adequate training and mentoring for women leaders from these communities is required. Possible examples include minority-specific versions of OSCE programmes which have focused on enabling women's participation in public and political life through work with local NGOs and government gender equality offices. Further adult education to address high illiteracy rates among Roma, Ashkali and Egyptian women should also be implemented as a matter of urgency, in line with the requirements of Article 25 of the ICCPR to take positive measures to overcome specific obstacles to effective political participation. Mechanisms to promote higher learning for minorities that would qualify them for public service positions should also be pursued.

(...)the new Constitution provides mechanisms to ensure greater recruitment of minorities in areas such as the police, the judiciary, public bodies, the KJC, the state prosecutor's office, the Constitutional Court and the Ombudsperson. The Constitution sets out the entitlement, for example, of communities to 'equitable representation in employment in public bodies ... including in particular in the police service in areas inhabited by the respective Community'(...) As Egyptian Assembly of Kosovo member Xhevdet Neziraj notes, however, while laws promoting equitable representation have existed for a number of years, the problem is one of implementation. UNMIK also concedes that while laws and guidance on implementing equitable representation of minorities in the civil service have existed since 2001 and 2003 respectively, little has been done so far to implement them, including by appointing equal opportunities officers and establishing evaluation and implementation criteria. As a result minority-reserved posts remain unfilled (...)

Worryingly, while the Kosovo Security Force (i.e. army) shall 'reflect ethnic diversity of the people of the Republic of Kosovo', there are no affirmative action requirements set out to ensure that all of Kosovo's minority communities are represented within the Security Force. Ensuring equitable representation in Kosovo's police and security institutions is particularly important to engender

trust and as a result ensure effective remedies for Serb and smaller minority groups in Kosovo such as Roma, Ashkali and Egyptians, as these minority groups themselves have noted (...)

The Constitution provides for affirmative action 'as provided by law', in appointments of prosecutors and judges from under-represented communities. (...) However the extension of such policies on ethnic representation to the municipal level, appointing for example minority police in areas inhabited by that community, risks further entrenching ethnic segregation, officially extending it to local law enforcement institutions. This is exacerbated by constitutional provisions providing that proposals for the appointment of prosecutors, the composition of courts and the composition

of police within a municipality shall 'reflect the ethnic composition of the relevant territorial jurisdiction'. By failing to work towards integration of all communities and equal representation of all groups evenly across the judiciary, police and prosecutors in Kosovo, these measures will restrict freedom of movement and access to justice for minority groups outside their local municipality. This perpetuates divisions along ethnic lines, and fear and mistrust of all local law enforcement bodies outside the local largely single-ethnicity municipality, effectively nullifying the constitutionally recognized individual right to freedom of movement, and the right to freely choose location of residence. Neither will these measures improve the trust and faith in criminal justice institutions for smaller minorities, whose representation will not be guaranteed in these institutions, based on this model. It serves only to recreate the problem of lack of access to representative

judicial institutions for minorities, by creating new minority groups at the municipal level. As a result of this model, these 'minorities within minorities' – be they smaller minorities or, for example, Albanians in Serb-dominated areas – will be poorly represented in their local legal institutions. In order to ensure security, integration and freedom of movement for minorities throughout Kosovo, all minority groups must be appropriately represented among police, prosecutors and judges in all regions and at all levels across the country, in accordance with the AC FCNM's recommendations."

**UN Committee on Economic, Social and Cultural Rights, November 2008:**

"The Committee is concerned about the low representation of members of Roma, Ashkali and Egyptians and other non-Albanian communities in the public service and in the judiciary, especially in senior positions. (article 2, paragraph 2). The Committee recommends that UNMIK, in cooperation with the Kosovo authorities, intensify efforts to promote adequate representation and effective participation of non-Albanian communities in the public service and in the judiciary, including in senior positions, e.g. by requiring municipalities to comply with the numerical targets defined in the Fair-Share Financing Policy, adopting equal opportunity policy statements and implementing strategies, appointing Equal Opportunity Officers, and systematically collecting disaggregated data to ascertain whether non-Albanian communities are proportionately represented in the municipal civil service, including in senior positions.

The committee notes with concern that women, especially from non-Albanian communities, are underrepresented in management positions at the municipal level, as well as in high-level positions in legislative, judicial and central and local government bodies. (article 3) The Committee recommends that UNMIK, in cooperation with the Kosovo authorities, intensify efforts to increase the representation of women, especially from non-Albanian communities, in management positions at the municipal level, e.g. by requiring municipalities to establish Gender Equality Offices, as well as in high-level positions in legislative, judicial and central and local government bodies, in line with the 40 percent quota in the Gender Equality Law."

**UNIJA, October 2008:**

"The recruitment of members of minority communities in the civil service in Kosovo is as well unsatisfactory both in quantitative and in qualitative terms (see E/C.12/UNK/1, paras. 43-49; HRI/CORE/UNK/1, paras. 205-210). In some sectors, such as judiciary, there are almost no

members of the Serbian community, since there are often no candidates for such positions. In some other fields the prescribed quotas are just formally and not substantially fulfilled: the members of the minority communities are mostly employed in second-rated positions with the intention to merely fulfil the formal requirements instead of producing an effective labour force within the relevant institutions that could exercise real influence on the positive solution to the problems of returnees and IDPs (see (E/C.12/UNK/1, paras. 43-49; HRI/CORE/UNK/1, paras. 205-210).

(...)The goal of establishing a multiethnic judiciary system was not accomplished. Minority communities do not trust the Kosovo judiciary system and often do not report crimes committed against them, although they are often targets of the theft of agricultural tools and machines.(...)

A better trust in the judiciary system could be achieved by increasing the numbers of judges and prosecutors belonging to minority communities. According to the UN Office for Internal Oversight Services, "the established goal of a multi-ethnic judiciary has yet to be achieved. As of June 2007, 10.6 per cent of the 307 judges were non-Kosovo-Albanians, and 4.6 per cent were from the Kosovo-Serb community; 9.1 per cent of the 88 prosecutors were non-Kosovo-Albanians, and 3.4 per cent were Kosovo-Serbs" OIOS, Report of the Office of Internal Oversight Services on the comprehensive audit of the United Nations Interim Administration Mission in Kosovo mandate implementation, A/62/807, 18 April 2008, par. 22, p. 9. "

**OSCE, September 2008:**

"After 17 February 2008, many Kosovo Serbs withdrew from the Kosovo administration. Most of these institutions have applied a tolerant and considerate approach to ensure that these Kosovo Serbs can be reintegrated within their posts. However, the continued boycott may lead to disciplinary measures and dismissal. In southern Kosovo, some Kosovo Serb civil servants have reported back to work.

In northern Kosovo and other Kosovo Serb majority areas, the Serbian Ministry for Kosovo and Metohija promotes the establishment of parallel political structures to provide administrative services to the Kosovo Serb community. While the Kosovo government showed some effort to integrate Kosovo Serbs in the civil service, overall there has been no significant progress in socially integrating the Kosovo Serb community. Kosovo Serbs boycotted the elections in November 2007. Instead they participated in the Serbian municipal elections on 11 May 2008. The Special Representative of the Secretary-General of the UN declared that the conduct of these elections in Kosovo was illegal. Based on the results of the May elections, the "Assembly of the Community of Municipalities of the Autonomous Province of Kosovo and Metohija" and Kosovo Serb (parallel) municipalities with their respective new mayors were established.

Approximately a third of the roughly 40,000 Kosovo Roma, Ashkali, and Egyptians residing in Kosovo still lack civil or habitual resident registration. The lack of personal documents prevents them from participating in public life, voting, returning and repossessing occupied property. These communities are systematically underrepresented in the Kosovo civil service and almost totally excluded from senior positions.

In municipal institutions, non-Albanian communities are overrepresented in posts dedicated to communities and return, but underrepresented in all other sectors. Women from non-Albanian communities are even more underrepresented, especially in senior posts. Few municipalities have adopted and implemented equal opportunity procedures or appointed equal opportunity officers. Outreach to non-Albanian communities on recruitment opportunities is weak or lacking. The Kosovo government's 2007 fair share financing reports present a sufficient community participation in the

municipalities' civil service. However, fair share financing statistics on communities' representation are not always reliable as municipalities, to prevent losing budget allocations from the central budget, often retain non-Albanian community employees on their payroll to comply with prescribed fair share financing targets although they have actually left their posts."

**Ombudsperson Institution, July 2008, p. 30:**

In such a situation where even the public administration and large parts of the judiciary are not aware of what human rights are and how they are guaranteed and protected internationally and domestically, it is not surprising that these laws are not being implemented properly.

The general lack of awareness, the lack of documents translated at least in Albanian and in Serbian, the inherent complexity of the human rights protection system, the lack of certainty of the law itself and of its applicability, create in Kosovo a general feeling of mistrust of the population towards the general legal framework as well as towards human rights protection mechanisms.

**Decentralisation: Serb-majority municipalities in northern Kosovo continue to refuse Kosovo's authorities while an increasing number of Kosovo Serbs south of the river Ibar engage with the Kosovo authorities (2009)**

*For information on the decentralisation process and on participation see section Causes and Background.*

**Access to justice for women and ethnic minorities remains limited (2009)**

- Access to justice system by members of ethnic minorities is limited
- The non functioning of the judiciary in northern Kosovo further limits access to justice
- A Kosovo Serb judicial system continues to operate parallel to Kosovo's legal system"
- A research made by NGOs shows that 75 per cent of Roma, Ashkali and Egyptian
- women in Kosovo are illiterate, and thus not informed of their rights
- 

**UNHCR, 9 November 2009, p. 15:**

"According to the European Commission: "Access to justice in areas inhabited by non-majority communities and especially in northern Kosovo is not guaranteed. The absence of a functioning judiciary in the north seriously limits access to justice for all communities. There is no Kosovo Serb representative in the district legal aid office based in Mitrovicë/Mitrovica south."

Access to the justice system by Kosovo Serbs, Kosovo Roma and Kosovo Albanians living in the North is problematic in the current circumstances prevailing in Kosovo. In the North, the official court system and prosecutors' offices have operated in a "limited capacity or not at all since 21 February 2008." A Kosovo Serb judicial system, connected to the Serbian Ministry of Justice, continues to operate parallel to Kosovo's legal system."



**UN SC, September 2009:**

"The EULEX Human Rights and Gender Office looked into access to justice for vulnerable categories of people in Kosovo, including women and ethnic minorities. Research by NGOs has revealed that 75 per cent of Roma, Ashkali and Egyptian women in Kosovo are illiterate, and thus are ill-informed of their rights; 61 per cent acknowledged that domestic violence occurs in their community; only 1 per cent are aware that free legal aid is available for victims of domestic violence, 4 per cent are aware that shelters exist, and only 26 per cent are aware that police can be called on in such cases."

**Minorities face lack of access to labour markets in public and private sectors (2002-2003)**

**UNHCR, March 2005:**

"The problems with freedom of movement have (...) impacted on the ability of minorities to engage in income generating activities. Apart from an unemployment rate of over 50 percent, access to work places is difficult and risky for minorities, while many owners and/or users of agricultural land are prevented from working on it. (...) These constraints significantly prevent many families from meeting basic subsistence needs."

**UNHCR, 15 September 2004:**

"The persistent lack of economic opportunities continues to plague all Kosovo population and particularly affects vulnerable minority communities – this seriously undermines the sustainability of both residents and new arrivals (organised or spontaneous returns). UNMIK estimates unemployment at 60% among Albanians and 95% for minorities. Future prospects for economic growth and development are largely dependent on foreign investment and the successful privatisation of state and publicly owned property."

**Ombudsperson, 11 July 2005:**

"At the same time, Serbian and Roma villages in particular are mainly closed off to the local markets and trade. Often, the people living in these villages are not able to work their land if it is not located in the immediate vicinity of their houses due to security concerns or because it is now occupied and being worked by Albanian neighbours. Even if they are able to work, these people are rarely able to sell their agricultural products on the local market. Theft of livestock and agricultural equipment is a common occurrence, while in forested areas trees are cut down on a massive scale and the soil of pastures is dug up by often heavily armed individuals in search of sand. Most of the victims are helpless to stop such actions and often do not dare to call the police. Even if they do, the chances of such cases being processed and resolved are very low, which only enhances the heightened sense of insecurity of certain parts of the local minority population."

**UNHCR/OSCE, March 2003, pp. 37-39:**

A recommendation of the previous Assessment was the promotion of affirmative action policies in minority hiring practices by the Ministry of Public Services. In late June 2002, an affirmative action programme for the civil service, "Community Proportional Representation," which was developed by the Advisory Office on Equal Opportunity and Gender within the Office of the Prime Minister, was approved in principle by the SRSG, the Office of the Prime Minister and the ABC. The programme proposes that 'representational ranges' should be established for each community to ensure equal access to public sector employment. When calculated, the 'representational ranges' establish the acceptable minimum and maximum percentage of civil service employees for each minority community present within the municipality. Utilising these ranges as a guideline, the

programme is designed to trigger internal monitoring mechanisms when hiring levels of a minority community either fail to meet the minimum or exceed the maximum established by the 'representational range'. Obtaining data to determine the 'representational ranges', which are acceptable to all communities, however, has proven to be difficult. This situation has contributed to the stalling of the implementation of the programme. Therefore, despite strong central-level support and recognition of the problem, no affirmative action programme is functioning within the PISG.

However, progress toward this end has been made recently through the enactment of Administrative Direction No. 2003/02 implementing UNMIK Regulation 2001/36 on the Kosovo Civil Service. Regulation 2001/36 provides the necessary legal framework to prohibit discrimination by or within the civil service, and the Administrative Direction enables the implementation of Community Proportional Representation. It establishes recruitment procedures and terms of employment, as well as a civil service code of conduct and rules for disciplinary proceedings against civil servants. The Administrative Direction is a large step in promoting equal access to employment for members of minority communities within the public sector. The compliance with guidelines regarding minority employment within the civil service, has increased in some structures of the PISG, such as the MEST (27%) and the Office of the Prime Minister (16.5%). Others, such as the Ministry of Finance and Economy (0% minority staff; 28 of 57 positions filled), are still far from the threshold set in UNMIK Regulation 2001/19 for the minimum acceptable level of minority employment at the central level. The Office of Community Affairs (OCA), operating under UNMIK Pillar II on Civil Administration, notes that out of the 3,775 employees of the PISG, only 199 employees are of Kosovo Serb origin, 80 of Bosniak/Muslim Slav origin, 47 are Kosovo Turk and 22 are from Kosovo RAE communities and seven (7) employees are from other ethnic groups. These figures constitute an unsatisfactory participation rate of minority community members in the public employment sector at the central level. They show that there is little evidence that every Ministry, including the pivotal Ministry of Public Services, has heeded the Prime Minister's recommendation in 2002 to implement the 'Community Proportional Representation' programme, or that measures have been implemented to ensure equal access to employment within municipal administrations.

Although some returning minority community members have found employment within the public sector, security considerations and subsequent restrictions on freedom of movement limits their employment opportunities within both the public sector and, particularly, the private sector. Kosovo Serbs, therefore, have overwhelmingly returned to rural or semi-rural environments where they can do subsistence farming or agriculture, contingent to access to farmland. Those who have found employment did so mostly within the public sector, such as in the local ambulanta, the local school, KPS, UNMIK or through income-generating projects supported by the international community, all of which within the safe parameters of their community or village. In contrast, the Kosovo Roma, Ashkaelia and Egyptian returnees have in many cases returned to urban or semi-urban areas, mostly resorting to their pre-conflict employment sectors, such as in construction and trade. However, neither returnees from these three minority communities, nor Kosovo Serbs have been able to return to publicly-owned enterprises."

#### **Access to justice for minority members is affected by limited freedom of movement, functional problems of the judiciary and lack of trust in Kosovo institutions (2005)**

- Kosovo courts are faced with an insufficient number of judges, significant backlog of cases, and lengthy procedures
- Low salary level of judges facilitates corruption
- Representation of minority members in the judiciary is limited by pressure from Belgrade and low salaries and benefits

- Minority communities' lack of trust in Kosovo Courts causes them to turn to parallel courts
- Parallel courts and Kosovo Courts do not recognise and implement each other's decisions, which hampers access to legal remedies
- Restricted freedom of movement limits access to Kosovo Courts
- Opening of two Court liaison offices in majority Serb areas to facilitate their access to Court
- Suspension by UNMIK of the processing of claims related to March 2004 damages mostly affect members of minority groups
- On the contrary suspension of prescription period for certain cases would benefit members of minority groups who could not claim for compensation within the deadlines for security reasons

**Ombudsperson, 11 July 2005:**

"Another problem that continues to jeopardise the independence and efficiency of the Kosovo judicial system is the very low level of salaries received by the local judges and prosecutors, as it makes it difficult for them to resist various forms of pressure exercised by parties to the proceedings and others interested in the outcome of certain cases. The frequency with which people now complain about corrupt judges in Kosovo is alarming enough to consider this matter as a serious problem. (...)

Many courts all over Kosovo continue to suffer from a constantly growing caseload while the number of judges still appears to be disproportionately low. This is not true for all courts – during discussions with the Presidents of Municipal Courts and District Courts in Kosovo, some were stressing that certain courts did not have enough cases to keep them busy, while others seemed to suffer from the opposite problem. One positive aspect of this issue is the fact that during this reporting period, the processing of administrative cases before the Supreme Court of Kosovo improved significantly compared to the past. (...)

One problem that has so far still not been addressed by the competent international structures is, however, the continuous lack of an effective legal remedy to obtain compensation or other forms of redress for excessively long court proceedings.

Another issue that has not changed much since the last annual report is the fact that, for various reasons, members of minority communities are still not sufficiently represented in the judiciary. In a Report submitted by UNMIK to the Council of Europe on 2 June 2005 in fulfillment of UNMIK's obligations under the European Framework Convention for the Protection of National Minorities, the total number of ethnic non-majority communities serving in the judiciary was noted to be 10.5%, among prosecutors it is 9,4%. Only 5.2% of judges and 2.3% of prosecutors are Kosovo Serbs. According to the above report, the recruitment of judges and prosecutors from minority groups is seriously compromised by poor salaries, benefits and working conditions, along with a very limited pool of eligible candidates. With regard to Kosovo Serb judges and prosecutors, accrued pensions and benefit rights in Serbia proper appear to discourage them from applying for posts in courts established by UNMIK. Among court staff, the above-mentioned under-representation of minority communities is described as being even worse, with only 4.4% of all court staff in Kosovo being from minority groups.

At the same time, Serbian parallel courts, administrated and remunerated by the Serbian Ministry of Justice and located in Serbia proper or in Serbian enclaves on the territory of Kosovo, continue to operate as if UNMIK did not exist. Just as their decisions and judgments are not accepted by UNMIK structures, Kosovo courts established by UNMIK are in turn not accepted by the parallel courts and administrative offices, or by the regular courts or administrative offices in Serbia proper. The victims of such a situation are, as usual, the inhabitants of Kosovo, in particular those belonging to the Serbian and Roma minority communities.

According to the above UNMIK Report of 2 June 2005, access to justice for members of non-majority communities in Kosovo is impeded by tangible barriers arising from lack of security, physical safety, transportation, language, poverty and court fees. It is also obstructed by intangibles like delay, uncertainty in the law, lack of confidence in the fair application of the law, and the non-majority communities' limited knowledge of law and legal rights. Other factors such as a lack of legal representation, mostly due to insufficient funds on the side of the clients and a reluctance to represent minority claimants, place minority groups at a serious disadvantage, discouraging their participation and undermining their faith in the justice system. These findings reflect very much the conclusions reached by the Ombudsperson following complaints and discussions with members of minority communities.

The above problems and obstacles, coupled with more general doubt as to the legitimacy of UNMIK as a whole, causes many members of minority communities, in particular those of Serbian and Roma origin, to favour parallel courts. There are also practical aspects to this, such as an easier accessibility and the fact that the judges all speak Serbian.

As the Director of the UNMIK Department of Justice put it in an interview for a local newspaper in June 2005 – the better UNMIK and the Kosovo judicial system work, the smaller the need for a parallel system. But unfortunately, we are not there yet. A recent example in which UNMIK tried to improve this situation was the opening of a branch of the Municipal Court in Pristina in the Serbian enclave of Gračanica/Graçanicë in December 2004. In the end of May 2005, following delays occasioned by irregularities in the staffing procedures, institutional conflict between the Municipal Court and the Department of Judicial Administration and the death of a senior judge of minority ethnicity at the Municipal Court, this department of the Municipal Court eventually took up its work, complete with administrative staff and an on-call judge and public prosecutor. At the end of the reporting period, however, there was still no telephone line and the only way to reach the court was by calling the mobile telephone of one of the security guards.

The biggest problem faced by this branch of the Pristina Municipal Court in Gračanica/ Graçanicë is the fact that it may not issue decisions and may not execute judgments. Its only function so far is to accept cases, collect them and then send them on the Municipal Court in Pristina.

It does, however, help certain members of the Serbian community access the Municipal Court in Pristina. In general, access to courts is most difficult for members of the Serbian and Roma community, which are considered the least-integrated parts of Kosovan society. The accessibility of courts varies from municipality to municipality – according to information received from UNMIK in May 2005, members of the Serbian and Roma minority communities living in mainly Albanian-dominated areas only access courts if they are accompanied by members of the local Court Liaison Office. In the municipalities of Skenderaj/Srbica and Malishevë/Mališevo in central Kosovo and in the municipality of Kaçanik/Kacanik in south-eastern Kosovo, areas where the 1999 conflict raged relentlessly and memories of it are still fresh, they only access courts with international escorts. The same applies to some extent to ethnic Albanians wishing to access the Mitrovica courts located in the northern, Serbian-dominated part of town, who can only reach this court through a shuttle bus organised by UNMIK that drives back and forth between the northern and southern parts of this divided town. In areas where a minority ethnic group lives surrounded by a majority of another ethnic group, such as Serbs in a number of areas throughout Kosovo and Albanians in and around Northern Mitrovica, members of the minority community also do not dare to bring cases to court regarding members of the majority community for fear of retaliation.

But even if people of minority groups are able to access courts, there are sometimes other obstacles to an efficient administration of justice in their cases. With regard to certain compensation claims submitted to courts in Kosovo by mostly Serbian claimants with regard to damages caused after KFOR entered Kosovo in 1999 or during the violent events that took place in March 2004, the respective courts were prevented from processing these cases by the UNMIK

Department of Justice which, on 26 August 2004, issued a circular to all courts in Kosovo asking the judges not to schedule civil claims related to property damages after 1999 lodged by Serbian claimants until both the Department of Justice and the courts in Kosovo had determined how best to effect the processing of these cases. This request was apparently made due to the large amount of civil claims – over 14,000 – that had been lodged by ethnic Serbian claimants with regard to property damages that had taken place after NATO had entered Kosovo in 1999. Such a huge influx of claims would, according to the Department of Justice, pose problems for the courts, also from a logistical point of view, as claimants would require escorts to travel to the courts, which by itself would already necessitate significant planning and coordination. This practice was apparently also applied to claimants of Roma and Ashkali ethnicity.

At the same time, however, there appear to be plans on the side of UNMIK to suspend the prescription periods for claims submitted to courts by members of certain minority ethnicities immediately after the armed conflict in 1999, which could not be processed due to the fact that first, certain courts were not yet operational at the time and later, the claimants continued to have problems accessing courts. A regulation has been drafted to this end, which has been sent to the UN headquarters in New York for approval.

While there is the possibility that a large amount of lawsuits filed within a short time and the other circumstantial obstacles mentioned in the circular could hamper the administration of justice, such a situation does not dispense the competent authorities from the obligation to provide access to court and to court decisions. At the same time, there does not appear to be any merit in treating all of the above cases in the same manner. Certain judges complained that if it had not been for the above circular, some cases, in particular those involving what happened in March 2004, where due to the availability of witnesses and the fact that not much time had passed since would make it easier to undertake an accurate assessment of the damages, would already have been resolved. The fact that the normal processing of such cases has now been suspended for such a long time by a circular issued by the Department of Justice, leaving no room for the judges' individual assessment of each case, raises serious concerns regarding the claimants' right of access to court."

**USDOS, 28 February 2005:**

"The Constitutional Framework provides for an independent judiciary; however, the local judiciary was at times subject to bias and outside influence, particularly in interethnic cases, and did not always provide due process. Legal authority is held by UNMIK under U.N. Security Council Resolution 1244. UNMIK police and justice worked with local judges and prosecutors, while maintaining executive responsibility for judicial system planning, policymaking, operations, management, administration, coordination, and monitoring. There were credible reports of corruption within the local judiciary, and allegations that courts, including the Supreme Court, deferred to the Government in some cases.

The court system includes a Supreme Court, 5 District Courts, 24 Municipal Courts, and a Commercial Court. There were 18 international judges and 8 international prosecutors who were appointed by UNMIK to handle interethnic and other sensitive cases. At year's end, there were 21,668 criminal cases unresolved in the municipal courts, and 2,371 criminal cases unresolved in the district courts.

The Government of Serbia continued to fund and manage a parallel judicial system in Serb enclaves in violation of U.N. Security Council Resolution 1244.

UNMIK, through the Organization for Security and Cooperation in Europe (OSCE), maintained several organizations to increase the professionalism of the judicial corps. The Kosovo Judicial Institute continued to train judges and prosecutors. The Judicial Inspection Unit continued to monitor judicial performance and make recommendations on discipline and training. The Kosovo Judicial and Prosecutorial Council (KJPC) was responsible for the review of cases of judicial misconduct. Since 2001, KJPC opened 458 investigations and found some evidence of misconduct in 41 cases, resulting in 7 reprimands and 10 recommendations for removal.

The Judicial Integration Section, created by the UNMIK Department of Justice in 2003 to promote the ethnic integration of judges and prosecutors into the Kosovo legal system, continued to address access to justice problems affecting minorities, to monitor the treatment of minorities in the justice system, to address instances of discrimination, and to facilitate the integration of court support staff. A special Court Liaison Office (CLO) continued to facilitate access to justice for minority communities in the Serbian enclave of Gracanica, Pristina Municipality. The CLO enhanced access to justice by accompanying minorities to courts, filing documents with courts on behalf of minorities, and providing information regarding court access. During 2004, the CLO in Gracanica dealt with 1,656 requests for assistance. In addition, UNMIK opened a Department of the Pristina Municipal Court in Gracanica staffed by two judges to further increase minority access to the Kosovo justice system.”

**SG, 14 February 2005:**

“A comprehensive needs assessment and resource allocation are required to ensure adequate judicial protection of property rights (a priority). The civil courts are overwhelmed and their backlog of cases is increasing. In the first half of 2004, cases were received at twice the rate they were adjudicated. The criminal courts are underused: police referred six property-related criminal cases to prosecutors over the reporting period. Execution of property-related decisions remains limited: 22 per cent of cases awaiting execution were fully executed in the first half of 2004; over half the remaining cases have been awaiting execution for over a year. (...)par.62)

Local courts have continued to deal fairly and reasonably efficiently with cases related to the March violence: 348 persons have been brought before the courts for riot-related offences. Of these, 98 are under investigation, 74 are indicted awaiting trial, and cases against 176 have been completed. The bulk of these cases has been handled by the local judiciary. ”

**SG, 23 May 2005:**

“Further efforts are needed to improve cooperation between the police and communities, including building minority confidence in KPS. Minority communities need to be able to communicate with their local police in their own languages.”

**Access to public utilities for minorities: reports of discriminatory practices (2001-2002)**

- Essential services and utilities are not available to minority communities
- Unsolved disputes between companies deprive minorities in northern Mitrovica from proper access to telephone services
- Minority communities complain about arbitrary disconnections from the phone network and overestimated bills
- Similar problems have been reported regarding access to the electrical network

**UNHCR/OSCE, May 2002, paras. 87-90:**

“Access to public services such as sewage, water, electricity and telephone service still remains as another problem for members of Kosovo’s minority communities. Additionally, many minority villages have limited means of public transport, and often no post office. Further, unsanitary living conditions are a problem in some villages where there is no sewage system, and raw sewage is discharged directly into rivers. Also, public waste collection continues to be a problem in minority villages, as well as the quality of the drinking water.

There is often a problem in the areas where minority community members live in **the maintenance of telephone systems**. For example, phone lines and telephone poles are old and often in a state of decay or disrepair, and network coverage for mobile telephones is inadequate. Minority consumers are often caught in the middle of disputes between two companies operating in the same area, due to the parallel systems that exist in some areas for telephone services. In the northern part of Mitrovicë/Mitrovica region, for example, only a few Kosovo Albanian customers are connected to the Kosovar PTK system in Mitrovicë/Mitrovica south. The rest of the network, as of the end of March 2002, is covered by PTT and is therefore run by the telecommunications authority in Serbia proper. It is still unclear if, when and how minority communities living in Mitrovicë/Mitrovica north will have access to the Kosovo telephone service.

In some villages, members of minority communities complain that their phone line has been cut after receiving a warning to pay a bill that they never received. Others in such areas as Gracanica/Gracanicë and Obiliq/Obilic complain of overestimated bills, arbitrary cuts in service and the lack of a transparent billing process generally.

The complaints of minority community members on electrical service are similar to those with the telephones. There are frequent complaints that the **billing procedures of KEK, the Kosovo electric company, are arbitrary and lacking in transparency**. A recurrent complaint is that because of security concerns, KEK meter-readers cannot access minority houses and flats to take meter readings. Instead, KEK uses a variety of methods of assessment of electricity consumption, depending on the municipality. For example, in Fushe Kosovë/Kosovo Polje, KEK designated three categories of charges for electrical consumption: 20 Euros for low consumption, 35 Euro for normal consumption, and 50 Euros for high consumption. This was based solely on an estimation of the size of the house or flat, not on actual consumption."

### **Social services barely function in minority areas (2002-2003)**

- Centres for Social Work lack the ability to provide full services in minority areas

#### **UNHCR/OSCE, March 2003, pp. 39-41:**

"The social services system, which was found to be barely functioning at the time of the last Assessment, continues to operate as previously with few noted changes. The Centres for Social Work (CSWs) have continued to lack the ability to provide full services in minority areas, due to the insufficient number of dedicated social protection officers for these areas and the reluctance of the social workers from majority areas to travel to minority areas. Contacts, however, between CSW staff working in majority areas and those operating in enclaves, have increased. In some cases, UNMIK Local Community Officers (LCOs) have facilitated meetings between CSW directors and social workers from enclaves to clarify queries and exchange experiences with colleagues working in the majority areas. Positive examples of co-operation between CSWs located in majority areas and those located in minority areas rely more on individual initiatives of the CSW officers rather than on a co-ordinated strategy implemented at central or local levels. In Rahovec/Orahovac, for instance, the CSW has a sub-office in the so-called 'Serb quarter'. The person in charge of that office, a Kosovo Serb, and the Director of the CSW in Rahovec/Orahovac, a Kosovo Albanian, have been colleagues for some time and meet several times a week to co-ordinate on issues. Similar co-operation exists between CSW staff working in southern and northern Mitrovicë/Mitrovica.

The role of LCOs in providing equal access to social assistance to minorities continues to be crucial. In some municipalities LCOs are still in charge of social assistance monthly payments, which is an unsustainable solution in the long-term. The OSCE received complaints from social workers operating in minority areas about the need for training in social protection issues, and

requested more regular visits to sub-offices in minority areas by the municipal CSW director, which would enhance team building and information sharing mechanisms among CSW employees.

The previous Assessment discussed ensuring adequate resources for mobile outreach services. The situation has only marginally improved, with three Kosovo Albanian villages in Zvecan/Zvečan, three remote Kosovo Albanian villages in Leposavic/Leposaviq and isolated areas in northern Mitrovicë/Mitrovica<sup>72</sup> continuing to be covered by the CSW located in southern Mitrovicë/Mitrovica. Visits by outreach teams to these areas are irregular resulting in Kosovo Albanians being forced to travel to southern Mitrovicë/Mitrovica to re-register for the social assistance scheme or to collect the monthly social allowance. The situation is particularly difficult for the disabled or elderly who may be unable to visit the CSW. An example where scarcity of resources is affecting the performance of the CSWs is the sub-office in Gračanica/Gračanicë, where three Kosovo Serbs employees are assigned one vehicle, consequently being unable to cover both rural and urban areas in the municipality. The situation further deteriorated with the stopping of home visits by a CSW employee to minorities living in Prishtinë/Priština, following the end of escorts by KFOR. Of particular concern is the decreased frequency of visits by CSW mobile teams to Plemetin/Plemetina village and camp. Even in Obiliq/Obilic, where the CSW Director has shown remarkable commitment to supporting minority communities, the CSW employees are reluctant to conduct regular mobile visits, alleging that Kosovo Serb and RAE communities enjoy some freedom of movement compared to a year ago and could, therefore, come themselves to the CSW.

With regard to the re-registration process for the Social Assistance Scheme (SAS), it was previously reported that minorities were effectively exempted from re-application requirements as the CSWs had not yet built capacity to ensure outreach, and minorities were unable to reach the CSW premises due to security issues. The OSCE assessed a general improvement by the CSWs in raising awareness, among beneficiaries, about re-registration requirements. A significant number of minorities appear to be aware of the re-application procedure and CSWs stated that instructions to re-apply are given to those receiving social assistance. However, concern remains over cases of homebound beneficiaries who are unable to rely on home visits by social workers, due to living in minority areas or due to their location being unknown to CSW staff. A positive example where a CSW has developed a well functioning coverage of reregistration cases is in Prizren, where minority members who are unable to visit the CSW premises are visited by mobile teams. Neither of the recommendations in the last Assessment that the Ministry of Labour and Social Welfare (MLSW) monitors the effect of the re-registration requirement or that the indirectly discriminatory practices be removed have been implemented. A development in the area of access to social welfare is the implementation of the right to use one's language in seeking access to social welfare. The MLSW is in the process of preparing a programme to ensure uniform signs for CSWs throughout Kosovo. The availability of signs in the official languages currently differs from office to office. For example, at the CSW in southern Mitrovicë/Mitrovica, signs inside and outside the building are printed in Albanian, Serbo-Croatian, and English. However, in Skenderaj/Srbica the CSW only has signs at the front in Albanian and English, while in Vushtrri/Vucitrn, the Director is reluctant to place any signs on the premises. To allow uniformity in the availability of documents in official languages, all the CSW forms are printed at the central level and then distributed to municipal CSW offices. However, in Prizren, only general informational materials are available in Turkish, and not copies of decisions and other pre-printed documents.”

### **Quota system in itself not bound to address discrimination and improve cooperation (2007)**



- Rigid quota system in Kosovo is not accompanied by measures to ensure representation of all Kosovans and respect for minority rights
- Participation needs to go beyond simple representation by quota as quotas alone are not likely to address discrimination
- Quotas often lead to division on the basis of ethnicity/religion and may even reduce minority rights as all minority issues are left to the minority representatives
- Protecting the rights of minority communities requires even greater commitment of Kosovo leaders
- At the same time, Kosovo Serbs must reverse their position of non-cooperation; only then will they be able to protect effectively their rights and interests

**MRG, 17 July 2006, p.21:**

“A lesson of many ethnic and religious conflicts is that participation, particularly in the political system, needs to involve more than simple representation by quota. Political systems set up by those who do not understand minority rights often fail to address issues of discrimination and assume that strict quotas will be enough. In fact, quotas often lead to rigid division on the basis of ethnicity/religion and may even reduce minority rights as all minority issues are left to the minority representatives. It seems that if the political system set up by UNMIK and OSCE in Kosovo does have an ancestor, it is that set up by the international community in Bosnia, one of the most divisive in the world. The Bosnian system is rigidly divided by ethnicity, with a two-tier system where three ‘constituent peoples’ have superior rights and all other groups are referred to as ‘Others’ and are clearly second class. While the Kosovo system does not repeat all of these mistakes it bears some very similar hallmarks. Although the Constitutional Framework does not use an official term ‘Other’, it implies the term, with Albanians and Serbs being treated differently. The rigid quota system is not accompanied by measures to ensure that the government represents all Kosovans and respects minority rights.

Equally important is paying particular attention to the needs of minority women. The international community has put several quota systems in place to ensure that approximately 30 per cent of elected officials were women. However, in the first government appointed under the 2001 Kosovo Assembly, not one minister was a woman. This has been a general problem.”

**UN SC, 26 March 2007, S/2007/168, paragraph 12:**

“While Kosovo’s leaders have increased their efforts to reach out to Kosovo Serbs and to improve implementation of standards, protecting the rights of minority communities requires their even greater commitment. At the same time, Kosovo Serbs need to engage actively in Kosovo’s institutions. They must reverse their fundamental position of non-cooperation; only with an end to their boycott of Kosovo’s institutions will they be able to protect effectively their rights and interests.”

*On the effectiveness and progress in the context of participation see also "Little Kosovo Serb participation in Kosovo's political institutions at the central level" and "Despite progress minority representation in civil service not satisfactory"*

**Little Kosovo Serb participation in Kosovo’s political institutions at the central level (2007)**

- Kosovo Serbs continue to boycott Kosovo's Provisional Institutions at the central level and mostly rely on parallel structures supported by Belgrade
- Participation of Kosovo Serbs in the civil service has not shown any significant improvement

- Only one Kosovo Serb sits in the Assembly and eight participate in the work of the Assembly committees
- The success of the 2004 parliamentary elections was undercut by the fact that the Kosovo Serbs largely boycotted them
- Some Serb leaders supported the boycott of the election through intimidation and implicit threats of violence and loss of social benefits against Serb voters

**UN SC, 29 June 2007, paragraph 32:**

“Regrettably, large segments of the Kosovo Serb population continue to feel that Kosovo’s Provisional Institutions do not represent them. Kosovo Serbs continue to boycott these institutions at the central level, and instead rely for the most part on parallel structures supported by the authorities in Belgrade for the provision of basic services.”

**Annex, paragraphs 6-8:**

“Representatives of the Serb List for Kosovo and Metohija (SLKM) continued their boycott of the Assembly and were joined in January by another elected Kosovo Serb representative, thus reducing the number of Kosovo Serbs participating in the Assembly to one. Eight other Kosovo Serb representatives participate in the work of the Assembly committees, but do not sit in the Assembly.

Against a background of budgetary constraints and pressure from the Government of Serbia, the participation of Kosovo Serbs in the civil service has not shown any significant improvement. In the central institutions, 11 per cent of civil servants come from minority communities, against a target of 16.6 per cent. Though incomplete, the statistics at the municipal level show that minority employment constitutes about 12 per cent of the total. (Because of the declared non-cooperation policy of the three Serb-run northern municipalities and the administration in northern Mitrovicë/a, these figures are incomplete for the municipalities.)

Two hundred Kosovo Serb civil servants, who had withdrawn from the Provisional Institutions’ payroll following a directive from Serbian authorities to choose between the payrolls of the Serbian and Kosovo Governments, have requested reinstatement, and have received their accumulated salaries. The Kosovo Government continues to hold in trust the salaries of all remaining Kosovo Serbs who have left the Provisional Institutions’ payroll (€4,910,810 remains in escrow while €237,584 has been paid out to those reinstated).”

**UN SC, 9 March 2007, paragraph 7:**

“Kosovo Serbs have continued to take very little part in the political institutions in Kosovo. Against a background of active discouragement by Belgrade, Kosovo Serbs in the Assembly and the Government have not taken up their seats and the only Kosovo Serb Minister in the Government, the Minister for Communities and Returns, was forced to resign on 27 November at the recommendation of the Prime Minister after an audit uncovered evidence of financial irregularities and mismanagement. A Kosovo Serb is currently acting Minister. General engagement of the Kosovo Serb community in and with the Provisional Institutions at both central and local level remains very limited. The influence of the Government of Serbia, through the Serbian Coordination Centre for Kosovo, is particularly strong in the north of Kosovo, owing to its control of wages and employment in parallel structures. To a large extent, reaction by Kosovo Serbs to the status proposal depends on the reaction of Belgrade. The political leadership of the three Kosovo Serb municipalities in the north of Kosovo continued to boycott most contacts with Prishtinë/Priština. After cutting off political links, they are now fully dependant on Serbian state financial support, with minor exceptions for Kosovo Albanian staff and projects, funded by the Provisional Institutions.”

**USDOS, 6 March 2007:**

“On June 16, the SRSG postponed municipal elections due in November until either June 2007 or six months after the decision on Kosovo's final status, whichever is earlier. ...

There were 22 ethnic minority members in the 120-seat Kosovo Assembly, including 10 Kosovo Serbs and 12 members of other groups, including ethnic Turks, Bosniaks, Gorani, Roma, Ashkali, and Egyptians. There were two minority PISG ministers--one Kosovo Serb and one Bosniak--and three minority deputy ministers. The seat of one Serb minister was kept vacant, as the designated Serb party refused to take the position. One Bosniak and one Kosovo Turk held a rotating seat on the Kosovo Assembly presidency; the boycott by one of the Kosovo Serb parties left empty the eight seats set aside for Kosovo Serbs. At year's end, Kosovo Serbs in the largest Kosovo Serb political party had not claimed their set-aside cabinet posts and continued to boycott assembly votes, although they did participate in committees; members of Slavisa Petkovic's Serb Democratic Party of Kosovo and Metohija took up two of the set-aside seats and led the Ministry of Returns. The constitutional framework requires that the assembly reserve 10 seats for Kosovo Serbs and 10 for members of other ethnic groups, but ethnic minorities were underrepresented at the municipal level where no such provisions govern.”

**UN SC, 20 November 2006, paragraph 9:**

“There has still been virtually no Kosovo Serb participation in Kosovo's political institutions at the central level. Reserved positions in the Assembly and Government have not been taken up and the Minister of Communities and Returns remains the only Kosovo Serb member of the Government. While some participation of members of the Serbian List for Kosovo and Metohija in Assembly committee work has taken place and two more small, independent Kosovo Serb parties have been formed, the engagement of the Kosovo Serb community in and with the Provisional Institutions remains severely limited. This is particularly true in the northern municipalities dominated by the Serb National Council, which continue their boycott of contacts with the Provisional Institutions. While my Special Representative has worked to increase the level of communication with the leaders of the Serb National Council, they continue to operate a separate sphere of local governance, closely linked with the institutions of Serbia.”

**USDOS, 28 February 2005:**

“UNMIK and the OSCE registered approximately 1.4 million voters for the October Assembly elections. Only residents of Kosovo and those who were residents of Kosovo on January 1, 1998 were eligible to vote. All of Kosovo's ethnic communities participated in the election, although Serb participation was minimal. Some Serb leaders enforced the strategy of election boycott as a political tool in the Assembly elections through intimidation and implicit threats of violence and loss of social benefits against Serb voters, especially in the majority-Serb northern municipalities. The OSCE transferred considerable election administration authority for the first time to a locally staffed Central Election Commission, which conducted the October election while OSCE officials maintained oversight. International and domestic observers determined that the 2004 Assembly elections were generally free and fair. (...)

The nearly complete Serb boycott of the October elections left the two Kosovo Serb parties, the Serbian List for Kosovo and Metohija--successor to the Povratak Coalition--and the Citizens' Initiative of Serbia, with a combined 10 Assembly seats set aside for Serbs by the Constitutional Framework. Party affiliation played an important role in access to government services and social opportunities. Traditional social arrangements and clan loyalties also played an important, though unofficial role in Kosovo's social and political organization.

The Constitutional Framework requires that the Assembly reserve 10 seats for Serbs and 10 for members of Kosovo's other ethnic communities, but ethnic minorities were underrepresented at the municipal level. Following the October elections, there were 21 ethnic minority members in the 120-seat Assembly, including 10 Serbs and 11 members of Kosovo's other ethnic communities, including Turks, Bosniaks, Gorani, Roma, Ashkali, and Egyptians. There were three

ethnic minority PISG ministers, two Serb and one Bosniak, and three deputy ministers. One Serb and one Turk held seats on the Assembly Presidency. At year's end, Serbs had not yet claimed their set-aside cabinet posts and continued to boycott the Kosovo Assembly. “

**IHF, 25 May 2005:**

“The stabilization process was demonstrated by the success of the second Kosovo-wide parliamentary elections in October 2004. The elections held under the auspices of the OSCE and closely monitored by international and domestic observers were assessed by all sides to have been free and fair. However, the success of the elections was undercut by the fact that Kosovo Serbs largely boycotted the elections, as recommended by the government in Belgrade, allegedly in response to the March 2004 violence against Kosovo Serbs. A minimal number of some 0.2% of local Serbs nevertheless participated and on this basis two participating Serb coalitions were allocated the proportional number of the granted minimal quota of 10 seats reserved for Serbs irrespective of their participation. The elections resulted in the prompt formation of a new Kosovo parliament and the election of a president and government that eventually also included a Serb minister. In its first 100 days the new government was effective in implementing international standards for Kosovo, especially in the area of providing for multi-ethnicity and security of Serbs and minorities.”

**SG, 17 November 2004:**

"Kosovo Serb participation in the Assembly elections was negligible. There were conflicting signals from Belgrade regarding whether the Kosovo Serbs should go to the polls. Prime Minister Vojislav Kostunica, speaking on behalf of the Serbian Government, and Serbian Patriarch Kyr Pavle maintained that the conditions were not in place for Kosovo Serbs to vote and urged Kosovo Serbs not to go to the polls. On 5 October, Serbian President Tadic stated that he would support Kosovo Serb participation in the elections, albeit accompanied by a number of conditions which included the establishment of internationally recognized local Serb authorities in the areas populated by Kosovo Serbs. As mentioned above, his announcement led to the certification of a Kosovo Serb entity — the Serbian List for Kosovo and Metohija — which submitted a list of 33 candidates for Kosovo's elections; another Kosovo Serb civic list claiming to represent Kosovo Serb internally displaced persons had also previously been certified. The late stage at which this decision was made allowed for virtually no campaigning by Kosovo Serb politicians, and protests by groups of Kosovo Serbs against participation in the elections took place. Only around 2,000 Kosovo Serbs, or under 1 per cent of the potential Kosovo Serb electorate, voted. The low turnout meant that there will not be any directly elected Kosovo Serb representatives in the Assembly and it remains uncertain if the 10 seats set aside will be filled. This is a setback from the 2001 Kosovo-wide elections when the Kosovo Serb coalition was the third largest entity in the Assembly with 22 seats, of which 12 were directly elected."

*For more on participation of minorities in public life in Kosovo see the report by Minority Rights Group, [Minority Rights in Kosovo under International Rule](#), pages 19-22.*

**Despite progress minority representation in civil service still not satisfactory (2003-2007)**

- Despite progress, minority employment in central Provisional Institutions still not satisfactory
- However, Kosovo Serbs and other minorities are present in municipal institutions
- Minority community membership in Kosovo Protection Corps, Ministry of Justice and Internal Affairs has decreased slightly
- Efforts by the Kosovo Protection Corps to reach required level of minority staff is hampered by Kosovo Serbs reluctance to apply due to community pressure

- In 2005 minority communities' employment in the public sector was 55% of the stipulated minimum level
- Belgrade-sponsored parallel administrative structures are common in most mixed and ethnically Serb communities

**UN SC, 29 June 2007, paragraph 92:**

"Despite positive recruitment policies, active engagement among Kosovo Serb communities, and no internal evidence of discrimination, KPC still has difficulty in attracting and retaining recruits from the Kosovo Serb community."

**Annex, paragraph 85:**

"Minority community membership in the Kosovo Protection Corps (KPC) slightly decreased in the reporting period and now stands at 195 (6.7 per cent), of whom 42 are Serbs (1.4 per cent). The decrease is in part due to absenteeism and subsequent dismissal, resignations and a general suspension on recruitment and promotion since 12 February. In addition, 92 members have left KPC as part of the resettlement pilot programme (...). Efforts are focusing on ethnic minority outreach, retention and the implementation of humanitarian projects. Kosovo Serb members remain subject to pressure from their own communities not to participate in KPC. No internal allegations of discrimination have arisen."

**UN SC, 9 March 2007, Annex, paragraphs 28-31 and 86:**

"Transition of relevant competencies to the Ministry of Justice continues with the transfer of penal management and missing persons and forensics. Minority representation in the Ministry has dropped slightly, to 14.9 per cent from 15.16 per cent, in the last reporting period since new recruits have been mostly Albanian. Vacancy announcements should be advertised in the Serbian language printed media.

The Ministry of Internal Affairs is continuing to build capacity in order to deal with migration, repatriation, oversight of KPS, emergency preparedness and management. Minority representation is 9.4 per cent, down from 10.97 per cent in the last reporting period since new recruits have been mostly the Albanians. Sixty-four remaining vacancies (out of 779 posts) are expected to be filled soon; 39.7 per cent of posts are occupied by women.

On 27 November, 12 persons were appointed to the Kosovo judiciary by the Special Representative of the Secretary-General. Five were from underrepresented communities. Non-Albanian representation is now 10.86 per cent for judges and 9.09 per cent for prosecutors. Women's representation is at 26.83 per cent for judges, and 20.45 per cent for prosecutors.

Non-Albanian membership of KPC has decreased slightly in the reporting period and now stands at 213 (7 per cent), of whom 49 are Serbs (1.5 per cent). The decrease is mainly due to absenteeism and subsequent dismissal. Kosovo Serb officers remain subject to pressure from their own communities not to participate in KPC. No internal allegations of discrimination have arisen. Twenty-four vacancies remain reserved for non-Albanians. On 24 January, the KPC Commander signed into effect an action plan for 2007 for the recruitment, retention and support of ethnic minorities."

**SG, 23 May 2005, paragraphs 2, 5, 12, 26:**

"[M]inority employment is rising in central Provisional Institutions amidst expanded recruitment activity, although the overall level remains below the target. In addition, Kosovo Serbs and other minorities are present in municipal institutions.

Minority community members participating in the Government increased to four (Kosovo Serb and Bosniak Ministers and Kosovo Egyptian and Turk Deputy Ministers). Three further positions

(Minister, Deputy Minister and Assembly Presidency) reserved for Kosovo Serbs await nominations from Kosovo Serb political parties. (...)

Municipal minority employment increased: 15 (of 27) met or exceeded their targets; 5 exceeded 70% of target. The railway (15%), water-irrigation (18%), and waste (24%) utilities remained multi-ethnic. The Government initiated a Special Recruitment Campaign (*priority*) that reserves and advertises for minorities 103 central institution positions. (...)

Minority employment in the central institutions was 10.2% (up from 9.6%; 7% of senior positions); the target is 16.6%. The Special Recruitment Campaign needs to succeed (*priority*). Minorities need to be fully integrated across institutions, policy issues and seniorities. More effort is needed by municipalities that have not met their targets, particularly the seven that remain below 70% of target, and by all municipalities with regard to senior-level employment (negligible). More effort is needed by the Banking and Payments Authority (BPK) and some utilities: District Heating (12%), KEK (less than 1.5%), PTK (4%) and the airport (1.8%). Subcomponent budget plans (*priority*) and a Government mechanism for monitoring fair share financing are still needed. (...)

Minority communities were 10.5% of judges and 9.4% of prosecutors. Women were 26.5% and 16.5% respectively. Kosovo Serbs remained underrepresented (5.2% and 2.3%; *priority*). Despite vigorous outreach efforts, including a meeting with the President of the Supreme Court of Serbia to seek encouragement to qualified Kosovo Serb judges and prosecutors, only 4 of 200 applicants were Kosovo Serbs. Factors discouraging applications include accrued pension and benefit rights in Serbia."

**SG, 14 February 2005:**

"The Kosovo Protection Corps (KPC) continued to operate as a civil emergency organization and to perform its mandated tasks well, particularly de-mining, search and rescue, firefighting, humanitarian activities and emergency interventions. Efforts by KPC to fulfil the most challenging element of the standard – recruitment and retention of minority community members - have been hampered by pressure on interested Kosovo Serbs from their own communities. Authorities in Belgrade continued to reject the legitimacy of KPC as an institution and Kosovo Serb participation in it. My Special Representative has asked the Provisional Institutions to better coordinate Kosovo's emergency services so as to close gaps, eliminate duplication and husband scarce resources. He has also assessed that the Provisional

Participation by minority communities (a priority) increased slightly: 26 members of minority communities were recruited over the quarter (18 Serb, 2 Bosniac, 2 Croat, 2 Ashkali, 2 Turk). Of the 3,024 active KPC members, 157 are from minority communities (33 Ashkali, 17 Bosniac, 8 Egyptian, 1 Goran, 9 Croat, 14 Muslim, 2 Roma, 43 Serb and 30 Turk). A joint KPC/KFOR team conducted a survey of how best to recruit and retain minority community members. (...)

Minority communities' participation in KPC (a priority) is 5.2 per cent against a target of 10 per cent. The KPC/KFOR team reported that Kosovo Serbs experienced intense pressure from their communities not to join KPC resulting from Belgrade's rejection of the legitimacy of KPC and of Kosovo Serb participation in it. Eleven Serbs were dismissed over the reporting period for non-attendance. More needs to be done, including by members of their own communities, to support minority members who join KPC, especially Serbs.

Minority communities' employment in the public sector is 55 per cent of the stipulated minimum level. Direct dialogue between Belgrade and Pristina and the local participation of Kosovo serbs are blocked by Belgrade's refusal to engage. (...)"

**UNSC 15 October 2003, paragraphs 12 and 13:**

“Belgrade-sponsored parallel administrative structures continued to operate in many parts of Kosovo, and are common in most mixed and ethnically Serb municipalities. Kosovo Serbs continue to be employed in parallel structures through the satellite offices of Serbian utility and communications providers, the Serbian health, education and judicial systems, civil registration offices, and other official bodies. Parallel administrative structures at the municipal level have also recently emerged. In addition, Kosovo Serbs employed by the Provisional Institutions often receive a second salary from Belgrade.

Minority employment in the civil service at the central and municipal levels remains unsatisfactory. Kosovo minority community members still constitute less than 10 per cent of the civil servants employed within the structures of the Provisional Institutions at the central level, close to their proportion of the population but far short of the 18 per cent representation target. The greatest disparity persists in senior level positions, less than 2 per cent of minority civil servants holding such positions. Kosovo Serbs constitute on average 12 per cent and non-Serb minorities 3.3 per cent of all municipal employees. The Ministry of Public Services has not, as yet, issued an administrative instruction outlining affirmative action provisions. Despite an outreach programme initiated by the Office of the Prime Minister and the subsequent dramatic increase in the number of applications, no significant increase in the number of minority staff has been observed, mainly because most applicants withdrew their applications and, of those selected, none accepted the post. Feedback from applicants indicates that the main reason for their withdrawal/non-acceptance is allegedly the higher remuneration and long-term job security offered by parallel structures operating in Kosovo.”

#### **Access of minorities to the electoral process (2005)**

- Voter registration represented a key challenge to participation in the electoral process, as identity documentation had in many cases been destroyed during the conflict
- UNMIK made significant efforts to ensure minority participation and continued its drive to register voters, including Serbs and IDPs
- Kosovo Serb participation in the political process remains low because of pressure from Belgrade
- Local Government reform is an opportunity for minorities to participate in decisions affecting their life at municipal level
- Internal divisions among Kosovo Albanian parties affect progress of decentralisation
- Pilot project for decentralisation should involve 5 municipalities including two majority Serb areas
- A Kosovo Serb accepted the position of Minister for Return and Communities
- Kosovo Serb parties participated in the first working group on decentralisation

#### **Brookings, 5 November 2004:**

“In Kosovo, (...), significant efforts have been made to facilitate the inclusion of minorities and persons displaced to Serbia and Montenegro in the electoral process. Moreover, in all of Serbia and Montenegro, the electoral participation of displaced Roma is constrained by difficulties in obtaining the identification documents necessary to vote. (...)

In general terms, IDPs’ electoral participation is constrained by the obstacles they frequently experience in obtaining identity documents, which are prerequisites for electoral registration. According to the Norwegian Refugee Council (NRC), “complicated, time-consuming and costly procedures prevent many IDPs from obtaining documents necessary to gain access to social services and benefits, and to exercise their political rights.” (...) Applications for identity

documents cannot be made in a place of temporary residence, which presents particular complications for IDPs for whom it is unsafe to return to their area of origin. (...) These problems are particularly acute for displaced Roma, many of whom have never been officially registered. Figures quoted by the NRC in fact suggest that more than 50 percent of Roma do not possess identity documents. (...)

#### *Kosovo*

Kosovo Municipal Elections, 28 October 2000: Following the creation of UNMIK in 1999, the OSCE assumed responsibility for organizing elections under the "Democratization and Institution Building" pillar of the administrative structure established by the UN. Within this framework, Kosovo held municipal elections in 2000. Voter registration represented a key challenge in the preparation for this election, as identity documentation had in many cases been destroyed during the conflict.(...) UNMIK subcontracted the registration of identities of voters residing outside of Kosovo to the International Organization for Migration (IOM), while the registration of IDPs within Kosovo was conducted under the auspices of the Kosovo Central Election Commission, which was set up by the OSCE.

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

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

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

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

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

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



**SG, 23 May 2005:**

“Kosovo Serb participation in the political process remained low at the central level. The only top central-level government position held by a Kosovo Serb was that of the Minister of Returns and Communities, who belongs to the Citizens Initiative “Serbia” (CIS), which received 2 of the 10 seats set aside for Kosovo Serbs in the Assembly. Despite more frequent statements in favour of participation in the Provisional Institutions, the leaders of the Serbian List for Kosovo and Metohija (SLKM) — the party that holds eight Assembly mandates — are apparently still awaiting a positive signal from Belgrade, and they have not so far occupied the positions within the Provisional Institutions held open for them. The SLKM representatives have pledged to join the working groups on decentralization and have said they would enter the Assembly and Government if those working groups were successful. At the same time, minority employment is rising in central Provisional Institutions amidst expanded recruitment activity, although the overall level remains below the target. In addition, Kosovo Serbs and other minorities are present in municipal institutions. (...)

Local government reform (decentralization) is of key importance to all of the population of Kosovo, including, in particular, its minority communities. This process has, however, seen delays owing to continuing controversy over initiatives in this area. The major opposition parties continue to oppose the Government approved “working programme” on local government reform. This situation resulted in delays in a debate in the Assembly and in the nomination of the co-chairs of the envisaged working groups. Prime Minister Kosumi and the Minister of Local Government Administration have affirmed that pilot projects in five localities, including in two majority Kosovo Serb areas, would be implemented by June 2005. Progress in this respect has been slow, however, and political consensus in the Assembly is still being sought. There is a clear need to move forward rapidly with implementation. Achieving concrete results in the local government reform process will influence prospects for the political process to determine the future status of Kosovo. (...)

Kosovo Albanian leaders and population must strengthen their efforts to reach out to Kosovo Serbs who, in turn, must demonstrate their concrete willingness to integrate into Kosovo society.

I am concerned that efforts to reform local government in Kosovo have seen delays. While not a standard, progress in decentralization is a key measure of the willingness of Kosovo to restructure governance at the local level in a way that is closer and more responsive to the needs of the population, and which accommodates legitimate minority interests. All communities and political factions should unite to achieve this important goal, which should go forward regardless of the future status of Kosovo. (...)

I welcome the offer by President Tadic to meet with President Rugova and I encourage both leaders to initiate a direct dialogue, which is essential to move the process forward. I also welcome the expressed intention of Prime Minister Kostunica and Prime Minister Kosumi to meet with each other. This dialogue should occur in addition to a dialogue between and among the Kosovo Albanian and Kosovo Serb leaders, in order to build an environment of mutual trust and confidence. I am also encouraged by the resumption of direct dialogue on practical matters between Pristina and Belgrade, which must continue to engage constructively for the benefit of all involved. It is important for the leadership of all communities to convey to their constituencies the importance of these initiatives.

**USCSCE, 26 May 2005:**

“Three new ministries have been established. Once terms of reference have been agreed and the ministries operationalized, the Ministries of Returns and Communities and of Local Government Administration will assume their responsibilities, including for returns of displaced persons and community-related issues. New portfolios of Deputy Prime Minister and 15 deputy ministers have been agreed on. The Government allocated three (of 13) ministerial positions to representatives

of minority communities as required by the Constitutional Framework. One non-Serb, non-Albanian deputy minister has been appointed. (...)

*Soren Jessen Petersen. Representative of the Secretary General for Kosovo:*

“My sense is that (Serbs from Kosovo) are fully able to represent their own interests. And secondly, evidently, they should be allowed to represent their own interests.

We are talking about shaping the future of the society in Kosovo. We are very much focused on a number of minority issues, and it is absolutely key that those minorities, who are very much the focus of most of our efforts, (...) should be part of dialogue because they know better what their interests are, what their concerns are, and how they would like to see those concerns begin addressed.

So I do believe that it is regrettable that Belgrade has not until now been encouraging the Kosovo Serbs to participate in the democratic institutions. They are reserved seats for the Kosovo Serbs in the assembly. There are ministerial portfolios held vacant for them. And also we have just embarked on working groups on decentralization again, where it is key that they participate.

On the latter, the good news is we had the first working group on decentralization yesterday, and the Kosovo Serbs did [participate]. We will have another meeting tomorrow on pilot projects. Again, we expect the Kosovo Serbs to be there, other minorities are there. They have been involved. (...)

I must be very frank here and say that the lack of positive statements from Belgrade allowing them or encouraging them to participate could suggest that there is a concern in Belgrade, at this stage as we move closer to status talks, that an able and constructive participation of the Kosovo Serbs might somehow suggest that we can move forward without Belgrade.

First of all, when it comes to status, it is absolutely clear Belgrade has a key role in status discussions. There is no doubt about it. Secondly, there is no doubt that the dialogue of Pristina-Belgrade is crucial. It is crucial in order to build up confidence before we start on status. And there are a lot of things, issues they have to talk about. But dialogue Pristina-Belgrade cannot be a substitute for an internal dialogue between the Kosovo Albanians and all the minorities, and Kosovo Serbs in particular.

And whereas I welcome recent statements from Belgrade calling for meetings between President Tadic and President Rugova, now Prime Minister Kostunica, prime Minister Kozumi, I welcome that we are working close. We have been pushing in UNMIK a lot on that and they have now responded. At the same time, I do regret that until now they have not sent a clear signal so that the Kosovo Serbs can participate in institutions, So in order to be convinced about the sincerity about the calls for dialogue, I think we need to see a clear signal also encouraging the Kosovo Serbs. (...) We have invited [Belgrade] to send a participant from Belgrade who can be part of the Kosovo Serb delegations in the decentralization process.”

### **COE, 3 June 2005:**

“Decentralisation is not a Standard in itself but is a key instrument for the implementation of a number of standards and for providing institutional scope for the participation of minorities in the administration and the political process. In February 2005, with the expert advice of the Council of Europe[3], the Kosovo Government approved a decentralisation plan: five pilot-projects would be launched to assess the viability of the plan; in two of the municipalities concerned, Serbs represent the majority of the population (Gracanica and Partesh).

11. Regrettably, there is no political consensus on the reform: the main ethnic Albanian opposition parties oppose it on the grounds that any step towards greater autonomy carries the risk of encouraging Serbs to seek the division of Kosovo along ethnic lines. On the other hand, Kosovo Serbs criticize the government plan for two reasons: 1) it ignores the decentralisation plan approved by Belgrade in 2004 ; 2) it is premature; because of the large number of Kosovo

Serbs who are still displaced in Serbia proper, the demographic picture of Kosovo is skewed and decentralisation would not reflect the real ethnic composition of some districts.

12. In my opinion, reaching consensus over the reform of the system of local self-government is a fundamental step towards guaranteeing good governance and empowering minorities and an important indication of the maturity of the political forces. According to Lutfi Haziri, Minister of Local Authorities, provided that the pilot-projects are successful, the reform could be finalised by mid-2006 or 2007. It is important that the Council of Europe continues to provide advice and assistance in this field."

**CoE, 29 April 2004:**

"The Assembly calls on the Kosovo political leaders and the Provisional Institutions of Self-Government to:

iii. make the reform of local self-government and public administration a priority and explain in a positive manner the importance of this task to the population."

**See also:**

**OSCE, Details Newsletter, [Local Government reform and decentralization](#), April 2005**

## DOCUMENTATION NEEDS AND CITIZENSHIP

### **Roma, Ashkali and Egyptians still lack civil documentation to access their rights (2009)**

- Roughly 20 to 40% of the 35,000 people from Roma, Ashkali and Egyptian communities are not registered as residents of Kosovo or lack personal documents
- As a consequence they cannot access social security, health care, education, employment and cannot participate in public life, vote or repossess their occupied property
- Many of them risk to become stateless as, in some situation, entire generation of a family remained unregistered
- In 2006, the Office of the Prime Minister issued recommended the municipalities to ensure the registration of unregistered members exempting them from paying administrative fees, but most of the municipalities did not implement the recommendations
- International agencies and local NGOs run registration campaigns and provide legal aid to minority communities to access civil registration

#### **UNHCR, 9 November 2009, p. 14:**

"Many Roma in Kosovo remain without civil status registration and/or personal identity documentation. The lack of reporting of home births compounds this problem. Without appropriate documentation, Kosovo Roma, and other minorities in a similar situation, cannot satisfy the requirements for registration. The lack of civil registration prevents enjoyment of other civil and social rights, such as education, health care, employment, property, and social security. This situation may lead to statelessness and exclusion in the political, social and economic spheres. Although it is difficult to estimate the number of persons who are affected by this phenomenon,<sup>66</sup> UNHCR estimations and other surveys indicate that a significant percentage of the Kosovo Roma population face serious restrictions on the exercise of their fundamental human rights and access to social benefits.

With respect to registration, the problem for minorities lies in the documentary requirements of the authorities. Producing the required documentation is a challenge for many applicants. Many Kosovo Roma either never possessed documentation or no longer possess it due to the loss or destruction of their documents. In addition, many of the official records are not available in Kosovo following the removal of civil status registry books to Serbia, or damage to or destruction of the registry books as a result of the 1999 conflict."

#### **UNICEF, 29 January 2009:**

"Mr. Hasanik is one of at least 30,000 people who identify themselves as belonging to the Roma, Ashkali or Egyptian ethnic groups – Kosovo's most impoverished communities. They live on the fringes of society, often without the identity papers that would entitle them to the benefits available to other citizens: social welfare, unemployment, even schooling. (...)

As Kosovo rebuilds after years of conflict that led to a declaration of independence from Serbia, too many members of these marginalized communities do not know how to go about getting the birth certificates and citizenship papers they need.

"The problems are many because if the children aren't registered, they can't go to school. And within a few years those children will grow up, get married, establish their own families – and then they won't have documents for their children, who can't be registered either," says social worker Barjam Marolli.

**Un Committee en Economic, Social and Cultural Rights, 19 November 2008:**

The Committee notes with concern that 20 to 30 percent of the Roma, Ashkali and Egyptian communities are not registered as habitual residents or lack personal documents such as birth and marriage certificates, in the absence of civil status registration, both of which are necessary to access employment, social security, housing, health care and education. (article 2, paragraph 2)

The Committee recommends that UNMIK, in cooperation with the Kosovo authorities, further intensify efforts to (a) facilitate the registration of members of Roma, Ashkali and Egyptian communities as habitual residents, by promoting a flexible approach to fee exemptions and residence documentation in all municipalities; (b) simplify civil status registration procedures, especially with regard to "subsequent/late" registration and home births; (c) educate Roma families on the importance of registration for the enjoyment of economic, social and cultural rights; and (d) promote the adoption of the Integration Strategy for the Kosovo Roma, Ashkali and Egyptian communities.

**EC (Kosovo), November 2008:**

"Members of the Roma, Ashkali and Egyptian communities remain marginalised. (...) Up to 40% of the estimated 34,000-strong community are not registered as residents of Kosovo, which prevents them from benefiting from administrative and social services. The strategy and action plan for their integration have not been adopted yet."

**OSCE, 5 September 2008:**

"Approximately a third of the roughly 40,000 Kosovo Roma, Ashkali, and Egyptians residing in Kosovo still lack civil or habitual resident registration. The lack of personal documents prevents them from participating in public life, voting, returning and repossessing occupied property. These communities are systematically underrepresented in the Kosovo civil service and almost totally excluded from senior positions."

**Ombudsperson Institution, July 2008:**

"Lack of civil status registration of Roma, Ashkali and Egyptians continues to present one of the main obstacles to these persons' enjoyment of their rights to health care and social assistance. In 2006, UNHCR assessed that many might even face the risk to become stateless as, in some situation, entire generations of a family remained unregistered, mainly due to lack of awareness of the importance to be registered. In May 2006, in order to address the problem, the Office of the Prime Minister issued recommendations to municipalities to ensure the registration of unregistered members of the above-mentioned communities within the six coming months and exempted them from paying administrative fees required to do so. UNHCR also initiated a programme for a civil registration and legal assistance campaign which continues to be funded by the US State Department BPRM. The main implementing partner of this programme, an NGO called Civil Rights Programme Kosovo (CRPK), began implementing this campaign in September 2006. According to officials of CRPK, although a large number of requests have been processed, the registration programme needs to continue first because there are still a large number of unregistered people in Kosovo and also taking into account the fact that approximately 70% of Roma, Ashkali and Egyptians left Kosovo in 1999 and only a small number of them returned. Further, although UNHCR has continuously advocated a flexible and harmonized approach in compliance with the law in all municipalities in Kosovo, the situation faced in various municipalities by members of the Roma, Ashkali and Egyptian communities when it comes to civil registration is still very challenging. The practice indeed shows that most of the relevant offices in

the municipalities were not aware and therefore did not implement the recommendations of the Prime Minister's Office issued in May 2006. Many of them never exempted members of the Roma, Ashkali and Egyptians to pay late administrative fees and still refuse to do so. Further, there still is a different interpretation and application of the relevant laws across the municipalities in Kosovo.

In June 2008, UNHCR initiated a new project still implemented by CRPK and funded under the EU CARDS programme. This project aims at promoting and, when necessary, facilitating the social inclusion of and access to human rights (civil, social and political rights) of members of the Roma, Ashkali and Egyptian communities in the Western Balkans i.e. not only in Kosovo but also in Serbia, Bosnia and Herzegovina, FYRoM and Montenegro.

The joint strategy for the integration of Roma, Ashkali and Egyptian communities in Kosovo initialized in autumn 2006 and developed by the Office of the Prime Minister, the OSCE Mission in Kosovo and the Kosovo Foundation for an Open Society, has been finalized in June 2008. The strategy was developed in co-operation with relevant ministries and Roma, Ashkali and Egyptian representatives addressing key areas for integration such as education, employment and economic empowerment, housing, health, political participation and representation, the specific situation of displaced persons and refugees, the return of failed asylum seekers, registration, the situation of women, discrimination, culture and media. As mentioned in the previous annual report, the Government of the Republic of Kosovo will need to actively demonstrate its strong willingness, including the allocation of the needed budget, to implement this strategy in order to ensure its success. At that stage, the Advisory Office for Good Governance is still finalizing the action plans to implement the strategy. (...)"

**CoE Commissioner for Human Rights, 2 July 2009:**

*"Roma, Ashkali and Egyptian communities*

A large number of persons from these communities lack personal documentation (civil status registration and registration as habitual residents of Kosovo). This further complicates their ability to exercise rights and access services. Many have lost documents during the conflict, or never registered and without them, they cannot access social benefits and services. The Commissioner met with one NGO which is currently working on a large civil registration project, hoping to register the 10 000 to 11 000 members of the community who find themselves without papers. The Commissioner commends this initiative and also encourages the authorities to become active in finding a solution to this problem as well.(...)"

The Commissioner supports a civil registration campaign for these communities."

**CRP/K, April 2008:**

"According to the UNHCR assessment, out of 35,000 RAE community members currently residing in Kosovo, an estimate of 20 - 40% are not registered. This was the reason for UNHCR to address the CRP/K and requested to complete this significant task.Preparations of all CRP/K Field Offices for this important undertaking started in October 2006, while the process of civil (sub)-registration of unregistered RAE community members is ongoing. Such task imposed increased advocacy work to the relevant institutions dealing with civil registration, aiming to overcome difficulties and obstacles, such as different practices of Kosovo municipalities in applying relevant law provisions. In order to facilitate the process of civil registration itself, CRP/K reached agreements and signed

Memorandums of Understanding with the Presidents of Kosovo Municipal Assemblies. So far, the MoU's are signed with most of Kosovo municipalities, covering the regions where CRP/K operates.

According to these agreements, the requests submitted by CRP/K which are related to the civil (sub)-registration of the above mentioned category, will be prioritized, while the CRP/K clients will be exempted from the payment of administrative fees."

## **UNMIK certifies civil status documents for countries that have not recognized Kosovo (2009)**

### **UN SC, 30 September 2009:**

"[...] UNMIK also carries out the certification of civil status documents for the purposes of countries that have not recognized Kosovo"

## **Documentation of Kosovo Serbs issued prior to 1999 by Serbian authorities still not recognized by Kosovo (2009)**

- Kosovo Serbs face problems in obtaining Kosovo identification cards since Kosovo authorities do not recognize birth certificates issued by the Serbian authorities prior to June 1999
- However, many Kosovo Serbs have applied to obtain Kosovo identity documents and driver's licence
- Kosovo Serbs face difficulties when trying to obtain the return of confiscated driving permits issued by Serbian authorities prior to 1999
- UNMIK and EULEX intervention has facilitated the resolution of several cases

### **UN SC, September 2009:**

Kosovo Serbs continued to face problems related to the issuance of Kosovo identification cards by the Kosovo authorities, who do not recognize birth certificates issued by the Serbian authorities prior to June 1999. Nevertheless, Kosovo Serbs have applied for Kosovo identity documents and driver's licences in considerable numbers. Kosovo Serbs continued to experience problems in trying to obtain the return of confiscated driving permits, issued by the Serbian authorities before 1999. UNMIK and EULEX facilitated the resolution of several such cases.

## **Access to civil documents should be made easier for ethnic minorities (2007)**

- Roma face particular problems in accessing health care due to lack of documentation
- Transfer of new responsibilities to the Ministry of Internal Affairs
- Non registration of minorities puts them at risk of statelessness
- However, local and international efforts are being carried out to raise awareness of civil registration initiatives
- Problems remain in locating and accessing lost documents
- A more flexible approach is needed to making civil documents available to IDPs

**Ombudsman, 11 July 2007, p. 37:**

One of the problems regarding health access of Roma, Ashkali and Egyptians is the fact that they often cannot apply for health insurance or social assistance due to the fact that many members of these communities are not registered. According to UNHCR estimates from mid-2006, approximately 20 – 40% of Roma, Ashkali and Egyptians are affected by this problem – in many of these cases, families have not registered for generations. This prevents these persons from enjoying many basic rights, such as the right to health care, education, and social protection. According to a report issued by the OSCE Mission in Kosovo on civil registration of these communities (following a monitoring exercise that took place from mid-December 2006 to mid-January 2007), these unregistered persons even risk becoming stateless.

In May 2006, to address this problem the Office of the Prime Minister issued recommendations to municipalities to ensure that pending registration proceedings for the above communities be completed within the coming six months and to exempt these people from the obligation of paying late fees for administrative services. Also, UNHCR initiated an action plan for a civil registration campaign targeting the Roma, Ashkali and Egyptian communities. The implementing partner, an NGO called Civil Rights Programme Kosovo, began implementing this campaign in September 2006. At the same time, the UNHCR has continued to advocate a flexible and harmonized approach to this issue in all municipalities in Kosovo.

According to this OSCE report, however, few of the municipalities in Kosovo had followed the recommendations issued by the Prime Minister's Office, whilst a number of municipalities claimed that they had never received them. In general, it appears that most municipalities are far from adopting a common approach and only a small percentage of them have taken measures to facilitate registration of members of the Roma, Ashkali and Egyptian communities. There appears to be a lack of flexibility in this respect within the various municipal registration offices.

**UNSG, 29 June 2007, par. 16:**

The Ministry of Internal Affairs has also taken on new competencies. It now reviews civil registration and documentation and has nearly completed drafting a police law that establishes the rights and duties of this Ministry and the police and clarifies the institutional relationship between them in line with European standards. The law will be submitted to the Government for approval, following which it is expected to be sent to the Kosovo Assembly for deliberation and then adopted. Participants and stakeholders from other sections of the Government, non-governmental organizations and the international community provided substantial inputs to the law and concur that it meets international and European standards.

**OSCE/UNMIK, 25 June 2007, p. 5:**

"The UNHCR estimates that approximately 20 to 40% of the members of the Roma, Ashkali and Egyptian communities living in Kosovo are not registered as habitual residents, and are facing the risk of becoming stateless. Considering that available estimations regarding the Roma, Ashkali and Egyptian population in Kosovo range from 34,000 to 35,500 persons, the number of Roma, Ashkali and Egyptian persons without documents could be as high as 6,800 to 13,600 persons."

"Breaking the cycle of exclusion from civil registration... requires the engagement and co-operation of several central and municipal institutions. It requires that the specific situation of the vulnerable members of the Roma, Ashkali and Egyptian communities in Kosovo, who do not exist before the law due to the lack of civil registration, is taken into account and addressed. It also requires the adoption and implementation of positive action measures by the institutions and the society to address the untenable situation of these persons and to ensure that the basic facts of their civil and residence status are established and registered...particularly disadvantaged situation of Roma, Ashkali and Egyptians girls and women should be taken into account, including



their vulnerability to early, and often unregistered marriages, and to the exclusion or drop out from education.

A number of birth deliveries continue to happen at home within the Roma, Ashkali and Egyptian communities, in conditions that often put at risk the health of the mother and the child. Furthermore these births are not reported to health care and civil registration institutions. Unregistered births in conditions of migration or displacement, abroad and in successor States of the former Yugoslavia all contribute to the problem. Concrete mechanisms should be provided that take into account the specific situation of the Roma, Ashkali and Egyptian communities and address it through targeted actions of the central and municipal institutions based on inter-institutional co-operation between the civil registration system, the health care and social welfare institutions."

**See also p.15 on initiatives to facilitate registration.**

**OSCE/UNMIK, 25 June 2007 p. 23:**

The Municipal Community Officer (MCO) in Gjakove/Dakovica and Peje/Pe. stated that they had conducted village outreach visits, identified unregistered persons, including recent returnees, and had referred them to CRPK or to the MCSO respectively. In Suhareke/Suva Reka the MRO had supported ICMC in organising meetings with Roma, Ashkali And Egyptian communities to discuss various topics including civil registration, registration of new born babies and school enrolment. UNMIK DCA also acknowledged that the Municipal Return Officer (MRO) was regularly providing advise to members of the Roma, Ashkali and Egyptian communities and addressing them to the appropriate institutions.

In some municipalities, international and local organisations are involved in awareness raising and provide civil registration assistance to the Roma, Ashkali and Egyptian communities, including through door-to-door visits. However, in some municipalities, as for example in Klinë/Klina,<sup>78</sup> the MCOs and MROs are disengaged and declare that they do not have such practice, or say that all activities are carried out by international agencies. This is also the case with the MCOs and MROs in Zvečan/Zveçan and Leposaviç/Leposaviq.

**UNSG, 9 March 2007, annex par. 42:**

The problems that hinder transfer of competencies for civil status registry functions from the Ministry of Public Services to the Minister of Internal Affairs need to be resolved as soon as possible. The fact that the Departments of Registration Services and Civil Status continue to be under the operational control of two different ministries violates the regulatory and legal framework.

**Praxis, 28 February 2007:**

"Some of the files and archives in Kosovo companies and institutions were destroyed or transferred to currently unknown locations. Other records are available but unclassified. Unclassified archives containing work booklets, M-4 forms and other documents on employment make finding certain documents difficult. Requests from IDPs for issuance or withdrawal of documents are frequently rejected with the customary explanation that the institution/company does not possess records dated from before 1999. Many records are estimated to continue to be available to current administrators. Repeated requests occasionally resulted in success in obtaining documentation from various institutions/companies. There is an obvious lack of diligence in processing requests by employee records staff.

Even when work booklets are physically available, there is a tendency among certain institutions to introduce additional conditions regarding data that must be provided to acquire work booklets. Such conditions often amount to being manifestly unreasonable."

**UNHCR, November 2006, p. 12:**

For those who are recognized as IDPs, lack of documentation means difficult or no access to education, citizenship, employment and pension.<sup>26</sup> And the problems do not end with displacement, but persist upon return: for example it is difficult to establish the right to repossess a house without title deeds. Redressing this problem requires very often painstaking individual legal advice from UNHCR and its legal partners to establish rights and entitlements, as in the case of the return of the Roma to the Mahala ("settlement", comprising 750 housing units) in southern Mitrovica, Kosovo, that was completely destroyed in June 1999 by the returning ethnic Albanian majority for reasons explained above. This is a prerequisite for the implementation of the physical reconstruction project, started with the support of UNMIK, the PISG, donors and development-oriented NGOs. This return/reconstruction project in Kosovo is one of the few that targets the RAE as most projects were focused on Serb returns. UNHCR has been advocating in Kosovo to shift the balance of attention also to Roma return projects other than the Mitrovica Mahala.

**UNHCR/OSCE, June 2000, para. 58:**

"Even when confined to enclaves, the normal cycle of life events goes on for minorities and needs to be formally documented by the relevant authorities. Birth, marriage and death certificates are required and the service of provision of **civil documents** needs to be sufficiently flexible so that minority populations can avail of them without putting themselves at risk. If such services are centralised in inaccessible locations, minorities will not be able to access them. A more flexible approach, using mobile teams needs to be considered as an alternative means of providing this service."

**See also [UNMIK Regulation No. 2000/13](#)**

**See also ["Social services lack the capacity to reach the minorities \(2001-2002\)" \[Internal link\]](#)**

# ISSUES OF FAMILY UNITY, IDENTITY AND CULTURE

## General

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### Uneven implementation of the Law on the Use of Languages in Kosovo (2009)

- Albanian and Serbian languages and alphabet remain the official languages in Kosovo and have equal status in all institutions
- Bosnian, Turkish and Roma are official languages where they are spoken by more than 5% of the population
- Turkish was introduced as an official language in the municipalities of Mitrovicë/Mitrovica, Vushtrri/Vucitrn, Gjilan/Gnjilane and Prishtinë/Priština by decisions of the municipal assemblies following a request by the Turkish community
- However, a number of the law's provisions are not adequately respected in practice, preventing member of minority communities from an active participation
- Translation of laws, regulations and other documents still not done or of low quality
- Municipalities continue to receive from Ministries documents not translated in Serbian but do not report these cases to the Language Commission
- In Kosovo's public companies the Law on the Use of Language is not implemented and electricity bills, bank statements and informative leaflets are distributed only in Albanian
- Returnees/IDPs are not aware of the open vacancies because most of the advertisements for the posts are advertised only in Albanian language or only in Albanian language newspapers.

### UNHCR, 9 November 2009, p. 13:

Inadequate application of the Law on the Use of Languages adopted by the Assembly of Kosovo causes difficulties for minority communities seeking to obtain services in their own languages. A 2008 OSCE report called on municipalities to make greater effort to comply with the Law, noting that a lack of adequate resources, both human and financial, has hindered access to minorities' language rights. Kosovo institutions have yet to take appropriate measures in order to prevent violations related to the Law on the Use of Languages and the Anti-discrimination Law."

### AI, 28 May 2009:

"Both Serbs and Albanians continued to suffer discrimination in areas where they were in a minority. The law on Languages was inconsistently implemented [...]."

### UNIJA, October 2008:

"According to the long awaited Law No. 02/L-37 On the Use of Language, minorities have the right to receive all information, documents and other services in any of the Kosovo's official languages or in the language which has the status of a language spoken in that specific municipality.

In Kosovo's public companies, the Law on the Use of Languages is practically not implemented. Electricity bills, bank statements and informative leaflets are written and distributed only in Albanian language or, in best cases, also in English (see Annex B). Often the names of non-

Albanian customers, in particular Serbs, are mangled, for instance changing the last letter of the Serbian last names from “c” to the Albanized-version ending with “ç”. However, some progress can be seen in KEK (electricity provider) and PTK (post and telecommunication) practices, where at least “employment contracts to ethnic community members [are now issued] in their own mother tongues”, with the exception of the Roma community. The regional public companies for water supply, sewage, heating and public transportation did not implement the Law on the Use of Languages at all. In most cases, “these public companies have not undertaken any measures in order to respect the provisions of this law” and in that way they heavily discriminate against non-majority communities (please see Annex B).

The enforcement of the Law on Languages is very limited because of insufficient human and financial resources. According to OSCE, “various municipalities continue to receive from Ministries and other central institutions documents not translated in Serbian or whose Serbian translation is of poor quality, but do not report these cases to the Language Commission” responsible for dealing with those cases .

Returnees/IDPs in Kosovo are in greatest part not aware of the open vacancies and ongoing competitions, mostly due to the reasons related to the breach of the provisions on use of the official languages. For instance, most of the advertisings for the posts in the POEs (Publicly Owned Enterprises), part of the public job competitions and public procurement tenders are advertised in most cases only in Albanian language. The same applies to job competitions announced on the boards of the municipal administration premises and public companies. Even if job and procurement tender’s announcements are published in the other two official languages (Serbian and English) - except for the international administration bodies - they are published solely in the Albanian language newspapers."

**Ombudsperson institution, 21 July 2008, p. 45-46:**

"The use of minority communities’ languages remains problematic, despite that fact that the Kosovo Assembly promulgated a Law in October 2006 on the Use of Languages in Kosovo, according to which the Albanian and Serbian languages and alphabets are official languages and have an equal status in all institutions in Kosovo. The Turkish, Bosniak and Roma languages have the status of official languages in those municipalities where more than 5% of the population speak those languages. In addition, Turkish was introduced as an official language in the municipalities of Mitrovicë/Mitrovica, Vushtrri/Vucitrn, Gjilan/Gnjilane and Prishtinë/Priština by decisions of the municipal assemblies and following a request by the Turkish community. Furthermore, in the Municipality of Prizren, which is inhabited by a considerable number of members of Turkish community, the Turkish language was also introduced as an official language. It should be mentioned that the Advisory Committee of the Framework Convention for the Protection of National Minorities assessed that this current legal framework is overly complex and fails to spell out sufficiently clearly the operative regulations concerning language use.

Practice however shows that Kosovo institutions do not adequately respect and implement all provisions of this law. Various reports issued by the OSCE and the NGO Humanitarian Law Centre on the implementation of the Law on the Use of Languages confirmed that both at central and municipal level, although the situation varies depending on the municipalities, the translation of laws, regulations, municipal decisions and various other documents is still far to be adequate and often of poor quality, thus preventing member of minority communities from an active participation in the work of their institution in their own language. It is also rare for municipalities to respect the spelling of names in the Serbian, Bosniak and Turkish languages, which can have long time bearing consequences when it comes to the spelling of the name of a new born in a civil status registry book."

**Ombudsperson Institution in Kosovo, 11 July 2007, pp.39-40:**

“Regarding the use of languages of minority communities in Kosovo, this reporting period saw the promulgation on 20 October 2006 of the Kosovo Assembly’s Law on the Use of Languages in

Kosovo, which aimed to create an environment where all communities could enjoy their language identity. [...]

The Kosovo Assembly's Law on the Use of Languages prohibits any form of discrimination based on language and clearly provides for the public and private use of all languages. However, a number of its legal provisions are still not being respected adequately in practice. Practical cases demonstrate that with regard to the use of a number of minority languages (mainly the Serbian language and alphabet), not much has changed following the passing of the law."

**UN Security Council, 9 March 2007, paragraphs 10 and 23:**

"On 1 September, the Ministry of Public Services issued an administrative instruction defining rules and procedures of the central-level monitoring of the use of official languages. The Government also compiled the first CD-ROM containing all government decisions and regulations in the official languages, which was distributed to ministries and municipalities.

Compliance with the Law on Languages is important and necessary. While monitoring of language compliance has improved, enforcement needs to develop further. The Language Commission needs to be established."

**The problem of minority languages in Kosovo (2000-2005)**

- Although Serbian is an official language in Kosovo, it is often not used in correspondence between central authorities and majority Serbian municipalities
- Language problems restrict freedom of movement, access to essential services and encourage further departures
- A draft law on language is under discussion
- Language units within municipalities are responsible for monitoring respect of language policy
- 1977 Kosovo Language Law guarantees the equality of Albanian and Serbo-Croatian languages, as well as Turkish language in areas populated by Turks
- Inconsistent language usage within the public services throughout the province leads to confusion
- The Turkish minority refused to participate in the registration campaign, demanding the use of Turkish on equal footing with Albanian and Serbian in Turkish-populated areas (August 2000)
- UNMIK Regulation 2000/45 on Municipalities grants the right to communicate in their own language to minorities where they form a "substantial part of the population"
- According to instructions to Kosovo administration (July 2000), official documents issued to the public must be printed in English, Albanian and Serbian

**Ombudsperson, 12 July 2004, p.19:**

"Even though Serbian remains one of the three official languages in Kosovo, in practice it is almost completely absent from public life. Even though the Constitutional Framework provides for the official use of both Albanian and Serbian, the central government of Kosovo, as well as some municipalities, has so far not followed these provisions at the required level. Communication between the different central governmental bodies and municipalities populated largely or exclusively by Serbs is conducted almost entirely in Albanian, which renders the communication between these bodies difficult if not hopeless. The Ombudsperson raised this issue with the Prime Minister of Kosovo several times in the beginning of March and in May 2004 and urged him to ensure that the respective provisions of the Constitutional Framework be applied without any further delay. The Prime Minister's Office answered and stressed that both the local and central levels of the PISG respect and implement the relevant provisions of the Constitutional Framework

and that despite the low salaries in the public sector, translation units operate on a regular basis. As if to prove the Ombudsperson's point, however, this letter was only formulated in Albanian."

**UNHCR, Position, August 2004, par.16:**

"The language factor has continued to restrict freedom of movement throughout Kosovo and hamper equal access to services and self-sufficiency by limiting economic opportunities, This has prompted departures."

**SG, 23 May 2005, paragraphs 7 and 44:**

"A draft law on languages is under discussion. Permanent Secretaries of Ministries and chief executive officers of municipalities were designated as responsible for language policy implementation. Units to oversee central and municipal implementation were established within the Ministries of Public Services and Local Government Administration respectively. Their terms of reference are likely to lead to comprehensive compliance reports and corrective action provisions (*priorities*). Language policy compliance was 100% in Central Assembly plenary sessions and Presidency meetings, and approached 100% in Municipality Assembly meetings (except in the northern municipalities, and occasionally in Prizren). Official signs on municipal buildings were compliant or partially compliant in 65% of municipalities, and street, town and village signs were compliant or partially compliant in 60%. Over 500 road signs in the southern municipalities were replaced with signs in all official languages. [Those] road signs were quickly defaced (by painting over Serbian names) in Malisevo and Gnjilane. (...)

Full compliance with language policy is still needed (*priority*). The central monitoring units (*priority*) need to be operationalized. The new Ministries and eight municipalities need to establish Translation Units. Twenty-five municipalities need to install simultaneous interpretation equipment or specify adequate alternative arrangements. Defaced language compliant signs need to be replaced or repaired."

**SG, 14 February 2005, paragraph 15:**

"Full compliance with language policies (a priority) and monitoring and sanctioning systems (*priorities*) are needed. One ministry and three municipalities (Pristina, Srbica and Prizren) have simultaneous translation equipment. Most municipalities have at least one translator. Two thirds of municipalities need to allocate additional staff and resources to meet the demand for translation and interpretation (a priority); 33 per cent of official documents in the municipalities and ministries are translated into all official languages in a timely manner. Language compliance on official signs outside municipal and ministerial buildings and on signs showing village names is only 9 per cent and 5 per cent, respectively."

**UNHCR/OSCE June 2000, paragraphs 38-41:**

"The question of use of official languages is one example of the complexity of the task facing the international community in terms of guaranteeing mutual respect for the different languages used by minority groups in Kosovo. Public usage of Serbo-Croatian and to a lesser degree other minority languages continues to be a risky venture. UN security officers still advise incoming international staff not to speak Serbo-Croatian or other Slavic languages on the street for their own safety.

At an official level, the 1977 Kosovo 'Law on the realisation of the equality of languages and alphabets' (currently considered as applicable, based on UNMIK Regulations No. 1999/24 and 1999/25), guarantees the equality of Albanian and Serbo-Croatian languages, as well as Turkish language in areas populated by Turks. The law provides that official decisions and announcements, education and public signs should be in Albanian and Serbo-Croatian, and in Turkish in areas of Turkish population. In addition, judgements, decisions, and other written documents of the courts and public prosecutors' offices are to be delivered in the mother tongue of the concerned party. Written requests and complaints to state organs, as well as replies

thereto, are to be in the mother tongue of the citizen concerned, be that Albanian, Serbian-Croatian or Turkish.

In practice, however, language policy is far from uniform. UNMIK Regulation No. 1999/1 states that all regulations shall be issued in Albanian, Serbian, and English. Within the sphere of education, the policy tends towards the recognition of five languages: Albanian, Serbian, 'Bosniac', Turkish and Roma. The practice within the sphere of public utilities is contradictory: the Post and Telecommunications Section of the Department of Economic Affairs and Natural Resources opts for a trilingual English/Albanian/Serbian system for their official documents, while KEK, the electricity company, favours a separate English/Albanian and English/Serbian billing system. Similar confusion and lack of consistency has cropped up in other areas, with reports received of court documents, including summonses, being issued only in Albanian.

The question of language usage is far from simple. The acceptance of a number of official languages is one tangible means of evidencing the acceptance of the majority population of the rights of minority populations. Moreover, UNMIK has an obligation to endeavour to accept multiple official languages not only under the applicable Kosovo law, but also under the applicable international law. The practicalities of multi-language use, however, are fraught with difficulties. There is an urgent need for UNMIK to adopt a formal position on the question of official language and to take practical steps to ensure that a standard and workable policy is applied province-wide. This has cost implications which donors must be made fully aware of and requested to support."

#### Situation as of March 2001

#### **UNHCR/OSCE March 2001, paragraphs 63-66:**

"The fifth OSCE/UNHCR assessment highlighted problems caused by the lack of uniformity in UNMIK policy on the use of languages. Despite some limited progress in developing and issuing clearer instructions on language use for specific purposes, the lack of a comprehensive policy applied province-wide continues to be detrimental to the needs of non Albanian speaking minorities.

The predominant use of Albanian to the exclusion of other languages, often in contravention of UNMIK instructions that certain public documents must be issued in all three official languages (English, Albanian and Serbian), continues to send a loaded message to minority communities that they had better adapt to the system rather than expect it to be adaptable to their needs. As a result speakers of the lesser-used languages have either opted to keep quiet (quite literally) or alternatively to lobby strenuously for public recognition of their language. This latter approach was clearly evidenced when the majority of the Turkish community refused to participate in the registration, arguing that the applicable law, which they stated requires the use of Turkish on an equal footing with Serbian and Albanian in certain areas populated by Turks, was not being applied. After lengthy negotiation a compromise position was worked out between the Turkish representatives and UNMIK, including for those municipalities where the Turkish community lives, the right to use their own language in relations with municipal authorities, issuing of official documents (birth, death and marriage certificates, etc) in the Turkish language and alphabet, official signs in the Turkish language and alphabet. This compromise is considered by the Turkish political parties as an acceptable interim framework pending a more definitive agreement. In the meantime, comparable progress on the protection of other minority languages has been made by the inclusion in Regulation 2000/45 on Self-Government of Municipalities in Kosovo, of a similar model, granting these rights in areas where an identifiable minority forms a 'substantial part of the population'.

In a welcome, but limited development, the SRSG sent a memorandum on 26 July 2000 to the Co-Heads of the JIAS Departments of Public Utilities, Health and Social Welfare and Justice,

stating that official documents (including bills) issued to the public at large must be printed in English, Albanian and Serbian, with all three 'official' languages appearing together on the document. It is clear that the problem of the language used in official documents is not as widespread as previously. However, some problems remain, particularly in Dragas/Gora, with documents being issued only in Albanian or in English and Albanian. The issuing of the 26 July instruction to other JIAS Departments, a reiteration of this policy for UNMIK, and dissemination of the precise requirements of Regulation 2000/45, would be useful to further clarify UNMIK' position on language policy.

Clear policy on other issues with language implications is also needed. For example, for authorities whose function is to serve the entire community, such as the local police service, current deployment focuses on having police of the same ethnicity as those in the communities they serve - Kosovo Albanians in Kosovo Albanian areas, and so on."

***Regulation No. 1999/01, on the authority of the Interim Administration in Kosovo, 23 July 1999 [Internet]***

***Regulation No. 1999/24, on the law applicable in Kosovo, 12 December 1999 [Internet]***

***Regulation No. 1999/25, Amending UNMIK regulation No. 1999/1 on the authority of the Interim Administration in Kosovo, 12 December 1999 [Internet]***

***Regulation No. 2000/45, on Self-Government of Municipalities in Kosovo, 11 August 2000 [Internet]***

#### **Agreement reached on reconstruction of orthodox religious sites damaged during the riots of March 2004 (2005)**

- The Serbian Orthodox Church and the Provisional Institutions signed a memorandum of understanding on the reconstruction of Serbian Orthodox religious sites damaged during the events of March 2004
- An action plan was drafted for cooperation with the Council of Europe on cultural heritage
- A public awareness campaign on the importance of the cultural heritage sites of all Kosovo communities was started

#### **SG, 23 May 2005:**

"There is also encouraging progress in the area of direct dialogue on practical matters between Pristina and Belgrade following a hiatus of over 12 months, together with a declared willingness on the part of the political leadership in Belgrade to engage in this important process. A significant step forward on the crucial issue of cultural heritage in Kosovo was made with the signing by representatives of the Serbian Orthodox Church and the Provisional Institutions of a new memorandum of understanding on the reconstruction of Serbian Orthodox religious sites damaged during the riots of March 2004. Efforts by the international community in the area of restoration and reconstruction of cultural heritage in Kosovo, including through a donor conference, held in Paris on 13 May, are moving forward. Following an invitation to meet extended by President Boris Tadic of Serbia to President Ibrahim Rugova of Kosovo, my Special Representative has been working to arrange such a meeting." (...)

An action plan was drafted for cooperation with the Council of Europe on cultural heritage, including joint elaboration of a Heritage Policy 2006-2010 on preservation of cultural heritage and capacity-building for cultural institutions. A public awareness campaign started on the importance of the cultural heritage sites of all Kosovo communities. The inventory of cultural heritage sites



(*priority*) approached completion (90% of fieldwork in all 30 municipalities). Significant progress was made in inclusion of Orthodox sites in all municipalities. Work started to publish a catalogue of all monuments and heritage sites, and continued on a priority intervention list of 25 archaeological and architectural sites (Orthodox and Islamic) for restoration (the sum of €200,000 was allocated from the consolidated budget). An amount of €4.2 million was again allocated from the consolidated budget for initial reconstruction of Serbian Orthodox sites damaged in March 2004 (*priority*). A new memorandum of understanding (including a five-member committee to manage the reconstruction process) was signed by the Patriarch and the Government. A special minority recruitment drive increased minority employment (*priority*) to 14.7% in the Ministry of Culture, Youth and Sports, 22.3% in the Cultural Heritage Department, 3.1% in the central-level cultural institutions, and 11.1% in the regional level cultural institutions.”

### **Missing persons and the detained: towards a solution (2000-2002)**

- Last Kosovo Albanians detainees held in Serbia since 1999 were transferred in Kosovo in March 2002
- Families of missing persons from Kosovo face legal and administrative difficulties regarding property, pension, etc.
- According to the ICRC, about 3,700 persons are still missing in relation to the Kosovo crisis, including 860 non-ethnic Albanians
- Yugoslav-Serbian authorities and the UNMIK administration signed three protocols which provide common rules and procedures relative to the issue
- The Office on Missing Persons and Forensics was created in June 2002 in Kosovo but still needs more financial support

#### **UNMIK, 26 March 2002:**

"SRSG Michael Steiner announced today that all Kosovo Albanians remaining in Serbian prisons who so wished have been returned to Kosovo.

These were the last known Kosovo Albanians held in Serbia, since Yugoslav forces in June 1999 moved approximately 2,000 prisoners from Kosovo to other facilities in Serbia following the NATO airstrikes.

Securing the return of the prisoners has been a top priority for UNMIK since the mission began. Since then, most of the Kosovo Albanian detainees had either been amnestied or released following the expiry of sentences or after charges were dropped.

With the Common Document of 5 November, 2001, Yugoslavia and Serbia committed to returning all remaining Kosovo Albanian detainees."

#### **UN OCHA, 26 April 2002, pp. 25-26:**

"For hundreds of families of missing persons from Kosovo, who often live as displaced persons in Serbia or Montenegro, life has become a permanent nightmare. In addition to the difficulties faced by all IDPs, they have to cope with the drama of absence of their beloved ones, of the traumatic uncertainty about their fate. They also face specific legal and administrative difficulties due to the lack of legal provisions pertaining to the status of a missing person. The question of status then prevents them from resolving issues related to property, inheritance, marriage, adoption, or to receiving the salary or pension of the missing person.

According to ICRC records, 863 non-ethnic-Albanians (Serbs, Romas, Montenegrins, Bosniaks and others) are registered as missing in relation to the Kosovo crisis [42] . According to the

Coordination Centre for Kosovo, 1,518 non-ethnic-Albanians are missing. The discrepancy in numbers is because ICRC reports as missing only those persons whose families have approached ICRC for help. Ninety percent of the missing persons are men, who were very often breadwinners in their families.

The lack of access to Kosovo and freedom of movement inside Kosovo exacerbate their frustrations and anger over not being able to deal with their situation themselves. In response, the families have constituted themselves in the Association of Kidnapped and Missing Persons in Kosovo and Metohija, with its main office in Belgrade, and regional branches in Nis and Kraljevo in central Serbia, and Gracanica in Kosovo.

The Office for Refugees, Displaced and Missing Persons, under the President of FRY and the Coordination Centre for Kosovo, have set up structures pertaining to this issue to deal with the UNMIK administration. The Coordination Centre for Kosovo has established the bureau for kidnapped and missing persons, and the bureau for exhumation and identification, working in close co-operation with representatives of the Family Association. After long months of negotiations, the FRY/Serbian authorities and the UNMIK administration signed three protocols which provide common rules and procedures relative to joint identification work, cross-boundary transfers of mortal remains and joint verification of illegal detention places. Under these protocols, two initial joint exhumations have been carried out and several identifications made.

On behalf of the families of the missing, the ICRC has been lobbying at all authority levels for the clarification of the fates of the missing and provision of answers to their families. It has been submitting to them detailed confidential reports about the disappearances, urging them to investigate these cases. In collaboration with the Yugoslav Red Cross, it has also supported the work of the experts in charge of the exhumation/identification process, collecting information from the families, transporting family members for identification purposes, making available books of personal belongings found during exhumations. It has also been supporting the family association morally, financially and logistically. In co-operation with experts from the Belgrade Institute of Mental Health and others throughout Serbia and Montenegro, it has been providing counseling and psycho-social support to those in need among the family members."

[Footnote 42: ICRC also registered 2,907 Kosovo Albanians as missing]

**COE, 16 October 2002, paras. 58-60:**

"Sensitive to these concerns, the SRSG created a new Office on Missing Persons and Forensics in June this year, with the instruction to carry out the exhumation of all the remaining identified gravesites (some 270) by the end of the year. The full scale of the office's tasks, however, is easily told in figures: since 1999, some 4600 bodies have been exhumed, of which only 2100 have been identified. 2500 remain, therefore, to be DNA tested, leaving a further 1200 still to be located and exhumed. Whilst the full resolution of all these cases will undoubtedly take some time, it is of the utmost importance that progress should begin, and be seen, to be made.

The resources, both human and material, available to the Office on Missing Persons and Forensic are, however, manifestly incommensurate with the task of rapidly resolving all these cases. The Office estimated at 300,000 euros the sum required to complete the task it was set by the SRSG and to continue the process of the identification of the remaining corpses. This sum would contribute to the contracting of the necessary technical personnel and the purchase of basic equipment.

The paucity of the sum in relation to the importance of the issue has encouraged me to appeal to member States of the Council of Europe to contribute urgently to the resolution of this problem. A document entitled 'Missing Persons in Kosovo, Note by the Commissioner for Human Rights' was presented to the Committee of Ministers of the Council of Europe on 18 th September 2002."

***For more information on missing persons in connection with the Kosovo crisis, consult ICRC Family News Network [Internet: <http://www.familylinks.icrc.org/>]***

### **Concerns over the safety of Orthodox priests (2001-2002)**

- UNMIK deployed extra security measures at Orthodox religious sites
- Vandalism against religious buildings continues (2002)

#### **UK, October 2001, paras. 6.24-6.25:**

"Religion in Kosovo is often inextricably linked to ethnicity. Most ethnic Albanians are Sunni Muslims, but there is a Catholic minority who live mostly in the Southern and Western parts of the province. Serbs are almost exclusively Serbian Orthodox Christians.

Most ethnic Albanians are not strongly identified with their religion and their animosity against Serbs is essentially on the basis of ethnicity, with the difference in religion a coincidental factor. However, Serbian Orthodox churches hold symbolic significance and over 100 have been destroyed in retaliation for the mosques destroyed by the Serbs. UNMIK have taken steps to ensure that all religious communities could worship safely and deployed extra security at Orthodox religious sites. Nevertheless, there have been concerns for the safety of Orthodox priests and many have been forced to relocate."

***See also: "Visiting damaged Serbian church in Kosovo, UN envoy pledges action against religious vandalism", UN News Service, 17 November 2002 [Internet]***

## PROPERTY ISSUES

### Several obstacles affect the functioning of the Kosovo Property Agency (2009)

- Between the establishment of the KPA in 2006 and the deadline for the submission of claims in December 2007, over 40,000 claims were submitted, out of which 18,000 have been decided (as of July 2009). KPA estimates that it will finalize the adjudication of all property claims in 2010.
- Resolution of property disputes by the KPA is challenged by several problems: lack of funding, difficult relations with institutions such as the Kosovo police service, the Supreme Court of Kosovo, the Local Courts and the Kosovo Cadastre Agency
- KPA faces problems in implementing repossession claims through evictions. For instance, KPA has been unable to ensure that its decision was enforced in the case of properties own by Albanians in the northern part of Mitrovica, where the Kosovo Police service refused to cooperate and enforce the decision.
- The KPA allows the claimants to lodge an appeal against first instance decisions before the Special Chamber of the Supreme Court in Kosovo, but the panel of judges of the Special Chamber has not been appointed yet
- The decision of the Serbian Government to close the KPA offices in Serbia constitutes an additional complication for the resolution of property disputes, since KPA will not be able to conduct the evidence verification procedure in Serbia
- Currently, 3,500 claims are "on hold" due to the closure of the KPA offices in Serbia, but the number is growing since there are more than 10,000 in which KPA requested additional documents.

### UN SC, September 2009:

"EULEX property claims commissioners and EULEX Supreme Court judges who sit on the panel dealing with the Kosovo Property Agency-related appeals continued to work in accordance with their mandate. The claims commissioners are now moving forward with more complex cases. The local member of the Kosovo Property Agency Supreme Court panel has not yet been appointed. EULEX judges continued to work within the Special Chamber of the Supreme Court of Kosovo on privatization-related matters; however, there is only one local member of the Special Chamber of the Supreme Court, and a further six local members need to be appointed to the court."

### COE Commissioner for Human Rights, 2 July 2009, p.29-30:

"The KPA has three main functions: to receive, register and resolve claims on private immovable property, to enforce legally final decisions and to administer abandoned properties.[...]

The KPA is composed of three main bodies, namely an Executive Secretariat (ES), responsible for managing the claims process, the Property Claims Commission (PCC) an autonomous quasi-judicial body adjudicating the claims and a Supervisory Board (SB) providing oversight and policy guidance. The primary responsibilities of the ES include the collection and registration of claims and replies to claims and the processing of claims prior to their presentation for adjudication before the PCC.

The PCC is conferred with jurisdiction to adjudicate claims referred to it by the ES. Approximately 2 500 draft reports are sent to the PCC for decision every other month. As of May 2009, the PCC took decisions in 18 794 cases. Unlike the previous HPD/HPCC mechanism, parties can appeal against decisions to a Special Chamber of the Supreme Court, which is composed of two

internationals and one local judge. The decision of the Supreme Court is considered final. However, the Special Chamber mandated to hear such appeals is not yet fully functional, thereby blocking implementation and enforcement of PCC decisions.[...]

The Agency is dealing with just over 40 000 claims, out of which approximately 18 000 have now been decided. The majority of claims are by made by claimants of Serbian ethnicity and are not contested.

There are also reportedly around 20 000 compensation claims before Kosovo courts arising from the destruction of property in 1999 and 2000. These had been suspended by the UNMIK Department of Justice. A majority of these cases are claims against UNMIK, Kosovo authorities or KFOR, predominantly by Kosovo Serb displaced persons. They represent half of the backlog in the civil court system."

**Praxis, 10 June 2009:**

"The Kosovo Property Agency (KPA) does not allow the rights holder to be present during the forced eviction of the illegal occupant from his house, and does not vest his property in him by delivering the keys in front of the evicted house, but in the KPA office, and without issuing a certificate confirming that the eviction had been performed and the property sealed. The presence of the rights holder during the forced eviction and taking over of the keys on the spot is essential, since if absent, the rights holder will not enter into possession of his property in true sense of the word, he cannot be certain whether the illegal occupant had been truly evicted from his property, and does not have the opportunity to move into the house immediately and prevent re-occupation of his property.

KPA finds excuses for such practice in protection of security, even though the issue of security remains open even after the rights holder returns to his property. The above-mentioned shortcomings and problems have been noticed in the case of Slavko Vulic. For this reason, Praxis sent an appeal for urgent action to the UNHCR and OSCE, requesting their representatives to be present during the forced eviction of the illegal occupant and vesting the property in Vulic. However, the Appeal was sent in vain. UNHCR Pristina refused to be present during the eviction, while OSCE Mission in Kosovo did not even respond to it. On the other hand, the KPA does not even allow Vulic's legal representative to be present during the forced eviction. Such practice of the Kosovo Property Agency leaves space for manipulation and pressure.

This is exactly what happened to Vulic, who is being pressured to give part of his property to the illegal occupant, so that a house could be built for the illegal occupant and his housing issue resolved. In return, Vulic was promised that the illegal occupant would be finally moved out of his house."

**Praxis, March 2009:**

"KPA collected and registered property claims from April 2006 to 3 December 2007 when the deadline for submission of property claims expired. In just over a year and a half, KPA collected 39,927 property claims, mostly related to right of ownership on land. KPA/KPCC decided on undisputed claims for the most part by end of November 2008. Decisions were made in 16,659 cases of which 95% refer to right of ownership on land. KPA started executing the decisions only on 3 November 2008. Access of IDPs to this mechanism of resolution of property claims has been additionally complicated, if not made impossible, since June 2008 when the Government of the Republic of Serbia suspended the operation of KPA offices in Serbia. The Kosovo Property Agency will not be able to conduct the evidence verification procedure in Serbia. [...]

Since the evidence verification procedure cannot be conducted in Serbia due to the suspension of KPA mission in Serbia, the disputed cases requiring verification will not be resolved. Decisions

in these cases will not be taken. There are currently 3,500 of these claims that are "dormant", i.e. „on hold“. However, the number is growing by day as there are some 10,000 cases in which KPA requested the claimants to produce additional documents (supplement of evidence). Consequently, some cases will require verification of evidence in Serbia, while others will be disputable cases. The number of 3,500 "dormant" cases will thus increase. Furthermore, if the requested additional documents fail to be submitted to the KPCC (personally, by fax or post), the claims may be rebutted due to lack of evidence. In view of this situation, an occupant illegally using someone else's property or a third person, may submit a document forged in Serbia in order to contest the property right of the claimant, suspend the procedure and block the KPCC in passing a decision due to impossibility to verify evidence. Availing himself of this situation, an occupant will continue using someone else's property without impediments, while the internally displaced persons – claimants – shall be forced to conduct long court proceedings."

**USDOS, (Kosovo) February 2009:**

" As of December, the agency had received 40,065 total claims: 35,955 for agricultural property, 1,011 for commercial property, and 3,099 for residential property.[...]

The KPA remained unable to enforce 10 remaining HPCC decisions (of approximately 30,000) for properties located in northern Mitrovice/Mitrovica, due to concern by authorities that attempts at enforcement would lead to violence.[...]

On May 15, the SRSG reconstituted the HPCC under the KPA to examine requests for reconsideration in instances where the original claim had been denied. The HPCC resolved 12 requests for reconsideration originating from the old HPD mandate in its June and August meetings. Additionally, the Kosovo Property Claims Commission, a quasi-judicial arm of the KPA acting under the KPA mandate, resolved 14,088 claims by the end of August..

In June the law was amended to bring the KPA under the control of the government; the Serbian government subsequently suspended the KPA's access to cadastral and other relevant property records located in Serbia. The Serbian government announced that the suspension would continue until UNMIK reasserted its authority over the KPA. The suspension of the KPA's operations in Serbia significantly reduced the agency's ability to fulfill its mandate, since 90 percent of the claimants were located outside of the country. The suspension prevented access to the relevant archives and caused delays in claims adjudication. "

**KPA, November 2008:**

After completing its 9th session on 24th October, the Kosovo Property Claims Commission (KPCC) has adjudicated 16,658 out of some 39,758 property claims submitted to the Kosovo Property

Agency (KPA). The Agency will continue its work adjudicating the remaining 23,100 claims for private immovable property originating from 1998-1999 armed conflict. The 16,658 claims decided thus far amount to 41.9 percent of all claims which have been submitted to the KPA. 91.7 percent

of the decided claims are related to agricultural properties, 4.9 percent are related to residential properties and 0.07 percent is related to commercial properties. On its last session the KPCC decided some 2,593 property claims. It is expected that the KPCC which was inaugurated in June 2007, will finalize the adjudication of all property claims submitted to the KPA in 2010. The next KPCC session will be held on December 2008.

Claims adjudicated for KPCC session:

| 2007-2008     | KPCIC Session                    | Decided claims |
|---------------|----------------------------------|----------------|
| June 2007     | 1 <sup>st</sup> Session          | 498            |
| August 2007   | 2 <sup>nd</sup> Session          | 487            |
| October 2007  | 3 <sup>rd</sup> Session          | 528            |
| December 2007 | 4 <sup>th</sup> Session          | 1,833          |
| February 2008 | 5 <sup>th</sup> Session          | 2,403          |
| April 2008    | 6 <sup>th</sup> Session          | 2,556          |
| June 2008     | 7 <sup>th</sup> Session          | 2,850          |
| August 2008   | 8 <sup>th</sup> Session          | 2,920          |
| October 2008  | 9 <sup>th</sup> Session          | 2,593          |
| <b>Total</b>  |                                  | <b>16,698</b>  |
|               | <b>Less overturned decisions</b> | <b>40</b>      |
|               | <b>Grand Total</b>               | <b>16,658</b>  |

#### **UNIJA, October 2008:**

"It is quite unrealistic to imagine a successful outcome of the work of KPA in relation with private commercial and agricultural claims adjudication. Lack of funding and difficult relations with other institution (such as with the Kosovo 48. Police Service, the Supreme Court of Kosovo, the local courts, the Kosovo Cadastre Agency) make the resolution of those disputes harder and consequently the future of non-Albanian communities in Kosovo gloomier. Without the support of the Kosovo Police Service in the phase of evictions, with difficulties in accessing the archives of the Kosovo Cadastre Agency and the Municipal Cadastral Offices and without the appointment of a panel of judges in the Supreme Court dealing only with appeals against Property Claims Commission decisions, there will be no effective impact of the Commission on the life of minority communities in Kosovo."

#### **Ombudsperson Institution, July 2008:**

"New cases regarding private immovable property were introduced before the KPA and dealt with 38 000 agricultural and commercial registered property. It is expected that in a near future, the KPA Commission will issue decisions concerning 2000 complaints.

The HPD Commission had the power to decide on first instance and appeal level on cases, thus depriving complainants of their rights to obtain a legal remedy before local courts against the possible arbitrary decisions taken by the above-mentioned Commission. This raised serious concern with regard to the access to courts which is guaranteed by international human rights instruments applicable in Kosovo. Fortunately, UNMIK Regulation No.2006/10 on the Establishment of Kosovo Property Agency provides for the complainants' right to lodge an appeal against first instance Commission's decisions before the Supreme Court in Kosovo within the legal timeframe.

A panel within the Supreme Court in Kosovo, consisting of three judges, two internationals and one local, appointed by Special Representative of the Secretary General (SRSG), should review these complaints in appeal. However, so far the SRSG did not appoint such a panel to review complaints.

Out of all the conflict-related residential property claims inherited from HPD, there are 11 HPD Commission decisions that remain unimplemented by KPA and that have mainly to do with dwelling places situated in the northern part of Mitrovicë/Mitrovica. This situation is caused by the lack of cooperation by the police authorities that do not show any willingness to enforce the 11 above-mentioned decisions in north Mitrovica. Further, 19 other cases should be reviewed by a special KPA commission which has not been established yet.

In this regard, the Acting Ombudsperson denounced a *de facto* discrimination and called for the equal treatment of all citizens of the Republic of Kosovo who are in the same position. Indeed, until now, all those who own a property in Kosovo had the possibility to lodge a request for repossession of their properties with HPD or KPA and in most cases they managed to repossess their properties or decided to leave them under KPA's administration. However, concerning properties own by Albanians in the northern part of Mitrovicë/Mitrovica, HPD and its successor organisation KPA have been unable to solve the problem and ensure that their decisions be enforced."

**OSCE, September 2008, p.13-14:**

*"Between the establishment of the Kosovo Property Agency in 2006 and the deadline for the submission of claims in December 2007, almost 40,000 claims were submitted to this agency. The majority of these claims concern agricultural land belonging to Kosovo Serbs. The Property Claims Commission within the agency is mandated to decide on these claims. Approximately 11,000/53 of these claims have been decided by the commission. However, these decisions have still not been implemented because the panel to receive appeals related to the commission's decision is still not established. This paralyzes the property restitution process. The victims of this delay are successful claimants who cannot register property titles, as determined by the Property Claims Commission, and consequently cannot repossess their properties. The predecessor of the agency, the Housing and Property Directorate, faced problems in implementing repossession claims through evictions. Similarly, the agency will likely face problems when it attempts to implement its decisions, since the agency's mandate foresees identical remedies, including demolition of unlawful structures, seizure and auction and evictions*

*In summary, approximately 29,000 claims remain to be decided by the Property Claims Commission. Together with the approximately 11,000 "decided but non-implemented claims", close to 40,000 claims still remain to be fully dealt with by the Kosovo Property Agency.*

*In addition, the legacy of destruction of property resulting from the 1999 conflict was not addressed by either the international community or the local government. Moreover, as mentioned above in paragraph 9, Kosovo courts have not been able to adequately address approximately 18,000 claims for damages related to the conflict to property which belongs primarily to Kosovo Serbs since the UNMIK Department of Justice suspended consideration of these cases in August 2004.*

*In addition, there are more than 1,200 claims by Kosovo Albanians against the Republic of Serbia and/or Federal Republic of Yugoslavia for damages during the 1999 conflict which have not been resolved. Of these cases, over 700 have still not been processed by the judiciary, whereas 540 have been suspended by a court in Pejë/Pe\_*

*In total, these property claims and cases amount to approximately 59,000 (40,000 plus 18,000 plus 1,200), the vast majority of which involve Kosovo Serbs, whose properties were damaged, destroyed or illegally occupied as a result of the conflict and have not yet been addressed or settled."*



### **Closure of KPA offices in Serbia increases obstacles to solve IDPs property claims (2009)**

- During the 1999 conflict , part of the municipal and central records from Kosovo were displaced to Serbia
- In June 2008, the authority concerning the work of the Kosovo Property Agency was assigned to the International Civilian Representative
- Serbian authorities, who do not recognize the International Civilian Representative, suspended the operations of the KPA offices in Serbian cities
- As a consequence, KPA does not have access to those displaced cadastral records and faces obstacles in delivering decisions to displaced persons concerning their property claims
- Currently, 3,500 claims are "on hold" due to the closure of the KPA offices in Serbia, but the number is growing since there are more than 10,000 in which KPA requested additional documents.
- Some NGOs involved in return projects manage to obtain documents from Serbia and re-register the property in the cadastres in Kosovo.
- Kosovo authorities, supported by the international community, are currently digitising the cadastral registry in Kosovo in order to create a new cadastre where citizen of Kosovo could re-register their property.

#### **COE Commissioner for Human Rights, 2 July 2009, p. 28:**

"The situation is also aggravated by the displacement of municipal and central records to Serbia at the height of the conflict in 1999. Since the cadastral bodies in Serbia and Kosovo do not cooperate with each other, there is no exchange of records or mutual recognition of issues documents. Ownership certificates taken from property registers are not always authentic or updated. Ten years after the conflict, only a very small number of internally displaced persons have returned to their homes".

#### **CoE Commissioner for Human Rights, 2 July 2009, p. 30:**

"On 19 June 2008, the Serbian government suspended the operations of the KPA offices in Serbian cities. This has made it nearly impossible for the KPA to verify documents in Serbia, contact claimants, and communicate to the parties the results of the adjudication process.[...] The Commissioner regrets the fact that the KPA is unable to fulfil its mandate for the benefit of all communities, including the Serbian community, following the closure of its regional offices in Serbia."

#### **USDOS (Kosovo), February 2009:**

"In June the law was amended to bring the KPA under the control of the government; the Serbian government subsequently suspended the KPA's access to cadastral and other relevant property records located in Serbia. The Serbian government announced that the suspension would continue until UNMIK reasserted its authority over the KPA. The suspension of the KPA's operations in Serbia significantly reduced the agency's ability to fulfill its mandate, since 90 percent of the claimants were located outside of the country. The suspension prevented access to the relevant archives and caused delays in claims adjudication."

#### **EC,(Kosovo), November 2008, p. 22:**

"Cadastre departments of Kosovo's municipalities lack property documentation, and archives have not been harmonised, which results in complications for the verification of property rights of displaced people and Kosovo Albanians. NGOs working on return-related projects manage to obtain documents from Serbia and re-register the property in the cadastres in Kosovo, but this cannot be done by individuals without assistance."

**OSCE, September 2008, p. 14:**

"On 13 June 2008, the Assembly adopted a law which reassigned UNMIK's authority concerning the work of the Kosovo Property Agency to the International Civilian Representative. The adoption of this law raises concerns about the future co-operation of the Serbian government with the Kosovo

Property Agency, since Serbian authorities do not recognize the International Civilian Representative. On 19 June 2008, the Serbian government suspended the operations of Kosovo Property Agency offices in Serbian cities, claiming the agency has not dealt with the issue of protecting the rights of Serbian citizens whose properties were confiscated in Kosovo.<sup>47</sup> The effect of this lack of co-operation is that the Kosovo Property Agency does not have access to displaced cadastral records. During the conflict of 1999, 20 percent of textual data and 30 percent of cadastral maps pertaining to different municipalities were displaced to Serbia proper. In addition, the Kosovo Property Agency will face obstacles in delivering decisions to displaced persons concerning their property claims, due to the closure of the agency's offices in Serbian cities."

**Ombudsperson Institution, July 2008, p. 57-58:**

"[C]adastre offices in Kosovo often lack proper documentation from the Yugoslav period and the ownership of an important number of properties can not be corroborated. Obtaining such documentation (either documents stating the ownership right or the cadastral plan) is still difficult and can only be effected informally through the help of lawyers working in the Court Liaisons Offices and through local legal aid NGOs such as CRPK in Kosovo or Praxis in Serbia. Taking the matter to the competent courts will often lead to lengthy proceedings due to the difficult collaboration on these matters between UNMIK, the former PISG and the Courts in Serbia. There are little chances that the situation will improve after the Declaration of Independence, thus making the selling and buying of properties even more difficult.

Furthermore, prior to 1999, many property transfers were realised but not included in the cadastral records due to the costs associated with the record proceedings in the cadastral registers. As a result, a property could be sold three times and still be registered under the name of the initial owner. Officials working at the cadastral offices refuse to accept the validity of such transfers if they are not documented in the cadastral records. This is the case even if the property is not in dispute and the property transfer can be proven by cadastral documents stamped by the city archives. Such issues could be resolved if more flexible guidelines were applied by cadastral offices allowing for other forms of evidence to prove that property transactions took place.

**COHRE, 31 March 2008:**

Ongoing efforts to regularise mahallas/informal settlements are proceeding parallel to efforts by Kosovo authorities to upgrade, improve and digitalise the cadastral registry. European Council Decision 2006/56/EC defines as a key priority: "Complete legislation and actions to safeguard property rights notably on ownership possession; occupancy and rights to residential and nonresidential property including the legislative framework to regulate construction. Harmonise municipal regulations and establish a mechanism for the effective resolution of commercial and agriculture property disputes. Increase public awareness on consequences of illegal construction."

The cadastral registry in Kosovo has been the subject of high-level political engagement, since major parts of it were taken to Serbia by Yugoslav forces during the June 1999 withdrawal. Return of the cadastre is envisioned as part of the status settlement. However, since property

records also exist at Kosovo's administrative courts, efforts to build a comprehensive cadastre are also proceeding independent of status talks. An ongoing project, supported by the international community, is currently digitising the cadastral registry in Kosovo. A representative of the Kosovo Cadastral Agency – the central coordinating body for Kosovo's cadastral registries – recently described these efforts as making a “new cadastre” in which “all citizens of Kosovo will have to come forward to reregister their property”

### **Deadline for the submission of claims to the KPA too short for many IDPs (2009)**

- The deadline for the submission of property claims to the KPA set for December 2009 was announced by the Special Representative of the UN Secretary General for Kosovo only six months earlier
- A certain number of IDPs with limited access to information were not aware of the deadline and did not fill their claims
- The UN Committee on Economic Social and Cultural Rights recommended UNMIK to review its regulations in order to allow displaced claimants to submit their claim through transitional arrangements
- In January 2008 NGO Praxis submitted a request to the UN Secretary General for Kosovo to extend the 2007 deadline
- In his response, the UN Secretary General stated that the Board of the Kosovo Property Agency would meet to consider a possible re-opening of the claim-intake

#### **Praxis, March 2009:**

"A specific type of problems of IDP is related to exercise and enjoyment of property rights through the Kosovo Property Agency (KPA), in charge of receipt and registration of property claims as well as through the Kosovo Property Claims Commission (KPCC) in charge of resolving these claims.

KPA was established on 4 March 2006 by the UNMIK Decision 2006/10. The UNMIK Regulation 2006/50 (of 16 October 2006) regulates the procedure before this institution. In addition to the Kosovo Supreme Court, KPA has an exclusive jurisdiction for resolving property disputes related to real estate – disputes resulting from the armed conflict between 27 February 1998 and 20 June 1999. UNMIK Regulation 2006/50 does not define the deadline for submission of property claims. The deadline was set by the Special Representative of the UN Secretary General for Kosovo in an Administrative Instruction of 1 June 2007 – only six months before the expiry of the deadline. All the persons who lost possession of their real estate in Kosovo (housing, land, commercial property) could file a property claim with the Kosovo Property Agency no later than 3 December 2007.

On the basis of the information available, there are grounds to doubt that a certain number of IDPs in Serbia did not file their claims within the prescribed timeframe for justified reasons. First of all, many people were not aware of the deadline for filing claims as the information thereon was not duly and fully available to the displaced population in remote collective centres and settlements including the extremely vulnerable categories of the displaced population: the poor, the elderly and the ill, single mothers, members of minorities and persons without documents. [...]"

#### **UN Committee on Economic, Social and Cultural Rights, 19 November 2008:**

"The Committee notes with concern that the deadline for the submission of immovable property claims to the Kosovo Property Agency reportedly precluded many internally displaced persons with limited access to information about the deadline from filing their claims.[...] The Committee

recommends that UNMIK review Section 8 of its Regulation 2007/8, with a view to making transitional arrangements for displaced claimants who were unable to comply with the December 2007 deadline for submitting immovable property claims to the Kosovo Property Agency due to limited access to information about such deadlines. "

**Praxis, 18 January 2008:**

"As a response to Praxis' Appeal for Extension of Deadline for Submitting Property Claims to the Kosovo Property Agency, launched on 4th December 2007, Praxis received a letter from the Special Representative of the UN Secretary-General for Kosovo and Head of UNMIK, Mr Joachim Rucker on 18th January 2008.

In the letter Mr Rucker informed Praxis that, at the time, preparations were under way to convene a meeting of the Supervisory Board of the Kosovo Property Agency, consisting of 5 members, out of whom three are representatives of international community and two are Kosovo residents, who were in the process of being nominated by the Prime Minister of Kosovo. As Mr Rucker stated, once all necessary appointments were made following the formation of the Government of Kosovo, the Board would convene and the issue of a possible re-opening of the claim-intake considered, of which Praxis would be informed."

**Owners of property not claimed through the KPA still burdened with the payment of bills charged to their properties in their absence (2009)**

- In May 2008, UNMIK issued an administrative decision exempting property claimants from paying their utility bills when their property was under KPA administration
- However, IDPs whose properties were not under KPA administration have to pay the bills charged on their properties while they were illegally occupied.

**COE Commissioner for Human Rights, 2 July 2009, p.29-30:**

In May 2008, UNMIK issued an Administrative Direction exempting property right claimants from paying utility bills accrued over periods when their properties were under KPA administration or where a tenant under the rental scheme failed to pay these bills. However, there are no measures to ensure that the same applies to owners of properties not claimed through the KPA. Therefore, displaced persons who have not had the opportunity to claim their property through the KPA are burdened with the payment of bills charged to their properties while those properties were or are still illegally occupied."

**Many sales are conducted on the basis of forged documents (2007-2009)**

- A significant number of sales of property belonging to IDPs have been sold without their knowledge on the basis of forged documents
- Due to their physical absence, IDPs were not aware of such transactions and discovered it only after some time had passed
- Once the transaction is entered into the cadastres it has legal effect and IDPs are thus deprived of their rights

- The HPD advised the owners to initiate a court procedure to request the invalidation of the fraudulent property transaction, but the results have been very poor due to repeated postponements and backlogs in the courts
- In some cases the courts in Kosovo openly obstructed the course of the proceedings avoiding to decide on claims
- In other cases, the police refused to support the positive courts decision and IDPs could not repossess their properties
- Falsified document obtained from the parallel Serbian Courts cannot be verified by Kosovo Courts, as a result the same property can be sold several times to different individuals.
- Judges working for the parallel Courts funded by Serbia proper accept bribes to register sales contracts with incorrect dates
- EULEX judges have taken over 16 cases involving allegations that property had been transferred on the basis of forged documents

**UN SC, September 2009:**

"EULEX judges working in civil justice in the district and municipal courts in Kosovo have taken over 20 civil property cases, including 16 cases involving allegations that property has been transferred on the basis of forged documents. The majority of these cases have an inter-ethnic dimension."

**OSCE, August 2009:**

The OSCE has identified a significant number of sales of property belonging to Kosovo Serb displaced persons that have been sold without their knowledge. The means by which these properties have been sold varies but includes falsified powers of attorney, personal identification documents, and court stamps. Given their absence, displaced persons do not become aware of such transactions until after some time has passed. [...]

These fraudulent transactions have enabled perpetrators to sell property on behalf of or "personally" by the owners who remain displaced from Kosovo and have not consented to the transaction. Transactions have being conducted on the basis of forged documentation that results in serious human rights violations constituting an impediment to return and property restitution for displaced persons.

According to HPD [Housing and Property Directorate) data, there are 70 cases where the HPD suspects criminal activity. It must be emphasised that the HPD dealt only with residential property and not with agricultural or commercial property, which are the subject of claims filed with the Kosovo Property Agency (KPA) and which are being brought before the Kosovo Property Claims Commission (KPCC). Bearing in mind that the cases filed with the KPA may unearth evidence of similar alleged criminal activity, the OSCE is concerned that the number of alleged fraud related to real estates other than residential property could be significantly greater.

The HPD managed to ascertain the pattern of fraud and the titles of most of the residential premises affected throughout Kosovo were awarded to the rightful owner. However, the problem that remains is the need for invalidation of the fraudulent transactions in court and cadastral records. This was not in the mandate of HPD. Once a property title is certified by a court or the cadastre it has a legal effect. Theoretically in two or three years the possessor of a counterfeit contract that has been certified by a court and/or registered in the cadastre could again initiate the court procedure requesting repossession.

For this reason all owners were advised by the HPD to initiate a court procedure in which they would request invalidation of the alleged fraudulent property transaction. The results are however very poor. According to the Danish Refugee Council's Legal Assistance Programme in Serbia, out of 49 cases registered by them four procedures were concluded so far. There could be several reasons for these delays. Civil proceedings can take a long time, and many courts have heavy caseloads with significant backlogs.[...]

The OSCE knows of approximately 40 civil cases in the Pejë/Peæ region in which plaintiffs allege that their immovable property was sold through the use of falsified documents. Those proceedings generally involve the plaintiff asking the court to void the sale and order the cadastre to correct its records. The victims of such illegal transactions are usually displaced persons, mostly Kosovo Serbs, whose absence from Kosovo makes them and their property particularly susceptible to such crimes. Victims also include buyers of these properties, who may not have known they had purchased the property from someone other than its rightful owner.[...]

As with many other civil disputes, proceedings on fraudulent property transaction cases frequently suffer recurring delays. Repeated postponements, continual summoning problems, and change in the legislation mean many of these cases have dragged on for five or more years; some have yet to make it out of the preparatory stage. The issue of unreasonably long proceedings, besides being a concern in itself, also bears a direct impact on a plaintiffs' right to the peaceful enjoyment of their properties in so far as it delays annulment procedures and precludes the full exercise of displaced persons' ownership rights.[...]"

**Praxis, March 2009:**

"On the other hand, those IDPs who manage to access the cadastres in Kosovo directly or through a proxy face an entirely new group of problems. The issuance of certificates from cadastres is conditioned by payment of tax on absolute rights. Furthermore, in many cases, Kosovo authorities have entered rights into the cadastres on the basis of forged contracts or other invalid documents. When such a case is identified, an IDP whose right to property has been violated is usually deprived of insight into the forged documents used as basis of change of data in the cadastre. [...]"

With reference to passing decisions on requests of IDPs, it must be noted that the time necessary for bringing court decisions is extremely long. In some cases, specially in court procedures for establishment of nullity of contracts concluded on the basis of forged powers of attorney and other documents that served as basis for registration of right to real estate, the courts in Kosovo openly obstruct the course of the proceedings, avoiding to decide on claims although all the necessary documents are available to them. Finally, in numerous cases when IDPs received a positive final court ruling, they were unable to enter into possession of their property due to refusal of Kosovo police to support the courts in executing their decisions."

**USDOS, (Kosovo), February 2009:**

"In some cases Kosovo Serb property was reportedly sold by persons falsely claiming to be their attorneys and presenting forged documents in court; in situations where the rightful owners did not live in Kosovo, such fraud went undiscovered for months. "

**Ombudsperson Institution, July 2008, p. 25:**

"The Ombudsperson Institution continued to receive complaints concerning the conflicting judgments issued in property cases because of falsified documents and falsified contracts obtained from the parallel courts as it appears that some judges working for the these courts accept bribes to register sales contracts with incorrect dates (prior 1999) and using the Yugoslav stamp. In such cases, courts in Kosovo have no proper procedure in place to verify the

authenticity of documents submitted to evidence property transfer and as a result, it happens that the same property is sold several times to different individuals. "

**Ombudsperson Institution, July 2008, p. 56:**

"In June 2008, the Deputy Executive Director of the KPA initiated a complaint before the Public Municipal Prosecutors Office in Prishtinë/Priština against 26 cases where false documents had been presented to support complaints registered with the HPD. This practise had been denounced by the Ombudsperson Institution in previous annual reports. This initiative contributed in increasing the confidence of the population towards this agency."

**Ombudsperson, 11 July 2007, p.53:**

"In cases where people prefer to sell their properties rather than having them administered, there have been many instances of fraudulent transactions; authorisation letters for legal representatives are often forged, and sometimes house-owners living outside Kosovo (mainly of them displaced Serbs) do not know that their properties have been sold in their absence. Other forms of fraudulent transfers include falsified contracts, authorisation letters and identity papers. The large number of fraudulent documents circulating in Kosovo has led to considerable confusion regarding ownership. In some cases, three or four parties or individuals claim ownership of the same property. Along with the falsification of documents, many properties are being sold under duress. If the person wishing to buy the property has influence and power, there is little that a court can do to help the property owner."

**Ombudsperson, 11 July 2007, p.24:**

"In terms of property disputes, it is alarming that the courts in Kosovo have no proper procedure in place to verify the authenticity of documents submitted to evidence property transfers. As a result, many property transfers are conducted on the basis of falsified documents, and especially falsified contracts, authorisation letters, or identification papers. It appears that in some cases, judges working for the parallel courts funded by Serbia proper accept bribes to register sales contracts with incorrect dates. Using the Yugoslav stamp, these judges then stamp such contracts with a date prior to 1999 when in fact the property transfer took place after 1999 or, in the worst case, when the owner of the property did not wish to sell at all."

**USDOS, 6 march 2007:**

"In some cases, Kosovo Serb property was reportedly sold by persons falsely claiming to be their attorneys and presenting forged documents in court; in situations where the rightful owners did not live in Kosovo, such fraud went undiscovered for months".

**Land and property continue to be illegally occupied (2009)**

- Illegal occupation of land and real estate remains widespread
- Kosovo Serbs in the northern part of Mitrovica continue to occupy Kosovo Albanian properties, while Kosovo Albanians in the southern part occupied and denied access to properties to Kosovo Serbs
- There have been reports of Kosovo Albanians destroying private property belonging to Kosovo Serbs
- Properties belonging to IDPs are sometimes occupied by KFOR members, which are under the United Nation jurisdiction
- Illegal occupation remains widespread are requires positive actions from local authorities

- Some positive declarations of local authorities against illegal occupation should be reinforced with acts and sanction of such acts

**USDOS, (Kosovo) February 2009:**

"Kosovo Serbs in the northern part of Mitrovica/Mitrovica continued to occupy Kosovo Albanian properties, while Kosovo Albanians in the southern part occupied and denied Kosovo Serbs access to their property. [...]"

On June 2, OSCE reported that a Kosovo Serb man attempted to visit his property in Decan/Decani with members of a UNDP team planning to help reconstruct his home. However, when the man arrived at his property, a Kosovo Albanian neighbor, who was unlawfully using the property in the owner's absence, prevented the group from entering. Although the local mayor attempted to mediate the dispute, the parties reached no resolution by year's end. [...]"

During the year there were regular reports of Kosovo Albanians destroying private property belonging to Kosovo Serbs; some violence against Kosovo Serbs may have been attempts to force them to sell their property. [...] There were numerous reports that Kosovo Serbs had difficulty accessing their property, which was sometimes occupied or used by Kosovo Albanians. For example, on June 16 in Vushtrri/Vucitrn, a Kosovo Serb reported to the KPS that a Kosovo Albanian man had been illegally occupying his farmland for the previous eight years and that he could not access it. Police brought the suspect to the station and subsequently released him after an interview.

On April 2 in Kline/Klina, a Kosovo Serb reported that his property had been taken over by a Kosovo Albanian man. No further information on this case was available."

**UNIJA, October 2008, p. 38:**

"A great portion of land and real estates belonging to IDPs (in particularly to Serbs) continue to be illegally occupied."

**EC Commissioner for Human Rights, 2 July 2009, p. 30:**

"Despite efforts made by the KPA and the courts, there is still no adequate and effective protection of property rights in Kosovo. Illegal construction, occupation and expropriation remain the rule rather than the exception, despite the legislation in place. Urban planning and development policies are also lacking in a majority of municipalities. The Ombudsperson Institution has been active in responding to numerous complaints about illegal construction, occupation and its effects on the neighbouring areas, as well as the issue of expropriations."

**OSCE, September 2008:**

"Almost nine years after the conflict, a large number of properties remain illegally occupied, despite the resolution of almost 30,000 residential property cases as of summer 2008."

**Praxis, March 2009:**

Real estate that belong to internally displaced persons – houses and apartments, most often– are in many cases illegally occupied by KFOR members. Sometimes the owners are paid for use of their property but in the majority of cases, KFOR members refuse to do it. Although it is unquestionable that the request of IDPs to be ensured unimpeded enjoyment and protection of property rights is legally founded, they continue to suffer violations of their rights due to complicated instruments of legal protection.



Namely, in a certain number of cases of illegal occupation, IDPs turned directly to the competent agencies of states of origin of the KFOR soldiers. However, according to the expressed understanding of these states, the responsibility for the unjustified occupation lies entirely on the United Nations because the national contingents of KFOR soldiers have been placed under international command, and they represent executive elements of the UN Mission in Kosovo. Some of these procedures before the national judiciaries have not yet been finalized, so their outcome remains to be seen.

On the other hand, the requests of IDPs related to illegal occupation of their real estate were subject to an opinion of the European Court for Human Rights. Thus, in the case *Gajij vs. Germany* (number of petition 31446/02), relying on the conclusions made in cases *Behrami vs. France and Saramati vs. France, Germany and Norway* (numbers of petitions 7412/01 and 78166/01) – the Court pronounced the claim inadmissible and proclaimed to have no jurisdiction *ratione personae*, confirming that the activities of KFOR members were within United Nations jurisdiction.

**COE, 24 May 2007, para.90:**

"90. Progress in the reconstruction of Albanian homes has not ended the widespread illegal occupation. An estimated third of all evictions of temporary occupants are followed by either immediate re-occupation or looting."

**SG, 14 February 2005, par.61:**

"Widespread illegal occupation and use of property continues. (...). Respect for HPCC decisions, and property rights, remains low: 1,003 of 1,669 of successful category C claims that led to repossession by the rightful owners required enforced evictions. Over 6,000 properties remain under HPD administration. Although the police responded positively to all requests for support for property-related decisions, there is little evidence of proactive enforcement (a priority). Municipalities have not used police support or other powers to prevent or sanction illegal occupation (a priority): only two municipality requests for police support were made during the quarter. Public use of the police for property-related issues is low: 38 property-related complaints were filed with the police over the reporting period, compared to 5,163 property-related cases received by the civil courts in the first half of 2004. Clear policy guidance on addressing illegal occupation and other property-related cases (aside from activity related to the March 2004 violence, on which guidance already exists), and a comprehensive, coordinated approach by municipal authorities, courts and the police are needed."

**SG, 23 May 2005:**

"Political leadership against illegal occupation and use of property increased markedly through statements by the former and current Prime Ministers, Ministers and municipal leaders. A working group was created to develop a public information campaign on illegal occupation and use, illegal construction and informal settlements (...)."

**Illegal occupation of land and non prosecution of crimes against property hamper the economical sustainability of returnees (2009)**

- Crimes committed against property and movable personal estates necessary for working are rarely prosecuted
- Land is often illegally occupied or the owner does not dare to travel to the field due to real or perceived insecurity

- The possibility for minority members and especially for returnees in rural areas to gain their living by work is undermined
- Many inhabitants of returnee villages do not have access to their land and have to rely on social assistance

**UNIJA, October 2008:**

"Crimes against property and movable personal estates necessary for working, in particular "theft of livestock and agricultural equipment belonging to minorities and illegal use of agricultural land — are rarely prosecuted. In this way, the right to work and the possibility for minority members to gain their living by work is seriously undermined. This reinforces the sense that criminals can operate with impunity" and hampers the economical sustainability of the minority communities in Kosovo. The fact that the authorities and judiciary in Kosovo were not that effective in prosecuting these types of crimes had very bad repercussions on returnees, especially in rural areas, as they are basing their survival on the agricultural machines donated by the international donors.

Case study: Theft of agricultural equipment

Since 2001, approximately 350 cases of theft of agricultural equipment belonging to returnees happened in the area of Osojane, Klina, Suvi Lukavac, Vidanje and Kos. The majority of cases were reported to the Kosovo Police Service (KPS) and to KFOR representatives (in this case, the Spanish contingent). According to local returnees and their representatives, only one case was solved until 2008, undermining in this way their economic self-sustainability capacities and their chances to work and live in their places of origin."

**Ombudsperson Institution, July 2008, p. 42:**

"Serbs and Roma in enclaves and in northern Kosovo who do work, are often employed in parallel institutions of administration, education and health care financed by the Government of the Republic of Serbia. However, for a large number of members of these communities, the main source of income continues to come from agriculture, when their agricultural lands are located close to their villages. Agricultural lands that are further away generally remain not cultivated, either because the owner of the land has a real or perceived fear for his safety or because it is occupied by third persons. Therefore, a considerable number of people from these communities rely on social assistance and, to a lesser extent, on humanitarian assistance by international organizations and organizations financed by the Republic of Serbia. "

**Legalizing informal settlements: a precondition to social integration and access to rights (2007 - 2009)**

- Roma, Ashkali and Egyptians face particular obstacles in gaining access to or reconstruction of their properties due to the informal nature of their property rights
- Members of these communities do not possess documents proving their property rights as Roma settlement were often constructed on municipal lands without obtaining prior authorisation or were never registered in the cadastral registers
- Informal settlements only provides sub-standards living conditions which marginalise their inhabitants
- The absence of legal residence prevents access to a wide range of basic rights, from social welfare to access to justice
- A regional conference on formalizing informal settlements of Roma took place in June 2004

- The Strategy for Roma, Ashkali and Egyptians, developed in 2006 and including provisions regarding legalisation of informal settlement, has been adopted in December 2008 and is in force.
- However, concrete action plans for its implementation have not been adopted as of July 2009.

**COE Commissioner for Human Rights, 2 July 2009, p. 24:**

"Another crucial issue relates to property, that is documentation, assertion and the legalisation of informal communities. Traditionally, Roma and other settlements were constructed on municipal lands often without obtaining prior authorisation and never registering their property rights. This makes it difficult for municipalities to recognise the right to property in such cases. For those Roma, Ashkali and Egyptian IDPs who wish to return to Kosovo and hope for the reconstruction of their destroyed homes, the municipalities should regularise their previous informal settlements.

The Strategy for the Integration of Roma, Ashkali and Egyptian Communities in the Republic of Kosovo 2009-2015 was adopted on 24 December 2008 and is in force. It was initiated by the OSCE Mission in 2006 and developed under the umbrella of a memorandum of understanding between the Office of the Prime Minister, the OSCE Mission and the Kosovo Foundation for Open Society (Soros Foundation). The three partners have provided expertise and ensured the participation of the three communities into the strategy development as well as the participation of experts from the lines ministries and the international communities. The Kosovo Ministry of Education adopted its part of the Strategy at the end of 2007. However, concrete Action Plans for the implementation of the Strategy have not yet adopted. The Commissioner encourages the prompt adoption of the Action Plans and the creation of a body within the government which is in charge and responsible for their implementation."

**Ombudsperson Institution, July 2008, p. 58:**

"Members of Roma, Ashkali and Egyptian communities have difficulties to provide documents to prove their property rights as traditionally they either never registered their property in the registers or constructed their houses on municipal lands without obtaining prior authorization and without paying particular concern about ensuring that their property rights over their houses is guaranteed. In such cases, it is usually considered that they only have a right to the possession of their houses. It is thus more difficult for municipalities to be likely to recognise the right of property in such cases and there is a need to regularise these informal settlements, especially in the cases of displaced persons who want to return to Kosovo and hope for the reconstruction of their destroyed houses."

**Ombudsperson Institution, July 2008, p.44:**

"The joint strategy for the integration of Roma, Ashkali and Egyptian communities in Kosovo initialized in autumn 2006 and developed by the Office of the Prime Minister, the OSCE Mission in Kosovo and the Kosovo Foundation for an Open Society, has been finalized in June 2008. The strategy was developed in co-operation with relevant ministries and Roma, Ashkali and Egyptian representatives addressing key areas for integration such as education, employment and economic empowerment, housing, health, political participation and representation, the specific situation of displaced persons and refugees, the return of failed asylum seekers, registration, the situation of women, discrimination, culture and media. As mentioned in the previous annual report, the Government of the Republic of Kosovo will need to actively demonstrate its strong willingness, including the allocation of the needed budget, to implement this strategy in order to ensure its success. At that stage, the Advisory Office for Good Governance is still finalizing the action plans to implement the strategy."

**COHRE, 31 March 2008:**

Under international pressure, the period from 2003 has seen an increase in the engagement of the government institutions in Kosovo to regularise “mahallas”, in policy terms called “informal settlements”. These issues have been included in Kosovo’s European engagements. European Council Decision 2006/56/EC of 30 January 2006 on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999 and repealing Decision 2004/520/EC, sets out, among key priorities with respect to Kosovo, “Regularise informal settlements. Find sustainable repatriation solutions for the integration of Roma minority communities that are living in hazardous living conditions in camps and for internally displaced persons groups living in informal centers”.

Accordingly, these matters are operationalised in Priority 31 of the Kosovo Action Plan for the Implementation of European Partnership 2006, which sets out ten specific actions for a range of institutions in Kosovo, including in particular the Ministry of Environment and Spatial Planning (MESP) (several departments), the Ministry of Local Governance Administration (MLGA), the Kosovo Assembly (AoK) and municipalities. A number of pilot initiatives are ongoing, led at the central level by the MESP, with the assistance of a number of agencies, most notably UN HABITAT. Pilot initiatives to date focus on settlements in Gjakove/Djakovica, Pec/Peja, Gjilan and Mitrovica. These matters are proceeding despite an inadequacy of data on informal settlements, either currently existing or pre-conflict. There are genuine concerns at the willingness of the government to continue with these reforms after the independence of Kosovo, declared in early 2008. There are also concerns at the capacity of central government in Kosovo to persuade local authorities to implement these central policies.

**OSCE Mission in Kosovo, 15 February 2008:**

"Conflict related destruction of informal settlements should in no case lead to further segregation of Kosovo Roma, Ashkali and Egyptian communities. Displaced persons who lived in informal settlements need special measures of land regularization in order to protect their housing rights. "

**UNMIK, 15 December 2003:**

“Roma, Ashkali and Egyptian communities also face particular difficulties regaining access to their homes due to the sometimes informal nature of their former property rights. Many RAE settlements were constructed without official consent on state-owned lands, including on the properties of State-Owned Enterprises (SOEs). It was also common in the past for RAE private landowners not to register their properties with municipal cadastral offices once they had purchased or inherited private properties. As a result, no records exist of these transactions or of individual ownership/occupancy rights in many cases. Given that so many informal settlements have been destroyed wholly or in part, potential RAE returnees lack the documentation necessary to prove former occupancy rights and obtain reconstruction assistance. Additionally, some municipalities have targeted informal settlements on state lands specifically for public development projects, such as recreational parks and cemeteries.”

**OSCE, July 2004:**

“Informal settlements are human settlements that do not enable citizens to enjoy their right to an adequate standard of living, particularly to adequate housing. People who live in informal settlements – especially those belonging to the most vulnerable groups, including Roma, Ashkali and Egyptians – are marginalized from the larger community. They are more prone to suffer violations of their human rights and are not given the opportunity to fully participate in governance. In particular, inhabitants of informal settlements do not enjoy justiciable rights to access and use land and property, providing them protection from human rights violations such as forcible, extra-judicial evictions. The improvement of living standard and infrastructure for all citizens of Kosovo in general, and those living in informal settlement in particular, will make

Kosovo a better place to live. As the Prime Minister said, "a democratic Kosovo will have a good prospective only when the freedom, equal rights and opportunities are guaranteed for all citizens."  
(...)

The OSCE Mission in Kosovo and the Prime Minister of Kosovo, Bajram Rexhepi, presented the final document of a major regional roundtable on informal settlements of Roma and other vulnerable groups. This document was the product of "Working Regional Roundtable in Formalizing Informal Settlements of Roma and other vulnerable groups," which was presented by the head of the OSCE Mission in Kosovo, Ambassador Pascal Fieschi and Kosovo's Prime Minister Rexhepi on 15 June 2004 in Prishtinë / Priština.

The most acute problems inhabitants of informal settlements face are being exposed to informal or insecure tenure, inadequate access or deprivation of access to basic services, inadequate or deprivation of participation in governance and vulnerability to discrimination. Formalizing informal settlements would be very important for the protection of human rights of their inhabitants.

The document carries eight overall findings, pointing out that central and local governments have obligation under international law, particularly of the right to adequate housing, to ensure that the situation of inhabitants in informal settlements is improved. The paper helps to set out a policy framework for the region's governments to improve the situation of those living in informal settlements. Currently, they do not fully enjoy the right to adequate housing and property; do not always have equal access to services or participation in government. They often live in makeshift houses, in areas lacking proper roads, reliable sources of electricity, clean water and sanitation. "Bearing in mind the importance of informal residences for the existence of ethnic and racial communities, we engage ourselves in considering the possibilities that, when it becomes possible, to officially formalise these settlements," Prime Minister [Bajram Rexhepi stated]".

**SG, 29 June 2007, Annex, par.72:**

"The action plan on informal settlements needs to be drafted and implemented"

**SG, 9 March 2007, Annex, par.75:**

" A joint initiative of the United Nations Human Settlements Programme (UN-Habitat), the Organization for Security and Cooperation in Europe (OSCE) and the Provisional Institutions is setting the basis for a long overdue action plan on informal settlements in consultation with affected communities."

**Ombudsperson, 11 July 2007, pp.37-38:**

"This reporting period also saw the development in autumn 2006 of a joint strategy for the Roma, Ashkali and Egyptian communities by the Office of the Prime Minister, the OSCE Mission in Kosovo, and the Kosovo Foundation for an Open Society. Areas covered by the strategy are: education, housing (including reconstruction and legalization of informal settlements), employment and economic empowerment, the specific situation of IDPs and refugees, the return of failed asylum seekers, registration/personal documents, security, access to social welfare, access to health, the specific situation of women, information (media), culture, political participation and representation, and discrimination. While there have been a number of representatives from the above communities involved in discussions on this strategy, and while workshops have been held regarding different fields, it appears that the strategy is not processing as expeditiously as hoped."

***See also in sources below the Final report on the 9th September "Conference for the Development of a Kosovo Government Strategy for the integration of Roma, Ashkali and Egyptians"***

**SG, 14 February 2005, par.63:**

“Action is needed at all levels to regularize informal settlements (a priority).The central level situational analysis has not started, thereby blocking drafting of an action plan, and all consequent actions. Only Mitrovica and Vucitrn municipal authorities have actively considered alternative spatial planning options to protect and upgrade informal settlements. No short-term measures have been adopted to protect the rights of inhabitants of informal settlements and prevent further displacement.”

### **Many IDPs whose house has been reconstructed do not return to their place of origin (2009)**

- The majority of the destroyed properties of IDPs who fled their homes in March 2004 have been reconstructed by the Kosovo government or by international organizations and NGOs
- However, many IDPs did not return and sold their homes mainly for security reasons and decided to return to Serbia or to resettle in other enclaves in Kosovo where they feel more comfortable.

### **Ombudsperson Institution, July 2008, p. 48:**

"The destroyed properties of displaced persons of minority communities who fled their homes during the March riots in 2004 have now for the most part been reconstructed by the Kosovo Government or by International Organizations and NGOs. However, [many displaced persons do not feel safe enough to return to their homes](#) and therefore they either visit their houses occasionally or try to sell them. Likewise, many displaced persons and refugees who fled in 1999 decide to sell their property after it has been reconstructed or after they managed to regain their usurped property. They usually go back to Serbia and sometimes to other enclaves in Kosovo where they feel more comfortable to live and where they have access to services entirely dedicated to Serbian speakers.

### **Some IDPs are still waiting for compensation or reconstruction of their properties (2009)**

- If many houses damaged during the 1998-1999 fighting have been reconstructed after the NATO bombing, a substantial number of owners have never benefited from reconstruction assistance
- Some victims of the March 2004 riots are still waiting for the reconstruction of their houses, although they have been included in the list for reconstruction and compensation of damages
- Since 2005 the Ombudsperson Institution has been asking the competent local and central authorities to compensate these people but no action has been taken yet
- Number of return projects funded by international organizations and supported by the Ministry of Communities and Returns focus on reconstruction of IDPs houses

### **UN SC, September 2009:**

"The Ministry of Communities and Returns is implementing seven organized return projects, targeting the return of 181 Kosovo Serb families in Vushtrri/Vuèitrn, Prizren, Klinë/Klina, Istog/Istok, Novobërdë/Novo Brdo and Pristina municipalities. Moreover, 44 returnee families (159 individuals) have already been assisted with housing reconstruction in 2009 and another 44 houses are being reconstructed under the project Sustainable Partnership for Assistance to Returns in Kosovo (SPARK), which is managed by the United Nations Development Programme (UNDP) and funded by the British Government and the Ministry of Communities and Return. The Ministry has provided extra funding for the reconstruction of 10 more houses under SPARK. Additionally, 180 displaced families will be assisted to return this year under the project Return and Reintegration to Kosovo, jointly funded by the European Commission, the Ministry of Communities and Return and UNDP. So far, 73 houses are under construction and the construction of 83 additional houses has been tendered for bids."

***For more information on reconstruction assistance and return projects see International initiatives for IDPs' return and reintegration , under Pattern of return and resettlement.***

**Ombudsperson Institution, July 2008:**

"The houses of those who fled after the fighting in 1998-99, mostly Serbs and Roma, have in general been reconstructed depending on their willingness to return to Kosovo and the cost of these reconstruction is usually covered by international donors funds operating through international organisations or NGOs. Many houses of ethnic Albanians who were displaced during the fighting but returned home were reconstructed after the NATO bombing in 1999, a time when Kosovo was receiving substantial international donor funds. However, a substantial number of home-owners have never benefited from these donations and while municipalities throughout Kosovo repeatedly promised to reconstruct these houses, they lacked budget to do so. Very often, municipalities simply do not foresee the cost for reconstruction in their annual budget. Moreover many of the people who were illegally occupying abandoned property following repossession claims submitted to the HPD and KPA, have now been evicted.

"At the same time, four years after the violent events, some of the victims of the March 2004 violence are still waiting for the reconstruction of their houses and apartments or for the completion of the compensation proceedings for their damaged and destroyed furniture and other movable properties. Such cases involve citizens whose property is in the municipalities of Fushë Kosovë/Kosovo Polje, Prishtinë/Priština and Obiliq/Obilic. These people, although included in the list for reconstruction and compensation of damages, have not received compensation yet despite the fact that the Ombudsperson Institution has been asking for more expeditious compensation proceedings in four such cases. Indeed, since 2005, the Ombudsperson Institution has been requesting that the competent central and local authorities compensate these people or reconstruct their properties, but so far, the authorities have not taken any action nor provided adequate responses to these requests."

**Overview of obstacles faced by IDPs to access their land or property (2007)**

- Obstacles to access property range from security to lack of information and huge property backlog
- 10,405 properties remain destroyed
- 20,000 claims requesting compensation are currently on hold
- Properties belonging to Serb are being destroyed
- Illegal construction, occupation and expropriation persist and affect IDPs opportunities for return

**COE, 24 May 2007, para. 89-90:**

"89. The issue of tenancy and protection of property rights is still fragile in Kosovo. It affects mostly the displaced persons. The majority of IDPs had property (homes, agricultural land, commercial properties), which they can not use for several reasons : they cannot physically access their property because of fear and threats from the current occupiers; they have no means to initiate a procedure before the court due to poverty; they are unable to visit Kosovo as "go and see" visits are organised only to certain towns; they are not acquainted with new regulations; local courts are backlogged with a large number of files; authorisations and property contracts are sometimes forged.

90. Progress in the reconstruction of Albanian homes has not ended the widespread illegal occupation. An estimated third of all evictions of temporary occupants are followed by either immediate re-occupation or looting."

**OSCE, 31 July 2007, p.6:**

" In June 2007, 10,405 residential properties belonging to currently displaced persons remain destroyed;

As of June 2007, the Kosovo Property Agency (KPA), successor of the Housing and Property Directorate (HPD), has received more than 23,629 claims over residential, agricultural and commercial private property;

More than 20,000 claims requesting compensation for war related damage are currently suspended and pending an adequate solution;

**USDOS, 6 March 2007:**

"There were cases of Kosovo Albanians destroying private property belonging to Kosovo Serbs; some cases of violence against Serbs may have been attempts to force them to sell their property. An UNMIK regulation prevents the wholesale buy-out of many Kosovo Serb communities in an effort to prevent the intimidation of minority property owners in certain areas; however, it was rarely enforced. There were reports that Kosovo Serbs had difficulty accessing their property, which was sometimes occupied or used by Kosovo Albanians. In some cases, Kosovo Serb property was reportedly sold by persons falsely claiming to be their attorneys and presenting forged documents in court; in situations where the rightful owners did not live in Kosovo, such fraud went undiscovered for months."

***Lack of access to land prevents sustainability of members of minority groups, including IDPs and returnees***

**Ombudsperson, 11 July 2007, p.35:**

The main source of income in Serbian villages comes from agriculture, but in many cases the land owners do not have access to their land, either as a result of it being occupied by third persons, or

because the land owners are afraid to cultivate their land if it is not located close to their own villages. Thus many of the inhabitants of these villages live from social welfare or from collecting and selling metal scraps and wood."

***Illegal construction and expropriations***

**Ombudsperson, 11 July 2007, p.49:**

"Ensuring the inviolability of property rights in Kosovo remains a great challenge. Due to the general shortcomings in Kosovo's rule of law, property owners are only protected if they are able to protect themselves. The competent public authorities are often accused of corruption, nepotism and failing to react to blatant violations of the existing laws, and this situation can only improve if the authorities begin assuming greater responsibility for upholding those laws.



This failure to act responsibly is especially apparent in the field of illegal construction, which still runs rampant throughout Kosovo. During the reporting period, some municipal inspectorates were quite active, occasionally demolishing illegally constructed buildings or preventing construction from being completed. Such cases were rare, however, and do not demonstrate a general trend of enforcing the rule of law. The obligation to request a building permit before beginning construction of a building is often disregarded [...]

In such cases, property owners complain that municipal inspectorates rarely address their complaints properly. [...] [T]he municipal officials alleged that it was difficult to ensure that their orders were followed in the absence of a functioning inspection police. A continuing problem is that there is no proper legal remedy for persons complaining about the negative effects of illegal construction on their property."

**SC, 28 September 2007, annex, para.75:**

"75. Concerns remain over the proper implementation of expropriations by Kosovo institutions, the protection of individual property rights and the proper implementation of demolitions. A new instance of demolition of property belonging to internally displaced persons occurred in Klinë/Klina municipality without the lawful holders of property rights having been informed or given adequate compensation."

**SC, 9 March 2007, annex, para.77-78:**

"Illegal construction remains a major problem. Municipal authorities appear unable or unwilling to implement the existing legal framework. Municipalities, in cooperation with ministries, must remedy previous irregular expropriations [...]."

**Ombudsperson, 11 July 2007, p.49:**

"The problems cited in the last Annual Report with the expropriation of private properties continue. The applicable Law on Expropriation of the Former Autonomous Socialist Province of Kosovo of 1978 is not being followed, and municipalities continue to expropriate people before determining the common public interest that justify such measures. Property owners are often not informed about municipal decisions to expropriate, nor are they informed of the further expropriation procedures. Only rarely have there been cases where individuals received property as compensation for expropriated properties. For the most part, individuals are expropriated by their municipalities without reason or compensation. At the beginning of 2007, the Ministry of Local Government Administration became involved in the issue and urged the municipalities to comply with the existing law; thus far, however, there has not been much of a positive response to this request in practice.

One example of a de facto expropriation unfolded in March 2007 in the Municipality of Klinë/Klina. In order to construct a new building, the Municipality decided to destroy a house belonging to an individual not living in Klinë/Klina at the time without informing the individual of its intentions. The destroyed house was under the administration of the Kosovo Property Agency (KPA). (The KPA is an independent agency created by the UN and the successor to the Housing and Property Directorate (HPD); it was established to deal with a certain category of repossession claims for residential properties). A third person had been allocated the property on humanitarian grounds. Despite the fact that the KPA notified the Municipality beforehand and stressed that the property in question was under KPA administration, the Municipality destroyed the house, thereby violating its obligation to respect the applicable law and the rule of law in Kosovo generally.

***For more information on expropriation, see OSCE report: Expropriations in Kosovo, 13 December 2006 (in sources below)***

### **Implementation of the KPA's rental scheme is unsatisfactory (2009)**

- One of the tasks of the Kosovo Property Agency is to administer and implement a rental scheme, which should make possible for property rights holders (mainly Kosovo Serbs) who do not want to return to receive a fixed income by authorizing KPA to rent out their properties
- Out of almost 4,000 properties managed by the KPA, more than 2,400 were included in the rental scheme and more than 890 rental agreement have been signed (as of July 2009)
- However, the implementation of the scheme is still unsatisfactory, since little rent is actually collected.
- A number of people complained to the Ombudsperson Institution about the non-payment of rent to ethnic Albanians owning flats in the northern part of Mitrovica that were occupied by Serbs. At the same time, these owners were asked to pay rent for living in flats administrated by the KPA in other parts of Kosovo
- Out of 360 properties under KPA's administration in the northern part of Mitrovica, KPA is able to collect the rent only in 8 cases. According to KPA this is because the police and the authorities do not adequately support them.
- The Ombudsperson Institution raised the issues with the KPA. In most of the cases KPA did not reply or replied with a six months delay. The Ombudsperson believes that KPA did not use all institutional paths in order to execute the decisions.

#### **CoE Commissioner for Human Rights, 2 July 2009, p. 29:**

"The KPA's mandate includes supervising the rental of abandoned properties in Kosovo, most of which belonged to Kosovo Serbs. To that end, the Agency manages a rental scheme for properties under its administration, enabling property holders to receive rental income. The implementation of the rental scheme is still unsatisfactory. Out of 3 989 properties managed by the KPA, more than 2451 were included in the rental scheme. Rental agreements for more than 890 properties have so far been signed, but little rent is actually collected. There are currently around 850 cases pending eviction for rent-related reasons out of which 633 are in Mitrovica/Mitrovicë, and approximately 50 evictions are carried out each week. There is still confusion over the transfer of cases by the KPA to local courts."

#### **USDOS; (Kosovo) February 2009:**

"The KPA's mandate includes supervising the rental of specific, abandoned properties in Kosovo, most of which belonged to Kosovo Serbs. To that end, the agency managed a rental scheme for properties under its administration, enabling property holders to receive rental income. At year's end, a total of 897 properties were being rented, 158 of which were rented ex officio. The KPA collected 653,562 euros (approximately \$892,852) in rent through this program.

The KPA remained unable to enforce 10 remaining HPCC decisions (of approximately 30,000 total) for properties located in northern Mitrovica/Mitrovica, due to concern by authorities that attempts at enforcement would lead to violence. Similar difficulties hindered enforcement of the rental scheme in the north Mitrovica/Mitrovica."

#### **EC, (Kosovo), November 2008:**

"In May 2008, UNMIK issued a directive which exempts property right holders from payment of utility bills accrued during periods of illegal occupancy of properties under KPA administration or

where a tenant under the rental scheme failed to pay such bills. The scheme for rental of abandoned property in Kosovo allows the property rights holder to receive a fixed income from the property by authorizing the KPA to rent it out during a defined period. New members of the Supervisory Board of the KPA have been appointed. The board needs to finalise the procedure for the calculation and provision of compensation for successful property claims.[...]

The implementation of the rental scheme is still unsatisfactory. Out of 4,338 properties managed by the KPA, more than 2,500 were included in the rental scheme. Rental agreements for more than 940 properties have so far been signed, but little rent is actually collected. There are currently 706 cases pending eviction for rent-related reasons, and approximately 40 evictions are carried out each week. There is still confusion about the transfer of cases by the KPA to local courts."

**KPA, November 2008:**

"Among its many tasks, the Kosovo Property Agency (KPA) is mandated to administer and implement the Rental Scheme for properties administered by the KPA on behalf of displaced property right holders. In other words, the Rental Scheme makes it possible for property right holders (PRH) to receive a fixed income by authorizing KPA to rent out their properties until they decide to use them in any other way. This scheme also makes it possible for people interested in renting a residential property throughout Kosovo to do so through KPA.[...]

Since the launch in October 2006, the Rental Schemes has experienced a continuous progress and a total of 1,001,783 Euro have been collected in rent thus far, including the deposits paid by tenants upon entry of the rental agreements. Statistics show that 4,192 properties have been placed on the Rental Scheme throughout Kosovo, where as to date, 893 properties have been rented. The KPA notices an increasing interest from people who wants to rent properties, and this interest is more noticeable in Prishtinë/Priština town, particularly for properties which are furnished and in better condition.

KPA collects the rent a month in advance. The rent money is paid to KPA which in turn transfers it to the owners or property right holders. KPA charges an administrative fee of 5% of the rental price for the provision of services related to renting. Fees imposed by the property right holders bank is also deducted from the rent received. In cases where the rent is not paid, KPA issues an eviction order. If tenants fail to pay, KPA will evict them."

**Ombudsperson Institution, July 2008, p. 80:**

"Lawyers of the NDT also had several meetings with the Kosovo Property Agency (KPA) about complaints concerning property rights lodged with the Ombudsperson Institution by Kosovan citizens. Many such complaints were received especially by Kosovars who own properties in the northern part of Mitrovicë/Mitrovica. These people complained that they were being discriminated as they were paying rent to the KPA for the apartments that they were living in, while this same Agency was not obtaining any rent from people occupying these same persons' properties. "

**p. 83:**

"Furthermore, the Ombudsperson Institution continued to cooperate with the Executive Directorate of the Kosovo Property Agency (KPA) (formerly the Housing and Property Directorate (HPD)) regarding a number of cases where people complained about proceedings before the KPA and the HPD. Certain cases were about the non-payment of rent to ethnic Albanians owning flats in the northern part of Mitrovicë/Mitrovica that were occupied by Serbs. At the same time, these owners were asked to pay rent for living in flats administered by the KPA in other parts of Kosovo. Despite the insistence of the Acting Ombudsperson that all communities receive equal treatment in such cases, there was no real progress in that direction.

The Ombudsperson Institution has also continuously contacted the Kosovo Trust Agency (KTA) regarding a number of such cases, but as during the previous reporting period, the KTA stayed persistent to its habit to not reply to such correspondence. In cases where the KTA did reply, it took place with a delay of six or more months. Despite the promises of the KTA managing staff that cooperation would improve, this practice of not replying or delayed replies to Ombudsperson Institution requests has continued throughout the reporting period."

[...]

**p. 55**

"4.646 properties inherited from HPD are under KPA's administration of residential properties. Such administration involves renting apartments or houses to third persons, collecting the rent and forwarding it to the respective owner of the property. According to KPA's statistics, 304 properties under KPA's administration do not meet the established criteria, therefore their legal owners can not secure leases from their properties. There are 3.861 leased properties with the mediation of KPA under this rental scheme. According to KPA's officials, they have managed to contact 2971 property owners so far, and 2727 of them signed a request to authorise KPA to establish lease contracts. During the procedure of preparation to include the properties in the rental scheme, KPA informs the current residents of those properties about the lease criteria. Accordingly, KPA has informed 2.517 current residents so far, however it only managed to collect the rent from 933 residents.

There are 622 properties under KPA's administration in the town of Mitrovicë/Mitrovica: out of 242 properties in the southern part of Mitrovicë/Mitrovica, KPA collects rents in 105 cases, whereas out of 360 properties under KPA's administration in the northern part of Mitrovicë/Mitrovica, KPA is able to collect the rent only in 8 cases. The Ombudsperson Institution raised this issue with the KPA which responded that it did not have the adequate support from the police to collect the rents in the northern part of Kosovo. KPA also claimed that it had informed all competent authorities about this problem but did not receive any response or support. However, the Ombudsperson concluded that KPA did not use or did hesitate to use all institutional or legal paths in order to find ways to execute these decisions."

**The rental scheme provides an income to IDPs while leaving the return option open (2007)**

- Since November 2006, the KPA has implemented a rental scheme covering all of the 5,046 residential properties currently under KPA administration.
- The implementation of the rental scheme guarantees income for displaced persons as well as a physical protection of properties.
- It may also facilitate investment in land

***As of 9 December 2007, KPA was administering 4,486 properties. For updated figures from KPA see: [www.kpaonline.org](http://www.kpaonline.org)***

**SC, 28 September 2007, annex, para.69:**

"69. Implementation of the rental scheme led by the Kosovo Property Agency continues: 2,681 holders of property rights have included their property in the scheme; 487 occupants are currently paying rent; 187 evictions were carried out; and a total of €209,315 in rent was collected.

**SC, 9 March 2007, annex, para.5:**

"5.[...] Following the initial pilot project in the Prishtinë/Priština region, the Kosovo Property Agency has extended the rental scheme to all of the 5,247 residential properties currently under its administration. By 31 January, 1,402 property right holders had included their property into the

scheme. Forty occupants are currently paying rent and an amount of €23,490 was collected. The first 12 evictions of occupiers who have declined to pay rent were also carried out in January, and the Agency initiated an outreach campaign to identify tenants for these properties.

**SC, 1 September 2006, annex para.78:**

"79. The Government and the Kosovo Property Agency have agreed to implement a pilot project on the rental scheme (a Contact Group priority) that includes the properties under Agency administration whose owners are identified and who would be able to receive the rent collected. A total of 3,481 properties administered by the Agency at the claimants' request are to be included in the scheme."

**OSCE, 31 July 2007, p.29:**

"The KPA has the authority to administer abandoned properties.[...] "Abandoned" in this sense means "any property which the owner or lawful possessor and the members of his/her family household have permanently or temporarily, other than for an occasional absence, ceased to use and which is either vacant or illegally occupied".[...] The administration of a house or an apartment means that KPA can allocate it on a temporary basis to other persons on humanitarian grounds.[...]

Since November 2006, the KPA has implemented a rental scheme covering all of the 5,046 residential properties currently under KPA administration. [...] Following pressure from the PISG, several banks have agreed to reduce their charges on transfers outside Kosovo. The first payments for the period of September to November were completed in December while the December rents were transferred in early January 2007.

The implementation of the rental scheme guarantees income for displaced persons as well as a physical protection of properties. As mentioned above, administration of land is one of the remedies provided for in the KPA framework. The publicity of the land administration possibilities may allow for agricultural investors to lease groups of parcels belonging to different displaced persons and thus promoting both economic development and a regular income to those displaced."

**Kosovo Property Agency: successor of the Housing and Property Directorate with an extended mandate (2007)**

- The Kosovo Property Agency succeeded to the Housing and Property Directorate
- The KPA will take over claims not yet implemented by the HPD as well as administered property
- Unlike the HPD which only dealt with residential property, the KPA will address related to agricultural land or commercial property
- The creation results from the recommendation of the Kai Eide report
- The KPA is a local institution to reflect empowerment of Kosovo authorities
- Involvement of Courts in the KPA procedures was modified by UNMIK regulation 20006/50
- Courts handed over their cases to the KPA in March 2007

***The Kosovo Property Agency (KPA) was created in March 2006 as the successor to the Housing and Property Directorate. The KPA was established by UNMIK's [regulation 2006/10](#) promulgated on 4 March 2006***

***As of 9 December 2007, KPA had received 35,214 claims. The deadline to submit claims expired on 3rd December . For an update on KPA statistics, [www.kpaonline.org](http://www.kpaonline.org)***

**OSCE, 31 July 2007, p.26:**

"The mandate of the HPD/HPCC was designed to deal exclusively with conflict related residential property claims. While immovable property, which was associated to a residence fell within the HPD/HPCC's mandate, privately owned agricultural and commercial property was left out of the process.

This gap in the protection of the rights to housing and property restitution was only addressed recently. In 2005, the Special Envoy of the UN Secretary General, Mr. Kai Eide, in his Comprehensive Review of the Situation in Kosovo (the "Kai Eide Report") identified illegal occupation of agricultural and commercial property as one of the major factors hindering returns in Kosovo and thus requiring urgent intervention. In a parallel process of local empowerment, the international body entrusted to resolve conflict related property disputes, the HPD/HPCC was succeeded by the Kosovo Property Agency (KPA), an independent local institution with the mandate of resolving all outstanding residential, commercial and agricultural private immovable property disputes related to the conflict.[...]

The KPA is thus formed by an Executive Secretariat, a Supervisory Board and a Property Claims Commission (PCC) as a quasi judicial body. The participation of the PISG in the administrative oversight and policy guidance of the KPA is ensured through the nomination by the Prime Minister of Kosovo of two of the members of the Supervisory Board. As for the claims dispute resolution the PCC shall reach a decision on the claimed property in relation to title, property use rights and lawful possession rights. The decisions of the PCC are final if not appealed. Unlike the previous HPD/HPCC mechanism, commission decisions may be appealed to the Supreme Court to be adjudicated by a panel of three judges, two internationals and one local, all authorized by the SRSG. Most importantly, the decisions of the PCC constitute title determinations and therefore successful claimants holding PCC decisions will be able to register their ownership (or right of use) in the Kosovo Immoveable Property Rights Register.

**Access to claim mechanisms:**

The first step in ensuring full realisation of property rights relies on the existence of a claim mechanism that displaced persons can access. Information on and access to the claim in-take process is ensured through KPA offices, mobile teams within and outside Kosovo, outreach campaigns by the Kosovo Property Agency, non-governmental and inter-governmental agencies, as well as the PISG. As of June 2007, the Kosovo Property Agency has taken 23,629 claims (See Fig 2).

Special efforts have been taken to ensure access to the claim process by vulnerable communities, such as Roma, Ashkali and Egyptians. In this sense, the KPA conducted in February 2007 an outreach campaign to inform displaced Roma, Ashkali and Egyptian persons about the claim process. The KPA expects an additional 1,000 claims as a result of this campaign.

The enforcement of decisions of the PCC over claims related to land will require remedies other than evictions from closed premises, including, but not limited to placing the property under administration, lease agreements, seizure and demolition of unlawful structures, auction, all of which will facilitate and ensure the return of properties to the lawful property right holder. By receiving a determination of title, the successful claimants will be able to register the confirmed title, if necessary, in the Kosovo Immoveable Property Rights Register.

In this sense, the wide range of remedies envisaged by the KPA in addition to evictions (administration, leases, seizure and demolition, auctions) provide different possibilities to respond to occupation of land. Taking into account the experience of the HPD/HPCC process, administration of land is likely to be the primary method of implementation of PCC decisions."

***The initial regulation establishing the KPA provided to associate Kosovo Courts to the repossession. In view of concerns related to Court's efficiency, a new regulation, UNMIK 2006/50 was promulgated in October 2006***

**SC, 1 September 2006, annex para.78:**

"78. In view of concerns expressed regarding the ability of the courts to process property cases efficiently, a draft regulation to replace UNMIK Regulation 2006/10, by which the Kosovo Property Agency was established, is being prepared. The new regulation would grant the Agency's Property Rights Commission quasi-judicial status instead of involving courts in claims processing. Parties would still have the right to appeal the Commission's decisions to the Supreme Court.

**KPA, 2 March 2007:**

"On 1st March, 110 claims for private immovable property arising from the armed conflict in Kosovo in 1998 and 1999 was handed over from the Municipal Court of Pristina to the independent Kosovo Property Agency (KPA). The claims that were handed over to the KPA were submitted to the Municipal Court of Pristina from individuals who claim to have lost their property rights as a result of the armed conflict. These claims were submitted to the Municipal Court prior to the establishment of KPA on 4 March 2006, and the claims have been pending in the court.

Pursuant to UNMIK Regulation 2006/50 the KPA has, subject to appeal to the Supreme Court of Kosovo, exclusive jurisdiction to resolve claims for private immovable property including commercial properties and agricultural land. It is a precondition that the claims must arise from the armed conflict in 1998 and 1999 in order to fall under the exclusive jurisdiction of the KPA.

Section 18 of the regulation requires all courts in Kosovo which have received claims for private immovable arising from the armed conflict prior to the establishment of the KPA to hand over the claims to the KPA. The only claims excluded from this provision are those claims in which the judicial proceedings before the courts had already been commenced on 4 March 2006.

Yesterday's handover of claims was the first of several handovers from the courts in Kosovo scheduled to take place. The KPA expects some 900 claims to be handed over in total. After the claims have been handed over by the courts, they will be processed by the KPA and decided by the independent Kosovo Property Claims Commission (KPCC). The KPCC is composed of two international commissioners and one local commissioner, all being experts in the field of property law. The decisions from the KPCC can be appealed to the Supreme Court of Kosovo.

The KPA calls upon all individuals who have submitted such claims to the courts in Kosovo to contact one of the KPA offices as soon as possible in order to receive information about the proceedings of their claim".

**KPA, 9 December 2007:**

"Under the Regulation, the staff and assets of the Housing and Property Directorate (HPD) is subsumed into the KPA. The KPA therefore assumes responsibility for the implementation of all residential property claims that were pending with the HPD on 4 March 2006 and it will ensure their resolution in an effective and expeditious manner. Further, the Housing and Property Claims Commission (HPCC) will continue to decide the limited number of remaining residential claims that are currently pending before it."

**SC, 1 September 2006, annex para.65:**

"65. On 6 June, the Housing and Property Claims Commission was officially replaced by the new Kosovo Property Claims Commission, which has adjudicated in the first instance all 29,160 cases it received. Of these, 368 claims still need to be implemented (a Contact Group priority). Implementation of the rental scheme for illegally occupied properties continues (a Contact Group priority). To date, 2,546 property right holders have included their property in the scheme. Three hundred and ninety-two properties have been rented and €118,248 collected".

## **Housing and Property Directorate: mandate fulfilled but very few return to repossessed houses (2007)**

- The HPD implemented 99,8 % of the 29, 160 claims submitted
- However, very few legal repossession result in return
- Out of the total number of claims, over 10,000 properties were destroyed
- Over 3,000 properties have been put by their owner under HPD's administration
- 17,8 % of claimant requested physical repossession which often resulted in the sale of the property
- Forced eviction of the occupant was necessary in 86,6% of cases

### **OSCE, 31 July 2007, pp.25 and 27:**

"In Kosovo, UNMIK established the Housing and Property Directorate (HPD) and the Housing and Property Claims Commission (HPCC) to address post-conflict restitution of residential property. The HPCC, thus, is the independent quasi-judicial body to "achieve an efficient and effective resolution of claims concerning residential property", while the HPD is the administrative body managing the process. The legal framework for the HPD/HPCC was established through UNMIK Regulation 1999/23 and UNMIK Regulation 2000/60, which defined the exclusive jurisdiction of the HPCC for three types of residential claims: Category A claims concerning property rights lost due to discriminatory policies during the period 1989-1999; Category B claims concerning informal property transactions of residential property during the period 1989-1999, and Category C claims, which concern involuntary loss of possession of residential property during or after 1999.<sup>44</sup>

Despite difficulties encountered

Despite difficulties encountered by the institution the first years, HPD/HPCC largely fulfilled its mandate. Thus the HPD/HPCC has implemented 28,828 decisions concerning residential property claims (98.9 % of the total case load of 29,160 claims). The remaining 332 decisions will be implemented in the coming months. [...] The reason for the delay in implementation is that the decisions in question were pending reconsideration by the HPCC. It is worth noting that in these cases "implementation" does not mean that the claimants have repossessed (and/or returned). It means that either:

- a) the owner has settled privately and no longer needed HPD services (which usually implies a sale);
- b) the property is destroyed so administration not needed;
- c) the property is being administered by HPD;
- d) the case is dismissed; or
- e) the owner has taken possession.

### **TABLE**

The mandate of the HPD/HPCC was designed to deal exclusively with conflict related residential property claims. While immovable property, which was associated to a residence fell within the HPD/HPCC's mandate, privately owned agricultural and commercial property was left out of the process.

The resolution of claims constitutes the first phase of the process necessary to restore rights and subsequently encourage and in many cases conditions a sustainable return. However, as mentioned above, the resolution of a property claim does not necessarily imply the return of the



displaced. In Kosovo the reality has been rather the contrary as a result of a still high rate of destroyed properties and a low rate of repossession. In 10,108 of the cases, the property was found to be destroyed and therefore no remedy was available from HPD/HPCC. In these cases, the result of the process was a declaratory statement of the HPCC establishing the lawful possession of the successful claimant.

In 3,513 adjudicated cases the claimant chose to place the property under administration and in 1,159 cases the claimant could not be reached. In all, only in 5,199 cases (17.8 per cent) implementation has resulted in a request for repossession by the property right holder, which often signifies the sale of the residence to either the current occupant or otherwise a new buyer. Out of these, in 3,771 cases a forced eviction was necessary (86.6 per cent) and in 588 (13.4 per cent) cases the occupant released the property voluntarily before a forced eviction was necessary.

In certain cases, the eviction of the occupant is followed by a new unlawful occupation of the residential property. In these cases the applicable legislation allows for an action ex officio by the Police to remove the illegal occupant. 48 However, after reported cases of illegal re-occupation after evictions, the international community prioritised the need to deter re-occupation by the Kosovo Police Service in the "Contact Group's 13 Priorities for Standards Implementation". Relevant Standard Operation Procedures were revised to ensure adequate enforcement.49 Moreover, the Kosovo Property Agency appointed a focal point to monitor cases of re-occupation in co-operation with the police."

**See also: [Final report of the Housing and Property Claims Commission, Housing and Property Claims Commission](#)**

### **Housing and Property Directorate attempts to resolve a long history of property rights violations (2005)**

- There is a major housing shortage in Kosovo due to the destruction of housing units during the conflict and unlawful occupations as a result of this
- Property transactions often took place informally and without adequate documentation
- A Housing and Property Directorate (HPD, run by UN-HABITAT) was created by UNMIK as an interim measure to clarify and restore property rights and resolve long-standing claims
- Lack of funding, cadastre documentation and confusion over applicable law has hampered the work of the HPD
- Property claims are divided in three categories
- Over 28.000 decisions out of 29.000 claims have been issued
- 38.5% of the decisions have been implemented as of 18 June 2005
- HPD is studying a rental scheme according to which owners who cannot return to their property would rent it as social housing
- Eventually the HPD will hand over its responsibilities to the Kosovo authorities

#### **COE, 16 October 2002, paras. 109-117:**

"There is a profound housing problem in Kosovo. Several factors explain the situation. An estimated 100,000 housing units (almost half of the stock) were destroyed during the conflict, plus many more since then. Partly as a result of such destructions and of the departure of many inhabitants of Kosovo, unlawful occupations, by all kinds of persons ranging from IDPs (see below) to international personnel unaware of the identity of the real owners, have occurred in large numbers.

Indeed, the establishment of property rights over real estate is highly problematic in Kosovo. In 1990, the Serbian authorities restricted the autonomy of Kosovo and adopted so-called 'provisional measures'. This led to a general strike by the ethnic Albanians, many of whom were subsequently dismissed from their jobs and lost the apartments that had been allocated to them by their employers. Their apartments were reallocated to Serbian employees and later privatised and bought by these or other Serbs. In addition, in 1991, the Serbian Parliament enacted legislation that restricted the sale of property between ethnic groups. However, sales continued to take place through informal contracts, which were not recorded by a court official, as required by Yugoslav law, and therefore could not be registered in the cadastre records. To complicate things further, documents have been destroyed or removed from Kosovo. As a consequence, there are many contradictory claims pertaining to property in Kosovo. Also, property transactions go on, including sales from Serbs to Albanians, often rapidly and quite informally, without adequate documentation. Which means that future problems are still being created.

At the end of 1999, UNMIK set up the Housing and Property Directorate (HPD, run by UN-HABITAT) and a Housing and Property Claims Commission (HPCC) as an interim measure to clarify and restore property rights and resolve long-standing claims. Both institutions have broadly defined functions, that are bound to be progressively handed over to local authorities. For the time being they have '*exclusive jurisdiction to receive and settle*' three specific categories of claims involving residential property disputes in Kosovo. These are claims by individuals who lost property as a result of discriminatory laws of the Milosevic era ('Category A Claims'), claims by individuals who entered into informal transactions on the basis of free will of the parties during that era and until October 1999 ('Category B') as well as claims by refugees and IDPs who have lost possession of their property after 24 March 1999, as a result of the conflict ('Category C').

However, due to the absence of rules of procedure for a long period, the fact that the applicable law on property has still not been officially compiled and published and an authoritative interpretation of it been made, and also due to its blatant lack of resources, the HPD has never fully functioned since its establishment three years ago. A Contingency Plan adopted by HPD's management in November 2001, in reaction to dwindling resources, even foresaw that the institution would gradually close down programmes and cease all activities by the summer of the current year [2002].

In 2002, the HPD has so far operated with approximately 30 % of the budget it estimates is required to carry out its functions; 2,4 million USD are needed for the remainder of the year, more than 8 million to finish its caseload." (...) This situation undermines both the respect for the right to the enjoyment of private property, and the international presence's declared ambitions with respect to return".

**HPD, 18 June 2005:**

"With the conclusion of the 30th session of the Housing and Property Claims Commission (HPCC) on 18 June 2005, decisions have been granted in 28,015 out of the 29,000 claims filed with the Housing and Property Directorate (HPD). The HPD envisages that its mandate will be fully implemented by the end of 2005. Over the coming months it will concentrate its efforts on ensuring the implementation of all HPCC decisions"

**HPD, January 2004:**

*"Out of the total number of claims submitted within the established deadline (July 2003), some 1,100 are category A claims corresponding to situations where occupancy rights were lost as a result of discriminatory laws. Over 700 claims have been submitted for voluntary transactions which were not legally registered (category B). The bulk of claims, more than 27,000, are category C claims for individuals who lost physical possession of their residential properties after 24 March 1999.*

*38.5 percent of the decisions have been implemented as of 18 June 2005. For HPD to progress on implementation, owners of properties who received a decision have to indicate whether they want to repossess the property physically or whether they want to put it under HPD administration which can use it for social housing.*

Special attention will be given to implementation of Category A-claims, granting monetary compensation. In line with section 4 of UNMIK regulation 2000/60 a mechanism will be established to calculate and a trust fund set up to administer the compensations granted by the Housing and Property Claims Commission (...)

HPD is actively developing a rental scheme, which will enable successful claimants to place property under HPD-administration with request to let it out. This will generate income from their property while maintaining their property rights thus giving property right holders an option to return to their property as and when they find the overall situation conducive to return, This allows those not prepared to return and alternative to selling their properties and keep options open for the future (...)

HPD will decide on all claims and implement all decisions by the end of 2005. HPD will develop its exit strategy ultimately allowing the mandate to be handed back to local organs as stipulated by UNMIK regulation 1999/23. The main goals are completion of claim processing, implementation of decisions and creation of a sustainable mechanism for administrated properties (...).

At its completion HPD will, as per UNMIK regulation 1999/23, hand over to local courts and registries (such as Kosovo Cadastre Agency) its claim records and any properties under its administration to the identified sustainable mechanism. HPD will in 2004 and 2005 continue its local capacity building through training staff and local authorities to facilitate such hand over."

***See also [Property Rights in Kosovo 2002-2003](#), OSCE, 30 June 2003, a detailed analysis of the issue.***

***The website of the Housing and Property Directorate can be accessed at <http://www.hpdkosovo.org/>***

### **Housing and Property Directorate responsibilities (2007)**

- Funding shortage has prevented HPD from being fully efficient until 2004
- Assistance to return is proposed to claimants
- HPD has a mandate to evict illegal occupants

*The Housing and Property Directorate (HPD) and the Housing and Property Claim Commission (HPCC) have been mandated by UNMIK to solve disputes related to residential properties.*

#### **UNHCR/OSCE, March 2003, pp. 44-46:**

"As one of the prerequisites for a sustainable return of minorities to Kosovo, members of these communities must be able to realise their property rights. The effective realisation of property rights requires positive actions by the State (in Kosovo, such positive actions fall within the obligation of UNMIK and its relevant bodies, as well as of the PISG and its sub-entities), which should therefore have implications both at political and budgetary level. Although insufficient realisation of property rights is triggered by issues related to access to property or to the claims mechanisms thereof, authorities have a positive obligation to ensure such access both by

legislative reform and by executive/enforcement actions. "Access" can be defined as encompassing three general areas: awareness of legal rights, physical access to relevant adjudicative and executive bodies, and, finally, once physical access is gained, the ability of the appropriate bodies to provide effective realisation of these rights."

"One of the key obstacles to the return process and the protection of minorities is access to their residential property, or their "home". The Housing and Property Claims Commission (HPCC) and Directorate (HPD) were established to facilitate the restoration and the confirmation of residential property rights, which were either lost through discrimination or force or remained unclear due to informal transactions. Under their mandate, the HPD and HPCC possess the authority to evict illegal occupants and restore property to the rightful holders (whether owners, possessors, or occupancy right holders).

HPD's and HPCC's mandate in relation to illegal occupation is particularly critical to the sustainable return of minorities. Within urban areas especially, a significant proportion of displaced minorities' properties, both houses and apartments, are illegally occupied in part preventing their return. A number of these illegal occupants have not vacated the property even though they have received reconstruction assistance. With their mandate, HPD and HPCC play a crucial role in facilitating the return of minority community members to their homes. Thus, as many minorities suffer from illegal occupation of their residential properties, awareness of, physical accessibility to, and effective operation of the HPD and HPCC are key elements for the effective protection of minorities and their property rights as well as to facilitate their sustainable return.

The OSCE acknowledges the progress in the HPD/HPCC activities since the last Assessment, both in expanding operations and allocating appropriate resources. Despite the clear progress, which has been mostly apparent under the new management of the HPD/HPCC, minority communities' level of awareness of and physical access to the HPD/HPCC mechanism was still inconsistent and in some aspects inadequate. For example, the access of IDPs living outside Kosovo appeared to improve since the last Assessment. A satellite field office and mobile teams have been established in Montenegro to collect claims, and field offices already operating in Belgrade, Niš, and Kraljevo in Serbia proper remained open until December 2002. HPD also undertook a public awareness campaign to inform the public of the extension of the deadline to file claims. Claimants outside Kosovo lodged 15,615 claims (66% of the total claims filed), indicating that those internally displaced outside Kosovo enjoyed improved access and awareness of the mechanism since the last Assessment. Such was the case in Montenegro, where 1,692 of these claims were filed within the last six months of 2002 after operations were established there. Yet, resource limitations may halt this progress elsewhere. The HPD has yet to open an office in fYROM to collect claims from predominantly Kosovo RAE refugees. Thus, while improvements have been made in physical access and awareness of those displaced outside Kosovo, lack of human and physical resources for the HPD still hamper their effective realisation of residential property rights. Inside Kosovo, the level of awareness of and physical access of minority communities to the HPD/HPCC mechanism did not appear to improve significantly or consistently since the last Assessment. The overall claim intake inside Kosovo represents only 34% (8,053 claims) of the total claims received by HPD/HPCC, indicating that the elements of access remain inadequate and prevent the effective realisation of minority communities', as well as the majority community's, property rights. As for the claims intake mechanisms outside Kosovo, human and physical resources of the HPD/HPCC appears to influence the intake results inside Kosovo as well. Until the very recent opening of the HPD Office in Prizren, the Pejë/Pec HPD regional office was responsible for operations in that region as well as within Pejë/Pec region and Montenegro. While the office was provided more vehicles, its staff was cut in half and its Head of Office changed three times since the last Assessment, thereby hampering continuous and effective operations. Such circumstances prevented both the provisioning of HPD mobile

teams for and the implementation of an awareness-raising campaign to minority communities. [...]

With regard to the effectiveness of the HPD and HPCC in processing claims, the expedience of the process and the enforcement of decisions remain inadequate. Of the total 23,668 claims, only 1,856 claims (8 % of the total claims intake) have been resolved by either HPD or HPCC, and only 621 eviction decisions were enforced against illegal occupants (227 HPD administrative evictions, 254 HPCC-enforced eviction decisions, and 140 voluntary vacations of the illegally occupied property).

One aspect of the HPD's operations with a significant impact on the return of minorities is the status of the 4,275 cases of vacant or illegal property, which are still pending for administration by the HPD. Currently, only 2,268 properties are under the HPD administration, and of these, only 771 properties are allocated to displaced or vulnerable families under its temporary humanitarian permit scheme.

Overall, despite progress since the last Assessment, access to and operations of the HPD and HPCC remain inadequate and insufficient to ensure the effective protection of minority's residential property rights and facilitate their return. Yet, it should be noted that not only do the difficulties with the HPD and HPCC mechanisms create problems for those wishing to return to illegally occupied property.

Post-eviction damage and destruction of property as well as harassment are also of concern. Due to a time-lag between when an HPD/CC eviction occurs and the physical repossession of the property by the property right holder, looting and destruction of properties have occurred. In addition, evicted illegal occupants have harassed the returned property right holder. In May 2002 in Vushtrri/Vucitrn, majority community members demanded money for 'protection' while evicted illegal occupants demanded compensation from the returned property right holder for improvements which they had made to the returned properties. Such phenomena highlight the need for increased coordination between HPD and HPCC and the police regarding evictions, as well as increased diligence by law enforcement authorities."

### **Overburdened courts and complicated procedures delay resolution of property disputes (2009)**

- The protection of property rights is affected by the weakness of the rule of law
- The backlog involving property disputes continues to grow and many cases remain pending for more than 5 years
- As of February 2009, the property backlog stands at 21,000 cases, representing almost exclusively monetary claims by Kosovo Serbs for war-related damages.
- A strategy and an action plan to reduce judicial property backlog was published in 2007
- However, the implementation has been slow and little progress has been achieved so far
- The backlog is also reinforced by the long and complicated procedures, the application of old laws which do not establish clear deadlines, the lack of execution of court judgements by public authorities or municipalities and the lack of courts bailiffs to ensure that execution takes place.
- Moreover, courts in Kosovo do not recognise as legally binding decisions issued by parallel Serbian Courts and vice versa

**COE Commissioner for Human Rights, 2 July 2009, p. 30:**

"The protection of property rights is affected by the general weakness in the rule of law in Kosovo. Moreover, it is hampered by incomplete and missing records, inadequate property-related legislation, and problems regarding the implementation of the laws."

**USDOS; (Kosovo) February 2009:**

"The backlog of property-related claims in municipal courts remained high, with some 21,000 outstanding at year's end, representing almost exclusively monetary claims by Kosovo Serbs for war-related damage."

**Ombudsperson Institution, July 2008, p. 23-24:**

"The backlog of pending cases involving property disputes that has been accumulated over the years continues to grow and consequently, many cases remain pending for five to ten years. The Strategy and Action Plan for the Reduction of Judicial Property Backlog, published on 16 March 2007 by a working group which included the Kosovo Judicial Council, representatives of the OSCE, the UNMIK Department of Justice, the European Union Planning Team, the Kosovo Property Agency, the Ministry of Justice, the Ministry of Environment and Spatial Planning and the National Centre for State Courts, identified existing property backlogs, possible ways to reduce them, and actions to prevent such cases in the future. However, it appears that the implementation of this Strategy by the Kosovo Judicial Council is going too slowly as there has been little or no progress achieved so far.

Furthermore, the application of old laws such as the Civil Procedure Code, the Law on Non-contentious Procedure and the Law on Execution Procedure are causing delays in delivering justice as they contain provisions which do not establish deadlines for certain procedural actions which enable judges to handle cases in the manner they find appropriate. This often results in the postponement of the hearings dates, which causes unnecessary delays to the case proceedings.

The problem of lengthy and complicated enforcement procedures is a part of the general backlog issue. The newly introduced reforms did not have the expected impact on the backlog. One possibility to relieve courts from the non-contested civil claims and minor penal cases is to consider the possibility to introduce simplified procedures in order to handle those cases separately from the ordinary proceedings. [...]

An additional backlog has been created by the lack of execution of court judgements. The number of civil cases pending before the municipal courts is growing substantially. As already mentioned in the previous report, there are several factors contributing to this backlog, such as the lack of court bailiffs to ensure that execution takes place. In addition, it happens frequently that delays are generated because public authorities disregard the court judgments. Certain municipalities avoid executing particular judgments without any justification because they simply do not consider themselves obliged to respect court judgments and adhere to the rule of law. [...]

Parallel courts located in Serbian enclaves in Kosovo, in the northern part of Mitrovicë/Mitrovica region and in certain towns in Serbia continue to function, to apply the law applicable in Serbia and to be remunerated by the Government of Serbia. The courts in Kosovo do not recognise their judgements and the parallel courts do not recognise either as legally binding the decisions issued by the courts in Kosovo. Their existence continues to lead to great confusion and has a direct impact on the rights of individuals and the rule of law. "

**Ombudsperson Institution, July 2008, p.58**

"The protection of property rights is an area in which the weakness of the rule of law in Kosovo is still the most apparent, as there is a general lack of accountability of all competent authorities at central and local level, courts and relevant administrations. This is also an area where the majority of the population lacks complete trust in the authorities and shows disbelief that the situation can be improved on the short run. "

### **Overburdened courts delay repossession of land and commercial business therefore hindering return (2005)**

- A strategy to reduce judicial property backlog was drafted in March 2007
- As of March 2007, the property backlog stands at 10,000 cases
- In addition to this figure another 18,000 cases have been suspended by Courts at UNMIK's request
- The lack of efficient remedy for owners encourage illegal occupation
- Since the Housing and Property Directorate only deals with residential properties
- Property disputes related to land, commercial properties have to be addressed through local Courts
- Repossession of land and commercial properties are essential to ensure sustainable return
- Local Courts are suffering from important backlog on property related cases but no apparent ethnic bias
- Illegal occupation should be systematically condemned and sanctioned

#### **UNMIK/EU/PISG/OSCE, 16 March 2007:**

"The current situation with the judicial protection of property rights in Kosovo is marked by a trend of a growing number of property related cases pending in the courts. Currently, there are more than 10,000 cases pending resolution in the courts of Kosovo. The proceedings in some of these cases, from the initiation of the court proceedings to the final determination and/or execution of the decisions, have been unreasonably prolonged, resulting in violations of the right to a fair trial (Article 6, European Convention on Human Rights).

In order to deal with the property backlogs, it is important to determine the magnitude of the issues, to identify the main causes for the delays, to identify the pitfalls in the case-flow management process and to allocate the geographic concentration of cases (50 per cent of all property related cases are currently pending in Prizren and Prishtinë/Priština Municipal Courts). [...] While policy and legislative changes might be necessary, management issues such as the reallocation of cases to different courts or increase of court staff and resources might be equally important for improving the situation.

In addition to the cases mentioned above, there is a distinct case-load of more than 18,000 cases which are currently not being processed by the courts following instructions by the international community. The vast majority of these cases are compensation claims against UNMIK, KFOR, PISG and individuals and were lodged by members of the Kosovo Serb community. [...] In addition, there are more than 2,900 cases of a similar nature which were lodged by Kosovo Albanian individuals which are also not being processed. These specific groups of cases are in need of an

adequate solution which is in line with international standards.

[...]

The Strategy and Action Plan for the Reduction of Judicial Property Backlogs will serve as a guiding document for the Kosovo institutions and the international community in the process of the future implementation of the relevant Standards and European Partnership Action Plan requirements (EPAP). Oversight of its implementation should be undertaken by the Standards and the European Partnership process structures and/or their successors.

[...]

The courts of Kosovo are evolving towards a well functioning modern court system which ensures that the execution of decisions in property related cases is timely, effective and observes due process safeguards. In order to be successful, the completion of this transition process requires a strategic planning involving all stakeholders and co-ordinating the efforts of the international institutions and the local authorities towards achieving a strategic objective – reducing the judicial property backlogs in Kosovo.

The current Strategy and Action Plan for the Reduction of Judicial Property Backlogs focuses on:

- Identification of existing property backlogs;
- Identification of possible ways for reduction of existing property backlogs;
- Actions for preventing the occurrence of new backlogs in the future.

It aims to provide the competent institutions and courts with an operational tool assisting them in their efforts to provide effective protection of the property rights of inhabitants and legal entities and to guarantee security and predictability of the real estate market in Kosovo."

**SC, 28 September 2007, annex, para72:**

"72. In order to address the judicial backlog of property-related cases, the Ministry of Justice initiated a series of meetings with the President of the Supreme Court of Kosovo on court processing of property claims, including claims for damages against the Kosovo Force and UNMIK. Municipal courts started issuing decisions rejecting their jurisdiction in those matters and referring the claims to the Kosovo Property Agency. The President of the Supreme Court promised to review one case and issue a Supreme Court opinion on the topic to serve as guidance for municipal and district courts."

**UNMIK, 15 December 2003:**

"While HPD is now well-positioned to support the return of displaced persons to their homes, no similar system for reclaiming agricultural or commercial property exists. Municipal courts throughout Kosovo possess large backlogs of cases and property reclamation claims are frequently overlooked or deliberately put off due to their complex nature or the political pressures involved in such cases. Police and municipal authorities also feel hesitant to enforce basic criminal and civil trespass laws and evict illegal occupants of such lands without a court decision confirming property ownership or land rights. As a result, minority-owned agricultural lands continue to be farmed and shops or businesses used by persons other than their rightful owners. It is also not uncommon for illegal occupants to construct residences or other structures on occupied agricultural lands. Many IDPs are thus reluctant to return, even once they regain their occupancy rights to their homes, as they would have no meaningful access to or possibilities for reclaiming these properties that contribute directly to their subsistence and ability remain in Kosovo."

**SG, 14 February 2005, par.62:**

"A comprehensive needs assessment and resource allocation are required to ensure adequate judicial protection of property rights (a priority). The civil courts are overwhelmed and their



backlog of cases is increasing. In the first half of 2004, cases were received at twice the rate they were adjudicated. The criminal courts are underused: police referred six property-related criminal cases to prosecutors over the reporting period. Execution of property-related decisions remains limited: 22 per cent of cases awaiting execution were fully executed in the first half of 2004; over half the remaining cases have been awaiting execution for over a year”

**SG, 23 may 2005, par.62, 67-68:**

"A total of 18,146 property-related cases filed in 2004 (largely to comply with the 5-year statute of limitations on 1999 conflict-related damages) were stayed at the request of the UNMIK Department of Justice and will remain stayed until adequate resources are available to adjudicate them. Taking these into account, the backlog of property-related cases in the courts was 6,932 (6.7% more than in 2004). Court and municipality efforts to increase execution rates need to continue and increase further (34% of required execution procedures were completed).

Systematic municipality efforts are needed to prevent and sanction illegal occupation and use of property (*priority*) including private property, and illegal construction. Public campaigns against both are needed. Municipal courts must not validate illegal sales. Consolidated guidance on approaching cases of suspected illegal occupation would help police. The Cadastral Agency needs to increase efforts to distribute subsidiary instruments, and provide training, to the northern municipalities (*priority*). The northern municipalities need to increase efforts to cooperate with the Cadastral Agency.

**UNMIK's regulation to prevent forced sales of houses risk limiting property rights of minorities (2007)**

- Forced sales aiming at reducing Serb presence in Kosovo persists in spite of UNMIK 2001 regulation
- 2001 Regulation aims to prevent forced sale of minority property to the majority in certain areas ("strategic sales")
- There are concerns that the regulation violates the right to freely dispose of one's property
- The regulation does not seem to have reduced inter-ethnic sales and risk depriving Serbs from an income they need in order to resettle elsewhere

**MRG, 17 July 2006, p.19:**

"Finally, across Kosovo, minorities found themselves pressurized into forced sales of homes. At the root of this lay the fear of minorities for their security. With no confidence they would be protected by the authorities, they succumbed to pressure to sell their homes in order to make money to start a new life elsewhere. In some parts of Kosovo there seemed to be a focused attempt to force minorities to sell. Over the years this seemed, for example, particularly prevalent amongst the Serbs in Kosovo Polje/Fushe Kosove. The OSCE and UNHCR described what would happen: young Albanian men would visit a Serb home and politely offer to buy it. If refused, some time later the house would be stoned. The men would return with a lower offer. Again, if this was refused, the stoning would continue until the Serbs sold. Such houses were deliberately targeted to leave the remaining Serbs

feeling vulnerable. The response of the authorities was to make the situation of the minorities worse, through giving UNMIK Municipal Administrators the power to refuse to register inter-ethnic sales of homes. Ostensibly, this was done to halt the continuing flight of minorities from large parts of Kosovo. However, internal consultations within UNMIK revealed large-scale opposition to this. It was pointed out that it violated the rights of minorities over their property, was discriminatory as it only applied in minority areas, and made the situation of minorities worse as they would still leave but, being unable to sell their homes, would now have no money. Above all, it addressed a symptom rather than the cause of the problem, which was the lack of security of minorities. Despite this, the law was pushed through by UNMIK at the behest of Serb leaders, who threatened to boycott the 2001 elections otherwise. The effect could easily have been predicted. Serbs still left Kosovo, as they still faced security threats, but now found themselves without money as they were not able to sell their homes. In fact it appears that the fear and uncertainty about this law led to a rise, not a reduction, in sales of homes by minorities. Short-term politics had again taken priority over the rights of members of minorities and their long-term future."

**Ombudsperson, 11 July 2007, p.53-54 :**

"There are examples all over Kosovo where intimidated property owners have sold their houses or property under duress. This appears to be happening recently on a larger scale in the northern part of Mitrovica, where the victims are usually ethnic Albanians or other non-Serbs.

In order to prevent such sales, UNMIK continues to implement UNMIK Regulation No. 2001/17 on the Registration of Contracts for the Sale of Real Property in Specific Geographical Areas of Kosovo. According to the Regulation, all property sales in certain areas designated by UNMIK (mainly areas inhabited by minority communities) need to

be registered by a competent UNMIK staff member. In certain cases, this staff member is permitted to refuse registration, inter alia in cases where he/she suspects that a contract has been signed under duress, where the sale could lead to a security breach, where the sale price is unreasonable or where the funds or motives for the sale are put into question.

The compatibility of this UNMIK Regulation with individuals' right to property was questioned numerous times by the former international Ombudsperson in Kosovo.

Another problem with regard to this UNMIK Regulation is that it is implemented in a somewhat arbitrary manner; in some cases, it has been applied even if the property is not in one of the specific geographical areas designated by UNMIK. Unfortunately, due to the general immunity of UNMIK, persons limited in the exercise of their property rights

cannot take such matters to court. It is also questionable whether UNMIK Regulation No. 2001/17 really manages to stop

people from selling their properties, even in cases where one or more of the reasons preventing sales according to the Regulation exist. In many cases these properties change hands informally, even if the sale has been expressly forbidden by UNMIK."

**USDOS, 28 February 2005:**

"Civilians were responsible for the destruction, often through arson, of private property. The reported phenomenon of "strategic sales" of property persisted. There was evidence that Kosovo Albanians in several ethnically mixed areas used violence, intimidation, and offers to purchase property at inflated prices in order to break up and erode Kosovo Serb neighborhoods. For example, on May 26, a 35-year-old Kosovo Serb farmer was seriously wounded from gunfire from an unknown assailant in a neighbouring, predominant Albanian village. Some cases of violence against Serbs may have been attempts to force persons to sell their property. An UNMIK regulation prevents the wholesale buy out of Kosovo Serb communities and seeks to prevent the intimidation of minority property owners in certain geographic areas; however, it was rarely enforced. Some municipalities were excluded from this regulation at their request. The Kosovo OI

and human rights groups criticized the regulation as limiting the ability of Kosovo Serbs to exercise their property rights.”

**UNHCR/OSCE, March 2003, pp.49-51:**

“The systematic sale of real estate belonging to minorities, be it voluntary or under threat or pressure, has a potential detrimental impact on the living conditions of the respective minority communities and, indirectly, on the right of refugees and displaced persons to return to those communities. As response to this phenomenon, UNMIK enacted Regulation 2001/17.116 Before and after its promulgation, the Regulation has aroused criticism and speculation.<sup>117</sup> It was feared that it would deter registration of property and therefore lead to clandestine property transactions circumventing the official (court) system. Moreover, it raised concern that the imposed restriction was a violation of the right to freely dispose of one's property, and also that it was discriminatory. The Regulation, however, does not prohibit sales in general. It orders that such sales be reviewed by another institution outside the courts (namely the UNMA) to determine whether the contract was fairly concluded and whether the sale reflects a systematic buy-out of minority-owned property. In this respect, the Regulation does not intend to serve as an instrument to restrict sale of real property owned by minorities, but, on the contrary, as a necessary tool to protect the legitimate interests of minorities.

However, the need to register a sales contract with the UNMA may generate an unnecessary and burdensome interference with property rights under the ECHR. The European Court found a national expropriation law to be inflexible, stating that the complainants were left “in uncertainty as to the fate of their properties”, as the respective law lacked a remedy against the prolonged expropriation procedure and also did not envisage for the possibility to claim compensation. These gaps in the national law were found to subject the applicants to “an individual and excessive burden”.<sup>118</sup> Along the line of the European Court's arguments, the OSCE finds that the Regulation, despite an established reconsideration and appeal process, places an excessive burden on the minority property rights holders, while also lacking any possibility to compensate these individuals for the interference with their rights. Such a burden appears to be individual and disproportionate when balanced with the legitimate aim of the Regulation. [...]

The OSCE has documented cases indicating that the Regulation does not serve the purpose originally envisaged. UNMIK representatives of the Prishtinë/Priština, Obiliq/Obilic and Fushë Kosovë/Kosovo Polje municipalities reported also that the Regulation has no significant impact on sales, since all the critical sales took place before the entry into force of the Regulation. For example, in the village of Devet Jugovica/Nënte Jugoviq, 50% of the residential property had already been sold before the enactment of the Regulation. In Fushë Kosovë/Kosovo Polje and Obiliq/Obilic, UNHCR statistics related to the departure of Kosovo Serbs show that more properties were exchanged than contracts submitted for registration, thus indicating the use of informal transactions.

An additional concern related to the Regulation stems from its implementation, and, in particular, from the rejections by the SRSG of requests filed by UNMAs from different municipalities in Kosovo to designate additional Specific Geographic Areas (SGA).<sup>125</sup> Several municipalities without SGAs have submitted requests to the SRSG to designate SGAs in their area of responsibility. For instance the municipality of Ferizaj/Uroševac has no SGAs. Since August 2001, the municipality submitted three requests to the SRSG. However, all requests have been declined without explanation despite a significant amount of inter-ethnic property sales that occurred in the Ferizaj/Uroševac municipality.<sup>126</sup> A proposal to include Prishtinë/Priština city under SGA has been submitted three times but all requests have been rejected. The Prizren municipality submitted in September 2001 a proposal but this request was declined as well.

Another phenomenon that is impeding the effective implementation of the Regulation is the lack of available resources for the UNMAs to monitor transactions and to review suspect sales

properly. UNMIK's downsizing has affected the number and kind of employees able to effectively and actively conduct reviews and follow up investigations on rejected property contracts. Moreover, the OSCE is concerned with the poor understanding of the Regulation both by the public and the municipality officials. It is imperative to ensure that the courts, local authorities and the UNMA understand the Regulation fully. Although agricultural land is not included in the scope of the Regulation, patterns of inter-ethnic sales of agricultural land gave further reasons for concern. The OSCE monitored that not only do such land sales cut off minority farmers from accessing valuable land for agriculture exploitation, but they can also effectively isolate minority communities, as such lands are usually located along the main travel routes in and out of minority communities. As current conditions indicate, some strategic purchasing of minority agricultural lands has already occurred in several areas, suggesting the same pattern and practices that occurred with residential properties. It is noteworthy that agricultural land is an essential economic indicator for the sustainable return of many minority communities, thus scrutiny over inter-ethnic transactions involving such land is of significant importance.

One development in addressing the drawbacks of the Regulation has been the establishment of an ABC Working Group to review it. It has been concluded that there is a need to increase the number of SGAs particularly in urban areas where minority flight has occurred and the returns process has not yet begun. Areas such as Prishtinë/Priština town, which contain a large number of illegally occupied minority residences, present a hostile environment for would-be returnees. Such circumstances create considerable pressure on minority property owners to sell rather than to wait for the HPD process to resolve possession or ownership disputes. The working group also acknowledged that it is vital, in order to ensure proper implementation of the Regulation, that the UNMAs have the ability to monitor, investigate, and follow up on suspect property sales under review or appeal. Therefore, and in light of UNMIK's downsizing, the capabilities of UNMAs to fulfil their responsibilities under this Regulation must not be compromised. The working group also recommended changes that would afford an amendment of the Regulation. This includes a recommendation of an amendment to extend coverage to agricultural land. Such an amendment would serve the same public interests that necessitated the review of residential properties, namely the protection of all communities' property rights, regardless of ethnicity, from coercive or irregular sales tactics.

[Footnotes:

116 For a background on the UNMIK Regulation 2001/17, see also the Ninth Assessment.

117 See also: Norwegian Refugee Council (NRC): UNMIK Regulation 2001/17 – Request for review for compliance with international standards regarding permissible restraints on the voluntary transfer of private residential property, 14 September 2001 and the Ombudsperson Institution in Kosovo – Special Report No. 5, 29 October 2001.

118 See European Court of Human Rights, Sporong and Lonroth judgement, A Series no. 52, para. 73.

125 See further the analysis made in the Ninth Assessment, para 123.

126 The Office of the Legal Advisor responded three times that the submitted request does not meet the criteria under Section 1.2 lit. (a) and (b). The Ferizaj/Uroševac Municipal Court reported that 536 Kosovo Serb and Montenegrin properties (apartments, land, commercial premises, etc.) have been transferred to Kosovo Albanians - among which 182 were residential properties - since the promulgation of the Regulation.]”

***The full text of [Regulation 2001/17](#) is available on the website of the UN Interim Administrative Mission in Kosovo [Internet]***

See also "[Village for sale: with no jobs for the young and no security for the old, no wonder entire Serbian villages are on the market](#)", *BIRN*, 25 September 2006,

See also [Special Report No. 5 of the Ombudsperson Institution in Kosovo On Certain Aspects of UNMIK Regulation No. 2001/17 on the Registration of Contracts for the Sale of Real Property in Specific Geographical Areas of Kosovo \(22 August 2001\) dated 29 October 2001 \[Internet\]](#)

### **Reconstruction and return to Roma Mahala: largest project in urban area (2007-2009)**

- Before the conflict, Roma Mahala (Mitrovica south) was home to 8,000 Roma, Ashkali and Egyptians
- 800 of Roma Mahala former residents have been accommodated for 8 years in deplorable conditions in north Mitrovica
- The high risk of lead contamination faced by IDPs in northern Mitrovica camps facilitated the elaboration of a return and reconstruction project to Roma Mahala
- The first phase of the project has been completed in October 2007 with some 400 returnees from Kosovo, Serbia proper and Montenegro
- In addition to the 102 displaced families who were relocated to the Roma Mahalla neighbourhood in 2007, some 25 families returned in July 2009.
- The project is a successful example of cooperation between international agencies, donors and the PISG
- The project has addressed land tenure issues which were preventing reconstruction since many of the former inhabitants did not have a title on their homes
- Returnees benefited from vocational training and were associated to the reconstruction of their future homes
- A urban regulatory plan for the Roma Mahalla has been approved in 2009 and foresees the construction of more houses, a police station, a hospital and a school.

#### **UNMIK, 25 April 2006:**

"In 1999, Roma Mahala was home to some 8,000 Roma, Ashkali, and Egyptians (RAE), many of whom are living either as Internally Displaced Persons (IDPs) in Kosovo, Serbia and Montenegro, or abroad. The *Return to Roma Mahala Project* represents the largest urban return project in Kosovo."

#### **UNDP, 9 December 2007:**

"Prior to the 1999 conflict, Roma Mahala was a predominantly K-RAE settlement characterized by economic deprivation, lack of urban planning and informal settlement. During and immediately following the conflict the inhabitants of the Mahala fled the neighbourhood and their houses were destroyed. More than seven years after the conflict, the former inhabitants of Roma Mahala continue to live in displacement in Northern Kosovo and abroad. Those who have remained in Northern Kosovo used to reside in deplorable conditions. Some of them have been displaced in contaminated areas (K-RAE children in particular) and faced additional health hazards associated with lead contamination.

The return of RAE population to South Mitrovica/a and rebuilding their sustainable livelihood there will be a test for the whole process of Kosovo reconstruction and status determination. If it turns out that RAE cannot return to the Mahala in sustainable manner, the whole concept of multiethnic Kosovo will be questioned. And vice versa – successful rebuilding of Mahala in South

Mitrovica can be a pilot for other parts of the province. That is why the project's significance goes beyond its humanitarian and community development aspects".

**OSCE, 22 June 2006:**

"Around 800 of those most interested in returning now live in three camps for internally displaced persons (IDPs) in Serb-dominated northern Kosovo, including northern Mitrovica"

***For more information on the living conditions of Roma IDPs in Mitrovica camps see in Subsistence needs section: Improvement of shelter conditions for Roma displaced in Mitrovica and Plemetina (2007) and Roma IDP lead poisoning in North Mitrovica illustrates Roma's disastrous health and shelter conditions (2005)***

**UNMIK, 11 April 2006:**

" On 18 April 2005, a historic agreement was reached between the municipality of Mitrovica and the international stakeholders. Following this, on 5 May 2005, a Donors' Conference was organized in Mitrovica with the participation of both the PISG and UNMIK. Recognizing the importance of the potential return to Roma Mahala, particularly in light of an emerging health emergency in the existing Roma camps, the Prime Minister and the SRSG each pledged 200,000 euros to launch the project."

**UNMIK, 17 October 2007:**

"The completion of the first phase of "Return to the Roma Mahala" is the culmination of collective efforts undertaken jointly by UNMIK, OSCE, UNHCR, the municipality of Mitrovica and the implementing partners.

The efforts were coordinated through the Steering Group for the Return to Roma Mahala, which worked closely with the Danish Refugee Council and Norwegian Church Aid.

The first phase facilitated the return of 102 families (462 individuals) to 4 municipal apartment blocks and 54 private houses. The majority of families returned to their new houses and municipal apartments in March this year.

The total budget for the first phase was close to 5 million euros, granted by the Norwegian Government (over 2 040 000 euros) the European Agency for Reconstruction (1 250 000 euros/ Return of 35 families), Swedish International Development Agency (770,000 euros / Return of 19 families), Irish Government (250,000 euros), German Government (50,000 euros), Belgian Government (19,000 euros), Greek Government (10,000 euros), SRSG Contingency Fund (250,000 euros), PISG (200,000 euros), and UNDP. KFOR, KPC, and KPS have also been contributing, through their cooperation to the success of this project."

**USDOS, 6 March 2007:**

"In 2005 UNMIK also began a concurrent donor funding campaign to rebuild the original Romani settlement in southern Mitrovica, destroyed in 1999 by Kosovo Albanians. [...]"

Limited funding slowed the return project, but reconstruction of the neighborhood began in May. By year's end, two 12-unit apartment buildings were completed and construction had begun on two more. Another 36 houses (54 housing units) were also nearly complete. The committee for selecting future occupants of the 48 apartments received 93 applications; 31 from Serbia, 27 from Camp Osterode, 18 from Leposaviq/Leposavic municipality, 13 from Montenegro, two from Camp Cesmin Lug, and two from private locations in Mitrovica. The committee selected the occupants. At year's end, the 48 chosen heads of household were waiting to sign a 99-year lease, which was in the process of revision and approval by the UNMIK legal adviser's office."

**UNSC, 30 September 2009:**

"UNMIK remains committed to supporting the efforts of the Kosovo authorities and relevant partners to find a sustainable solution to the situation in the Roma, Ashkali and Egyptian IDP

camps in northern Mitrovicë/Mitrovica, namely, Camps Osterode and Çesmin Llugë/Ëesmin Lug, the administration of which was taken over by the Kosovo Ministry of Communities and Returns last year. The Kosovo authorities have established a Steering Committee for the Roma, Ashkali and

Egyptian camps in northern Mitrovica to address this issue. UNMIK continues to play an active role in facilitating and coordinating efforts among international actors, providing good offices to local authorities and the Kosovo-Roma, Ashkali and Egyptian leadership, and placing particular emphasis on achieving policy coherence amongst donors and their implementing partners, in order to ensure that all efforts are strategically directed to addressing the immediate humanitarian challenge, facilitating the closure of the camps and ensuring the sustainable relocation of their residents.

There are some encouraging developments in this direction. In addition to the 102 Kosovo-Roma, Ashkali and Egyptian displaced families (462 individuals), mainly from the camps, who were relocated to the Roma Mahalla neighbourhood in southern Mitrovica in 2007, some 25 Kosovo-Roma, Ashkali and Egyptian families, including 15 families from the camps in northern Mitrovica, returned to the Roma Mahalla neighbourhood in July this year. "

**Ombudsperson Institution, July 2008:**

"Concerning the reconstruction of houses of Roma, Ashkali or Egyptian, destroyed during or after 1999, this reporting period has at last seen some positive progress, in particular with regard to the Roma neighbourhood (Roma Mahalla) in the southern part of Mitrovicë/Mitrovica. During this reporting period, the return of Roma to the southern part of Mitrovicë/Mitrovica continued. After the return in 2006 of a first group of 23 Roma families, in October 2007, 11 Roma families have returned from Serbia and Montenegro, while 14 Roma families have returned from camps in Osterode, Cesmin Lug and Leposavic/Leposaviq. A large number of the Mahalla inhabitants lived for more than six years in Northern Kosovo in improvised houses under very bad health conditions. "

**UN SC, 10 June 2009, p. 8:**

"The Mitrovicë/Mitrovica Municipal Policy and Finance Committee has approved an urban regulatory plan for the Roma Mahalla on the south bank of the Ibër/Ibar River where all Kosovo Roma, Ashkali and Egyptian families currently living in camps in northern Mitrovicë/Mitrovica will be able to relocate if they are willing to do so. This ambitious plan foresees construction of houses, a police station, a hospital and a school offering multilingual education, including in the Roma language. UNMIK is working with the parties as well as with non-governmental organizations and the international community to find a sustainable solution to the Roma Mahalla issues."

**Security**

**UNHCR, 12 March 2007:**

"The returnees said they did not see security as a major issue in the Roma Mahala, adding that they believed Roma, Ashkalia and Egyptian communities in Kosovo were no longer under threat. But UN security forces and the local poice patrol the area regularly"

**Ownership and tenure issues:**

**UNHCR, November 2006, p.12:**

"[...] it is difficult to establish the right to repossess a house without title deeds. Redressing this problem requires very often painstaking individual legal advice from UNHCR and its legal partners to establish rights and entitlements, as in the case of the return of the Roma to the Mahala ("settlement", comprising 750 housing units) in southern Mitrovica, Kosovo, that was completely destroyed in June 1999 by the returning ethnic Albanian

majority [...]. This is a prerequisite for the implementation of the physical reconstruction project, started with the support of UNMIK, the PISG, donors and development-oriented NGOs. This return/reconstruction project in Kosovo is one of the few that targets the RAE as most projects were focused on Serb returns. UNHCR has been advocating in Kosovo to shift the balance of attention also to Roma return projects other than the Mitrovica Mahala."

**OSCE, 31 July 2007, p.21:**

"A positive example of co-operation among relevant stakeholders can be found in the "Roma Mahalla Co-ordination Mechanism", created by the international community to help implement the return project of displaced Roma, Ashkali and Egyptian individuals to a large destroyed informal settlement in the centre of the city of Mitrovicë/Mitrovica. A "Protection and Legal Issues Unit", co-chaired by the Municipality, has – during 2006 and 2007- addressed land tenure. It defined selection criteria for beneficiaries and helped to verify property rights, including the drafting of long-term lease agreements of socially owned property, later approved by the SRSG."

**UNHCR, 16 October 2007:**

" The municipality of Mitrovica granted the land on which the new apartments blocks were built"

***Integrated return process and participation of IDPs to reconstruction***

**OSCE, 22 June 2006:**

"Just 18 months ago, such returns to Roma Mahalla would have been impossible, due to the tensions in the divided city of Mitrovica.

But as the situation gradually improved, a number of international organizations, the Kosovo Government, the Mitrovica city authorities and representatives of the RAE IDPs came together in June 2005 to start planning returns to Roma Mahalla (mahalla is a Turkish word meaning 'neighbourhood').

Co-ordinated plan of action

With their efforts co-ordinated by the OSCE, the group developed a comprehensive plan for the return process.

"We formed a three-stage plan: to raise funds for reconstruction; to train young people from returning RAE communities in skills needed in reconstruction; and to ensure that the young people were employed by the company that won the tender for the reconstruction of Roma Mahalla," explains Maria.

In this way, the RAE would get the opportunity to actively participate in the reconstruction of their homes, generate income and develop social contacts with the receiving Kosovo Albanian community - their co-workers."

**See also UNDP website's page on [Support to Roma, Ashkali and Egyptians](#)**

**Reconstruction and compensation of houses damaged in March 2004 did not result in return (2007)**

- The reconstruction process for houses damaged in Svinjare in 2004 has been declared complete by UNMIK and the PISG
- Kosovo Serb beneficiaries of reconstruction have not returned which resulted in looting of the rebuilt houses
- In June 2006, the Kosovo Protection Corps was tasked with reconstructing houses destroyed in Svinjare



- Reconstruction and compensation for damaged properties are ongoing in affected municipalities of Kosovo

*After the destruction resulting from the March 2004 events, the PISG pledged to rebuild or repair homes damaged during the March violence*

**SG, 9 March 2007, Annex, par.3:**

The reconstruction under the leadership of the Kosovo Protection Corps (KPC) of properties damaged in March 2004 in Svinjarë/Svinjare was declared complete by the UNMIK/Provisional Institutions of Self-Government Decision-Making Board on 15 December. An UNMIK/Provisional Institutions/KPC engineering commission declared all properties fit for habitation. However, the displaced Kosovo Serb homeowners have chosen not to return. Consequently, and despite increased Kosovo Police Service (KPS) patrols, some burglary of unoccupied houses has required minor extra repairs. The commission suggested that there should be no further repair unless people undertake to immediately return to live in their properties, since otherwise the unoccupied houses will remain vulnerable to the weather and other hazards and need repair all over again. By the same reasoning, the Kosovo Government is not proceeding with repair of the

24 remaining commercial claims."

**SG, 1 September 2006, Annex, par.46:**

"There has been major progress in completing the reconstruction and compensation program relating to March 2004 (a Contact Group priority). On 16 June, the Special Representative of the Secretary-General, at the request of the Prime Minister, Agim Çeku, assigned the Kosovo Protection Corps a major role in completing the reconstruction work in Svinjarë/Svinjare and in utilizing the humanitarian and public services of the Kosovo Protection Corps to help resolve other pending claims relating to the reconstruction.

47. The Kosovo Protection Corps has held meetings in Svinjarë/Svinjare with all stakeholders, including internally displaced persons, the receiving community and municipal officials, and repairs to buildings have now begun and should be completed by the end of October. A decision-making board has been established and is holding regular meetings."

**SG, 14 February 2005, par.42:**

"The reconstruction programme following the March 2004 violence is progressing (a priority). All schools were reconstructed on schedule. Of 897 houses designated for reconstruction, 847 have been completed. Fifty-seven houses in Prizren and 30 in Kosovo Polje and Obilic have been added to the programme. An additional amount of €1.6 million has been requested from the budget. The Central Inter-Ministerial Commission has undertaken to deal with commercial property, and has significantly expanded the policy for secondary building compensation. Of 338 eligible beneficiaries, 116 have accepted compensation under the scheme. Files were completed for 487 of the 632 beneficiaries eligible for Euro 2000 start-up assistance."

**Ombudsperson, 11 July 2007, p.45:**

"[...]many Serbs, Roma, Ashkali and Egyptians continue to live in containers and collective centres in Gracanica/Gracanice and the Municipality of Fushe Kosove/ Kosovo Polje in central Kosovo, as well as Strepce/Shterpce and Prizren in the south. These settlements include displaced persons from 1999 and others who fled their homes during the riots of March 2004. In the case of the latter group, a large number of their houses have been reconstructed by the Government of Kosovo, but not all owners of these reconstructed houses feel that they would be safe returning, especially those persons formerly living in Fushe Kosove/Kosovo Polje and the village of Svinjare in the Municipality of Mitrovice/Mitrovica. A similar situation exists for many

people displaced in 1999 who have now received decisions from the UN Housing and Property Directorate (HPD) that allow them to repossess their houses or apartments. These persons prefer to leave their houses under the administration of the HPD's successor, the Kosovo Property Agency (KPA), or are planning to sell their properties and move to Serbian-populated areas in northern Kosovo or Serbia proper.

Some of the victims of the March 2004 violence have now received compensation for destroyed commercial property, most notably in the Municipality of Fushe Kosove/Kosovo Polje. In other cases within this Municipality and the Municipalities of Prishtine/Pristina and Obiliq/Obilic, compensation proceedings for damaged and destroyed furniture and other movable property are ongoing. A number of people with similar problems have been included in the list for reconstruction and compensation for damages but are still waiting for results. Although the Ombudsperson Institution has been asking for more expeditious compensation proceedings in four such cases since 2005, there has been little response from the PISG".

**USDOS, 6 March 2007:**

" By year's end, the PISG had reconstructed over 97 percent of the homes damaged or destroyed in the March 2004 riots. On december 15, for example, repairs and reconstruction were completed in Svinjare. However, a number of the individuals displaced by the riots still did not return due to both a real and perceived lack of security, unemployment, and residents' complaints about the quality of reconstruction. The prospect for returns varied according to region and ethnic group".

**See also "[Kosovo Serbs abandon their rebuilt homes](#)", BIRN, 20 July 2006**

**March 2004 events: widespread destruction and occupation of properties belonging to non-Albanians (2005)**

- Participants in the March violence systematically targeted properties, religious and social buildings related to minority communities
- Widespread illegal occupations during and after the March 2004 events
- Provisional Institutions for Self-Government (PISG) pledged to repair the damages

**USDOS, 28 February 2005:**

"Numerous serious attacks on Serbian Orthodox churches and cemeteries occurred during the March riots, resulting in extensive property damage, including the destruction or damage of 30 Orthodox religious sites and over 900 houses and businesses of ethnic minorities. Several of the burned churches and monasteries dated from the 14th century and were considered part of the cultural and religious heritage of the region. A Council of Europe mission assessed that approximately \$13.1 million (9.7 million euros) would be required to repair and restore the damaged religious sites. Following the riots, KFOR deployed security contingents at religious sites throughout Kosovo to protect them from further destruction. In some areas KFOR resumed static checkpoints and increased protective measures and improved KFOR visibility. Nevertheless, sporadic attacks against ethnic minority property continued."

**Ombudsperson, 12 July 2004, p.20:**

"According to the Report on UNMIK issued by the UN Secretary-General on 30 April 2004, this onslaught was an organised, widespread and targeted campaign. Properties and churches were demolished, public facilities such as schools and health clinics were destroyed, communities were surrounded and threatened and residents of these communities were forced to abandon their homes. Minority areas were targeted, sending a message that minorities and returnees were not

welcome in Kosovo. The Secretary-General saw this as a targeted effort to drive out Kosovo Serbs and members of the Roma and Ashkali communities and to destroy the social fabric of their existence in Kosovo. It also showed a lack of commitment among large segments of the Kosovo Albanian population to creating a truly multi-ethnic society in Kosovo.”

**OSCE, December 2004:**

“The illegal occupation of residential and non-residential property has been widely acknowledged as a continuing and widespread problem throughout Kosovo. During and in the aftermath of the March violence, some partially destroyed or forcibly abandoned properties were newly illegally occupied or illegally re-occupied, while many other properties were left vulnerable to illegal occupation when the occupants fled.”

**Arson, looting and occupation of Serb- and Roma-owned properties (June 1999-2000)**

- Displacement prevented many owners of damaged properties from claiming compensation within the prescribed period
- The Ombudsperson requested that the SRSG take measures to ensure right of access to Courts
- Orthodox religious sites also targeted
- Arson attacks against minority-owned properties include grenade attacks and shooting
- A pattern emerged in some areas of arson and demolition of previously abandoned properties to clear the way for construction of new homes

**Ombudsperson, 12 July 2004, p.10:**

“[A]pproximately 10 000 Serbs whose property was damaged after the arrival of KFOR and UNMIK since 1999 have brought civil lawsuits for compensation before the courts of Kosovo. Serbian newspapers have estimated that around 20 – 50 000 more such lawsuits will be filed in the foreseeable future. However, in many cases where these persons intend to bring such claims before court, the prescription periods for these claims may now have run out, or may run out in the near future. In these and other civil claims cases, the claimants were often prevented from accessing the competent courts in Kosovo earlier, as they were often forced to flee their homes after the conflict. In this time, the courts in Kosovo had also stopped functioning for a certain period and did not officially resume their work until several months or in some cases even a year later. Since the end of the conflict, the security situation in Kosovo has prevented a large number of the above persons from accessing the competent courts. Bearing this in mind, the Ombudsperson wrote a letter to the Acting SRSG in the beginning of June 2004 asking whether there was any solution by which this group of people could still be able to pursue their claims despite the fact that the relevant prescription periods had run out or would soon run out. The Ombudsperson noted that the present situation could raise issues regarding these persons’ right of access to court under Article 6 of the European Convention on Human Rights. To the date of this report, there has been no response to this letter.”

**HRW, August 1999, "Arson, looting, destruction of property, and takeover of homes":**

"The extensive destruction of civilian property in Kosovo began with the 1998 spring offensive in the Drenica region, when Serbian security forces deliberately targeted homes, schools, and mosques for destruction. The rampage continued at an accelerated pace following the departure of OSCE verifiers from the province in early 1999. Looting and arson has continued since the withdrawal of Serbian military and police units in early June. However, it is now Serb and Roma homes that are the targets. Orthodox religious sites have also been targeted, with monasteries in Vucitrn and Musutiste destroyed and a church demolished by explosives.

[...]

The takeover of Serb homes by Albanian families, many of whom lost their own homes during the conflict, has also been reported throughout Kosovo. In Prizren, for example, the historically Serb neighborhood of Pantelija is now nearly empty of its previous residents, with many formerly Serb homes currently being occupied by ethnic Albanian returnees.

According to Roma interviewed in Djakovica, about thirty Roma homes in the Brekoc neighborhood were burned within three hours on July 12. Men in KLA uniform told them to leave their homes a few days before the burning took place. Human Rights Watch visited the Roma neighborhood on July 24 and saw the charred remains. Approximately 600 Roma from Brekoc and other areas in Djakovica are currently in a UNHCR camp in the city guarded by Italian KFOR troops. The Roma are free to leave the camp, but told Human Rights Watch that they fear to do so because of retaliatory attacks by the KLA. 'All of the Rom who worked with the Serbs have left,' said one man in the camp. 'And we are trapped here even though we did nothing.' None of the Roma interviewed wanted their names to be published."

**UNSC, 6 June 2000, para. 40:**

"In terms of the types of major crimes affecting minority communities during the reporting period, arson was by far the most frequent. Arson attacks committed against minorities were mostly carried out in the Pristina region and to a lesser extent in the Gnjilane region. Serb-owned properties were the hardest hit, representing 46 per cent of victims (83 properties burned out of a total of 179 incidents registered province-wide from 27 February to 20 May). A pattern emerged in some areas of arson and demolition of previously abandoned properties to clear the way for construction of new homes."

**UNHCR/OSCE, October 2000, para. 8:**

"Crime related to property particularly affects minorities. Arson, and the destruction of property, often appears to be directed at ensuring that members of minorities leave, or do not return to, the province. Arsons have taken place across the province, with a series of attacks in Orahovac/Rahovec at the start of June [2000]. Repeated incidents, including grenade attacks and shootings at Kosovo Serb-owned property took place in Kosovo Polje/Fushe Kosove, a Kosovo Serb community often described as "under siege" by its residents and international actors. Other significant events include destruction of churches, which took place in Vitina/Viti on 30 June, and Kosovo Polje/Fushe Kosove on 16 July 2000."

**Interference with property rights impedes return of IDPs (2003)**

- Minorities are particularly vulnerable to interference with their property rights, including illegal construction on and use of their land, and destruction
- Administrative appeals mechanism and judicial remedies remain inadequate
- This obstructs sustainable return of IDPs

**UNHCR/OSCE, March 2003, pp. 48-49:**

"As noted in the previous Assessment, minorities' lack of freedom of movement and exposure to discrimination makes them particularly vulnerable to the problem of illegal construction and use of land, or illegal interference with their property rights. Minorities are especially vulnerable to illegal use of agricultural land. Such illegal use of land obstructs the ability of these property right holders to return in a sustainable fashion. Since the last Assessment, little progress has been made in remedying the identified gaps in the legal framework, such as the inadequate administrative appeals mechanisms at the municipal and central level and the lack of effective judicial remedies to such interference. Nor has notable progress been observed in preventing the illegal use of agricultural land.

The effect of these gaps was seen in the Pejë/Pec municipality, when the Kosovo RAE community displaced from the “Kristali” area of the Pejë/Pec city attempted to access and reconstruct on their land. Not only were Kosovo RAE property right holders denied construction permits to build on their land, but Kosovo Albanian property right holders were granted construction permits in the same area and illegal construction by the majority community, known to the municipality, continued unregulated. The Kosovo RAE property right holders were denied construction permits by the municipality based on the zoning of the area, while the majority community applicants were granted construction permits within the same zoning. The municipality, based on the zoning designation, refused to consider appeals to its decision. Subsequently, based on a September 2000 Municipal Council decision changing the zoning designation, the municipality, through the UN Municipal Administrator, promised remedial action. To date, however, over 100-inventoried illegal constructions remain unregulated. As this case illustrates, the continued ineffectiveness of administrative remedies negatively affects the ability of minority communities to access their property rights and thus exercise their right to return.”

**OSCE, 30 June 2003:**

“[I]llegal occupation inhibits rightful owners from accessing their property and returning. For example, in Gračanica/Gračanicë municipality in Prishtinë/Priština region, Kosovo Serbs are illegally occupying 70 houses over which Kosovo Roma have property rights. In February 2002, the American Refugee Committee reported that two Kosovo Roma properties were occupied in the village of Hogosht/Ogošte, Kamenicë/Kamenica municipality, preventing return of the property right holders. In the village of Dobrevë e Epermë/Gornje Dobrevo in Prishtinë/Priština region, approximately 60 houses of Serb refugees from Croatia and Bosnia and Herzegovina are illegally occupied by Kosovo Albanians, preventing their return and maintaining the refugees’ and IDPs’ displacement in Fushë Kosovë/Kosovo Polje town.

Lack of physical access to property also results from security concerns restricting freedom of movement of those displaced inside or outside Kosovo. Such security concerns severely limit Kosovo Serbs’ ability to return to many municipalities in Kosovo as well as the ability of some RAE. For example in Pejë/Pec, two RAE reconstruction beneficiaries had their reconstruction sites severely vandalised on 18 November 2002 precipitating a decision by the beneficiaries not to return and the implementing partner, CORDAID, to remove its support. In Mitrovicë/Mitrovica, security concerns are likely to hamper efforts to assist RAE from the “Roma Mahala” to return. The potential implementing partner, ACTED, stated in September 2002 that 50 families must be willing to return together in order for return and reconstruction to be sustainable from a security standpoint.”

“Many potential returnees have no home to return to because it has been destroyed. For instance, in the Prizren region, many rural residential properties of Kosovo Serbs have been destroyed. The RAE property in the Kristali area in the Pejë/Pec municipality and in the “Roma Mahala” in Mitrovicë/Mitrovica municipality was burned and cleared after the conflict ended in 1999. Even when potential returnees do have property rights to land, the lack of temporary or alternative accommodation during the reconstruction period as well as difficulty in securing reconstruction aid acts as a deterrent, especially to spontaneous return. In Prizren region, spontaneous return has occurred only to locations where property is not destroyed (or not occupied). In Pejë/Pec, representatives of the RAE community told OSCE in March 2002 that many RAE wish to return to Mahalla e Bates/Batina Mahala and other areas, but do not because they do not have alternative shelter while they rebuild their houses. In addition, within the Pejë/Pec region, many RAE members are squatting in houses within their enclaves with the knowledge of the owners.”

## **Lack of funding for return projects adds another obstacle to minority return (2007)**

- Municipalities have increased their capacity to develop and implement return projects
- EUR 5.2 millions have been allocated in the PISG's 2007 budget for return projects
- The funding gap as of September 2007 stands at EUR 16.5 millions
- Lack of funding discourages municipalities and IDPs to engage dialogue on returns and project development
- Return figures continue to be low due to the security situation, lack of employment opportunities and lack of funding for return projects
- During 2007, six projects to support the organized return of 140 families have been launched

### **SG, 9 March 2007, Annex, par.52:**

"An amount of EUR 5.2 millions have been allocated in the 2007 budget for return projects"

### **SG, 28 September 2007, par.42, 45-48:**

"42. Municipalities continue to increase their ownership of activities related to returns.[...]

45. Twenty-two municipalities have developed and endorsed 2007 municipal return strategies and another four have prepared such strategies, which are pending endorsement. However, the implementation of the strategies remains unsatisfactory, mainly because of the lack of financial resources.

46. The lack of funding remains the most important obstacle to returns, with the current gap standing at €16.5 million for 21 organized return projects. The lack of financial resources is discouraging municipalities and internally displaced persons from engaging in new dialogue on returns and project development.

47. For 2007, the Ministry of Communities and Returns has allocated €2.6 million and €520,000 for organized and individual returns, respectively. An additional €2.1 million was allocated to 47 community development and stabilization projects, to be implemented primarily by municipalities. However, the implementation of the projects is behind schedule, with only 28 of the 47 projects under implementation.

48. Two new organized returns projects were launched, in Lismir/Dobri Dub and Nakaradë/e (Fushë Kosovë/Kosovo Polje) and in Klinafç/Klinavac (Klinë/Klina), for a total of 45 Kosovo Serb returnees. Both projects are funded by the Ministry of Communities and Returns and will be either fully or partially implemented by the municipalities.

49. A total of 75 Kosovo Serb families (103 individuals) returned to Srpski Babuš/Babush i Serbëve; 78 Roma, Ashkali and Egyptian families (329 individuals) have returned to the Roma Mahala district (Mitrovicë/Mitrovica) to date, and another 24 families will soon return to two apartment buildings, which were completed on 24 August. Mitrovicë/Mitrovica is in the process of taking over the coordination of the project, which was previously managed by UNMIK, and will have to implement the reintegration part of the project.

### **SG, 28 September 2007, par.20, 22:**

"20. The number of members of minority groups returning voluntarily to Kosovo continued to be low. Out of a total of 1,018 individuals who had returned in 2007 as at 31 July, 37.9 per cent are Kosovo Serb and 29.5 per cent are Roma. Although there are noticeable improvements in the conditions for return, such as greater acceptance of the returnees by the receiving communities and an increasing capacity of municipalities to directly implement components of return projects, the primary factors affecting returns continued to be lack of economic opportunity and inadequate funding for approved return projects, as well as persisting perceptions of

insecurity.

22. During 2007, six projects to support the organized return of 140 families, with a total budget of €3.7 million, have been launched."

### **Better inclusion of minority IDPs in reconstruction projects (2007)**

- PISG has allocated up to 10 million Euros for 2005 and 2006 but only 5 millions in 2007
- Most beneficiaries are Kosovo Serbs who represent 75% of displaced persons
- This situation hampers the return of minorities displaced within Kosovo
- In 2001, minorities received about 4.2% of the total reconstruction aid in Kosovo.
- Municipal Housing Commissions (MHCs) have failed to provide minorities an allocation of aid proportional to their vulnerability or need
- This may be the result in part from the lack of adequate representation of minorities in the MHCs
- There is a lack of accountability and transparency in the distribution of assistance
- Roma, Ashkaelia and Egyptians cannot take full advantage of reconstruction aid due to their lack of documentation establishing their property rights

#### **ICG, 14 May 2007, p.24:**

"The PISG has allocated up to EUR 10 million annually since 2005, though only EUR 5 million in its 2007 budget. Money was not always spent effectively, and often new homes have been sold on or stayed unoccupied."

#### **SG, 17 November 2004:**

"The Provisional Institutions have continued to provide a generous level of funding for returns, with a 50 per cent increase in returns funding from 2003 to 2004 (from €7 million to €10.5 million). While returns funding will remain stable in 2005, Kosovo has now assumed the position of the leading funder of returns. Efforts have continued to ensure that returns funding is distributed according to need and involves all communities. Most of the Kosovo budget has been directed to projects involving Kosovo Serbs (who constitute approximately 75 per cent of the displaced), but projects have also been funded for the return of Gorani families in Dragas, Kosovo Roma, Ashkali and Egyptian families in Dakovica and Mitrovica, and Kosovo Albanian returns to the Serb-majority municipality of Strpce."

***Regarding reconstruction of properties damaged during the March 2004 events see property section, "Reconstruction and compensation of houses damaged in 2004 did not result in return" (2007)***

***For more information on funding of return and reconstruction projects see in the same section "Lack of funding for return projects adds another obstacle to minority return"***

***For more information on the mechanism leading to the selection of return and reconstruction projects see: Revised Manual for Sustainable Return, UNMIK/PISG, July 2006 (source below)***

#### **Minority Rights Group, 17 July 2006, p.19:**

"On the issue of the reconstruction of destroyed homes, some of the vast sums of assistance money did go to this

vital issue. But it does not seem to have been well thought out or planned. At times minority homes were reconstructed and then immediately burned down. Notoriously, the European Agency for Reconstruction (EAR) insisted that all its projects be determined by the municipal authorities, despite overwhelming evidence that many of these municipalities were biased against Serbs and other minorities.<sup>76</sup> The result was that in 2000 an estimated 2 per cent of EAR assistance went to minorities and in 2001 only 3.7 per cent.<sup>77</sup> Agencies funding and carrying out reconstruction projects failed to understand and apply the concept of indirect discrimination. Their policies, which they said treated everyone equally, ended up discriminating against minorities. One example of this was reconstruction agencies requiring everyone seeking assistance to present themselves in person, despite many minorities being outside Kosovo or having major restrictions on freedom of movement.”

**UNHCR/OSCE, 1 March 2003:**

“The right of the refugees and internally displaced minorities to return and exercise their property rights often depends upon the apportionment of reconstruction assistance. Many minorities’ properties have been destroyed both in urban and rural areas either during the conflict or immediately following it, and in some instances destruction has continued throughout the postconflict period. [...] Indeed, the level of such destruction in villages can be persuasively argued to be inversely linked to the presence of a resident minority community. As previous Assessments have highlighted, minorities, though generally well informed about the existence of reconstruction assistance and the mechanisms through which to obtain it, have encountered difficulties in obtaining it. [...] The actual proportion of houses reconstructed within the minority communities remains far less than that of the majority communities, who normally possess better access to and greater financial resources. For instance, throughout the Mitrovicë/Mitrovica region, the overwhelming majority of houses reconstructed were not those belonging to minority beneficiaries. In Deçan/Decani, prior to this past reconstruction season, 55% of the majority population destroyed houses have been rebuilt compared to 6-7% of those belonging to minority population. Since the last Assessment, though, minorities access to the reconstruction process appeared to improve. ”

**UNHCR/OSCE May 2002, paras. 112-119:**

“Previous assessments have highlighted various problems that minorities have faced in accessing reconstruction assistance. Minorities have not received reconstruction assistance in proportion to their need or with due attention to their particular predicament of displacement. This situation creates particular hardships for large numbers of minorities displaced within Kosovo who due to lack of reconstruction assistance remain unable to solve their problem of displacement. Minorities’ lack of economic resources, freedom of movement, and their under-representation in municipal structures present obstacles to their receiving reconstruction aid, and the first two factors are precisely the ones which make minorities particularly needy when it comes to reconstruction assistance.

The UNMIK Guidelines for Housing Reconstruction stipulated a set-aside percentage of 5-10% in 2000. In 2001, the guidelines did not stipulate a minority set-aside *per se*, but stated that 10% must be set aside as a contingency fund for vulnerable returnees while another 5% should be set aside for valid claims following the public posting of the beneficiary list (which could benefit any vulnerable person). Results achieved were, however, quite low. In 2000, the actual allocation of available reconstruction assistance to minorities was in the region of 2%. In 2001, minorities received about 4.2% of the total.

Municipal Housing Commissions (MHCs), the ultimate conduit of reconstruction benefits, play a decisive role in the accessibility of such assistance. Six MHCs did provide the mandated 5-10% of aid mandated for minority communities, indeed in all six cases providing more than the target.



The remaining fell far short, for example: Ferizaj/Uroševac (where no houses were reconstructed for minorities); Lipjan/Lipljan (where only 1%, constituting 2 families, benefited), and Prizren municipality (where only 1 house out of 142 was reconstructed for a minority). In Rahovec/Orahovac, only 3.4% went to Serbs, Ashkaelia and Egyptian beneficiaries. Where minority houses have been reconstructed, most **MHCs have failed to provide minorities an allocation of aid proportional to their vulnerability or need**. The actual proportion of Category IV and V houses reconstructed within the minority communities is far less than that of the majority communities, who possess better access to and greater financial resources as well as full freedom of movement in the current Kosovo context.

[Houses are categorised by UNHCR according to levels of damages. Category IV corresponds to serious (40–60 %) requiring major repair/reconstruction while category V designates destroyed houses (60–100%), which require full reconstruction.]

Lack of access appears to result in part from the **lack of adequate representation of minorities in the MHCs**. To date, representation of minority interests in many municipalities has largely been left to the UNMIK Local Communities Officer (LCO), who normally sits on the MHC. [...]

Yet indeed, adequate representation and advocacy adds little value when **the mechanism itself is not effective**. Fundamentally, there is a lack of accountability and transparency in the distribution of assistance, which produces discriminatory effects. The lack of accountability and transparency often even prejudices the majority community, since in many cases it has been noted that the designated beneficiaries of housing units are not the most vulnerable applicants, whilst extremely vulnerable Albanian families do not receive assistance. [...]

It also should be noted that other provisions of the Guidelines impede the ability of minorities from equally realising their property rights. **Roma, Ashkaelia and Egyptians have particular difficulty taking advantage of reconstruction aid** due to their lack of documentation establishing their property rights."

### **Large-scale destruction and confiscation of Kosovo Albanian property by Serb forces (until June 1999)**

- Reports of systematic burning of Albanian-owned houses or villages with predominantly Albanian populations
- Destruction and looting of livestock, barns, tractors and other agricultural equipment
- Confiscation of Albanian properties and possessions by Serb forces
- Destruction of property not solely an act of vandalism but an attempt at wiping out signs of the presence of the Albanian population in Kosovo

***Situation prior to the withdrawal of Serb forces from Kosovo on 10 June 1999, as documented through testimonies collected by the UN Office of the High Commissioner for Human Rights from refugees in Albania and Macedonia***

**UN CHR, 27 September 1999, paras. 68-74:**

"About half of the refugees interviewed reported large-scale destruction of property at the hands of Serb forces, especially burning of Albanian-owned houses. Towns and cities were not heavily affected by the destruction, although Albanian neighbourhoods were in some instances attacked and houses burned down. More often, premises and properties of intellectuals, political activists

and suspected KLA collaborators were preferred targets, as well as houses and apartments which had been rented by officers of the OSCE Kosovo Verification Mission.

Following military offensives, villages with predominantly Albanian populations were systematically burnt down by Serb troops. In many cases interviewees observed from hiding places in the hills Serb troops entering villages and setting houses on fire. Along with houses, barns with hay, remaining tractors and agricultural equipment were burnt as well. Villagers who returned after the withdrawal of Serb forces found livestock killed or disappeared, while corpses were sometimes thrown into wells to contaminate drinking water.

Many Kosovo Albanians had their personal documents torn apart by Serb troops during the eviction, at police checkpoints, at the border or elsewhere in the course of searches by police, army or paramilitary forces. It appears that all of these acts of destruction were aimed at preventing Albanians from returning to and resuming life in their places of residence. The destruction of property was apparently not solely an act of vandalism but an attempt at wiping out signs of the presence of the Albanian population in Kosovo, as well as its national and cultural identity.

The majority of interviewees also reported confiscation of property by Serb forces. Confiscation took place during raids into Albanian homes: Serb troops went from house to house in villages and towns, people present in the houses were searched and deprived of money and other valuables, and cars and tractors were confiscated.

Serb police and paramilitary groups intercepted large groups of IDPs and forced them to surrender money, jewellery, cars, tractors and other valuables at gunpoint. Paramilitary groups occasionally stabbed or shot IDPs who failed to meet their demands and threatened to kill hostages captured on the spot if family members could not pay the demanded amount of money. / IDP convoys targeted by paramilitary groups in Grastica were brutally robbed and many persons allegedly killed or injured because they failed to provide the demanded amount, which in some cases was as high as DM 1,000./

A few cases of extortion of money from Albanians at border crossing points were also reported. Furthermore, IDPs were often ordered to abandon their vehicles before they were allowed across the border. Car documents and license plates were in some cases confiscated. Numerous cars were allegedly stripped and parts transported away in trucks to be sold elsewhere. Personal documents were also confiscated at border crossing points.

Abandoned Albanian houses were systematically and extensively looted for movable property. As the Albanian population fled their villages, Serb infantry systematically loaded goods onto trucks before setting houses on fire. In some instances Roma civilians allegedly assisted Serb forces in transporting confiscated goods."

# PATTERNS OF RETURN AND RESETTLEMENT

## Return Movements

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### Number of minority returns remains low but increase compared to 2008 (as of October 2009)

- The number of returns from Serbia to Kosovo and within Kosovo has remained very low, despite Kosovo authorities officially encouraged returns.
- However, compared to the same period in 2008, there has been a slight increase in the number of IDP returns.
- Following the Declaration of Independence in February 2008, the pace of returns slowed down because of real or perceived insecurity
- According to UNHCR, there have been 12,145 minority returns from Serbia to Kosovo and 2,793 minority returns within Kosovo in the period from 2000 to 2009.
- Figures remain contested since sustainable returns seem to be very limited.
- The majority of IDPs returned to Pristina region.
- The initiatives taken by the Ministry for Community and Returns and other organizations have mainly focused on returning people to rural areas.
- 5,000 IDPs have expressed an interest in returning to Kosovo in 2009.
- The Kosovo Ministry of Communities and Returns deals with the applications for return thanks to a new returnee database
- Preparations for the assistance of the applicants are under way at municipal level

### UNHCR Pristina, October 2009:

"This chart contains Minority returns figures for the period 2000 – up to date, divided per ethnicity and the previous places of displacements (PPOD).

| Voluntary minority returns from the previous displacements for the period 2000-2009 |              |             |            |                    |               |                   |              |
|---|--------------|-------------|------------|--------------------|---------------|-------------------|--------------|
| Ethnicity of the returnees  | Serbia       | Montenegro  | FYROM      | Bosnia Herzegovina | Within Kosovo | **Third countries | Total        |
| Serb  | 7991         | 102         | 19         | 8                  | 220           | 18                | 8358         |
| Albanian*   | 0            | 0           | 0          | 0                  | 796           | 0                 | 796          |
| Roma  | 1333         | 522         | 196        | 33                 | 574           | 75                | 2733         |
| Egyptian & Ashkali  | 1594         | 1432        | 531        | 67                 | 1162          | 239               | 5025         |
| Bosniak   | 439          | 702         | 17         | 107                | 20            | 300               | 1585         |
| Gorani  | 788          | 41          | 14         | 25                 | 21            | 139               | 1028         |
| <b>TOTAL</b>  | <b>12145</b> | <b>2799</b> | <b>777</b> | <b>240</b>         | <b>2793</b>   | <b>771</b>        | <b>19525</b> |

***! There have been 12,145 voluntary returns of IDPs from Serbia + 2'793 voluntary returns of IDPs within Kosovo: which brings the total figure to 14,938.***

**UN SC, 30 September 2009:**

"The number of returns in the reporting period remained very low. However, compared to the same period last year, there was a modest increase in the number of IDPs that have returned. According to estimates of the United Nations High Commissioner for Refugees (UNHCR), 236 displaced minority community members, including 7 Kosovo Albanians, 31 Kosovo Serbs and 177 Kosovo Roma, Ashkali and Egyptians, voluntarily returned to Kosovo between June and July this year.[...]

[...] At the same time, 1,295 families comprising some 5,000 individuals have expressed an interest in returning to Kosovo during 2009. The Ministry of Communities and Returns is now proactively dealing with applications for return and is better able to manage return requests thanks to a new returnee database. According to the Ministry of Communities and Return, preparations for assistance to the above families are under way, and task forces at municipal levels are reviewing applications in line with the current criteria for assistance.

**UNHCR Pristina, September 2009:**

"[...] Kosovo wide monthly return figures for 2009: The return trend from returns within the Region in 2008 indicates 62.61 % decrease compared with 2007. The return trend for the period January - September in 2009 indicates an increase of 32 % compared with the same period in 2008."

**CoE, Commissioner for Human Rights, 2 July 2009:**

In general terms, the return process to Kosovo has been very slow. As of April 2009, only 7 490 Roma, Ashkali and Egyptians returned to Kosovo since January 2000 according to UNHCR data. A number have subsequently left Kosovo due to economic reasons.

**UNSC, June 2009:**

The number of voluntary returns in 2009 is gradually increasing, even though it remains disappointingly low and continues to lag behind the 2008 figures. According to UNHCR estimates, 137 displaced community members, including 24 Kosovo Albanians, 30 Kosovo Serbs and 54 Roma, Ashkali and Egyptians, voluntarily returned to Kosovo between January and April. During the same period, 936 individuals were involuntarily returned to Kosovo from Western Europe, an

increase of 27.3 per cent compared to the corresponding period in 2008. Of these, 40 persons belong to minority communities.[...]

Over 660 families, totalling 3,100 persons, have expressed interest in returning in 2009. The Ministry is currently more responsive to applications for return and better placed to manage return requests owing to the finalization of its returnee database.

**UNSC, March 2009:**

The returns statistics for 2008 show a dramatic decline in the number of voluntary minority returns to Kosovo compared to earlier years. According to estimates by the Office of the United Nations High Commissioner for Refugees (UNHCR), only 582 minority community members returned to Kosovo in 2008, as compared to 1,816 in 2007 and 1,669 in 2006.

**USDOS, February 2009 (Serbia):**

"While government officials continued to make public statements that IDPs should return to Kosovo, senior government officials also claimed that it was unsafe for many to return. IDP returns to Kosovo slowed; [...]"

**USDOS, February 2009, (Kosovo):**

"Due to the country's declaration of independence, relatively few persons returned during the year. Between January and November, UNHCR registered only 533 returnees, considerably fewer than the 1,815 who returned in 2007 or the 1,669 who returned in 2006. The greatest number of returnees came from Serbia (323 returnees), followed by Montenegro (85) and Macedonia (36), with 15 returnees from all other countries. Seventy-four persons returned from displacement inside Kosovo. Most returns were concentrated in Peje/Pec and Pristina regions. While municipal governments generally supported returns, obstacles remained for Kosovo Serb returnees.

As of November, overall minority returns since 2000 stood at 18,527 persons. Kosovo Serbs comprised approximately 28 percent of returnees during the year, compared with 32 percent in 2007. Roma (including Ashkali and Egyptians) continued to return, comprising 48 percent of the overall number of returns compared to 49 percent in 2007. In Mitrovica/Mitrovica, Kosovo Serbs in the north and Kosovo Albanians in the south continued to illegally occupy each others' properties, hindering potential returns."

**EC, November 2008, (Kosovo):**

Despite some incidents targeting returnees, the overall security situation in Kosovo during the reporting period remained relatively calm. However, the pace of the returns process is very low and slowed down further following the declaration of independence. Since October 2007, about 700 individuals returned voluntarily, and about 2000 individuals were forcibly repatriated from asylum countries.[...]

**OSCE, September 2008:**

[...] there were also no significant returns, although Kosovo authorities officially encouraged returns.

**Ombudsperson Institution, July 2008:**

According to UNHCR's estimates, a small number of displaced persons and refugees who left Kosovo following the NATO military intervention in 1999, returned to their place of origin during the reporting period. The biggest challenge remains the return of minority communities, above all the Serbian, Roma, Ashkali and Egyptian communities, but the forced returns of potentially thousand of people, in majority Albanians, to Kosovo might also start to attract more attention in the coming years.[...]

UNHCR's statistics show that only 18 114 displaced persons and refugees belonging to minority communities returned voluntarily to their places of origin in Kosovo between 2000 and the end of April 2008. Last year, only 1 453 people returned, which is the smallest number of returnees in one year over the last four years. [...]

So far, there has not been much return to urban areas in Kosovo and the initiatives taken by MCR and various organizations involved in the return process have mainly been focused on returning people of minority communities to rural areas, despite the fact that some displaced persons have expressed interest to return in urban areas. Returns to urban areas are indeed much more delicate to organize due to the higher tensions that they are likely to generate. According to the MCR, the return to certain urban areas is often obstructed by the competent municipal authorities. For example, last year the MCR took the initiative to return 46 Serbian families from Pejë/Pec, whom had been living in Montenegro for nine years. These families had expressed their wish to return to their homes, but the municipal authorities in Pejë/Pec still refuse to cooperate with the Ministry of Communities and Returns on this issue. The MCR faces the same problem when it comes to returning people to the city of Prishtinë/Priština.

***For more information on the reasons of the slow number of returns see "obstacles to return (2009)".***

### **Number of spontaneous returns to Kosovo remains low but increased slightly in 2009 (October 2009)**

- The number of returns from Serbia to Kosovo and within Kosovo has remained very low, despite Kosovo authorities officially encouraged returns.
- However, compared to the same period in 2008, there has been a slight increase in the number of IDP returns.
- Following the Declaration of Independence in February 2008, the pace of returns slowed down because of real or perceived insecurity
- According to UNHCR, there have been 12,145 minority returns from Serbia to Kosovo and 2,793 minority returns within Kosovo in the period from 2000 to 2009.
- Figures remain contested since sustainable returns seem to be very limited.
- The majority of IDPs returned to Pristina region.
- The initiatives taken by the Ministry for Community and Returns and other organizations have mainly focused on returning people to rural areas.
- 5,000 IDPs have expressed an interest in returning to Kosovo in 2009.
- The Ministry of Communities and Returns deals with the applications for return thanks to a new returnee database
- Preparations for the assistance of the applicants are under way at municipal level

#### **UNHCR Pristina, October 2009:**

"This chart contains Minority returns figures for the period 2000 – up to date, divided per ethnicity and the previous places of displacements (PPOD).

| Voluntary minority returns from the previous displacements for the period 2000-2009 |              |             |            |                    |               |                   |              |
|---|--------------|-------------|------------|--------------------|---------------|-------------------|--------------|
| Ethnicity of the returnees  | Serbia       | Montenegro  | FYROM      | Bosnia Herzegovina | Within Kosovo | **Third countries | Total        |
| Serb  | 7991         | 102         | 19         | 8                  | 220           | 18                | 8358         |
| Albanian*   | 0            | 0           | 0          | 0                  | 796           | 0                 | 796          |
| Roma  | 1333         | 522         | 196        | 33                 | 574           | 75                | 2733         |
| Egyptian & Ashkali  | 1594         | 1432        | 531        | 67                 | 1162          | 239               | 5025         |
| Bosniak   | 439          | 702         | 17         | 107                | 20            | 300               | 1585         |
| Gorani  | 788          | 41          | 14         | 25                 | 21            | 139               | 1028         |
| <b>TOTAL</b>  | <b>12145</b> | <b>2799</b> | <b>777</b> | <b>240</b>         | <b>2793</b>   | <b>771</b>        | <b>19525</b> |

*! There have been 12,145 voluntary returns of IDPs from Serbia + 2'793 voluntary returns of IDPs within Kosovo: which brings the total figure to 14,938.*

This chart contains Minority returns figures for the period 2000 – up to date, divided per Regions of returns and the previous places of displacements (PPOD)

| Voluntary minority returns from the previous displacements for the period 2000-2009 |              |             |            |                    |               |                   |             |
|---|--------------|-------------|------------|--------------------|---------------|-------------------|-------------|
| Region of return  | Serbia       | Montenegro  | FYROM      | Bosnia Herzegovina | Within Kosovo | **Third countries | Total       |
| Mitrovicë/a   | 894          | 73          | 6          | 8                  | 812           | 23                | 181         |
| Prizren   | 1902         | 233         | 84         | 65                 | 77            | 462               | 282         |
| Gjilan/Gnjilane   | 2662         | 7           | 315        | 4                  | 546           | 18                | 355         |
| Pejë/Pec  | 2281         | 2187        | 18         | 154                | 70            | 258               | 496         |
| Pristina  | 4406         | 299         | 354        | 9                  | 1288          | 10                | 636         |
| <b>TOTAL</b>  | <b>12145</b> | <b>2799</b> | <b>777</b> | <b>240</b>         | <b>2793</b>   | <b>771</b>        | <b>1952</b> |

**UN SC, 30 September 2009:**

"The number of returns in the reporting period remained very low. However, compared to the same period last year, there was a modest increase in the number of IDPs that have returned. According to estimates of the United Nations High Commissioner for Refugees (UNHCR), 236 displaced minority community members, including 7 Kosovo Albanians, 31 Kosovo Serbs and 177 Kosovo Roma, Ashkali and Egyptians, voluntarily returned to Kosovo between June and July this year.[...]

[...] At the same time, 1,295 families comprising some 5,000 individuals have expressed an interest in returning to Kosovo during 2009. The Ministry of Communities and Returns is now proactively dealing with applications for return and is better able to manage return requests thanks to a new returnee database. According to the Ministry of Communities and Return, preparations for assistance to the above families are under way, and task forces at municipal levels are reviewing applications in line with the current criteria for assistance.

**UNHCR Pristina, September 2009:**

"This chart contains Minority returns figures for the period 2000 – up to date, divided per ethnicity and the previous places of displacements (PPOD)."

| Voluntary minority returns from the previous displacements for the period 2000-2009 |              |             |            |                    |               |                   |              |
|---|--------------|-------------|------------|--------------------|---------------|-------------------|--------------|
| Ethnicity of the returnees  | Serbia       | Montenegro  | FYROM      | Bosnia Herzegovina | Within Kosovo | **Third countries | Total        |
| Serb  | 7934         | 96          | 19         | 8                  | 219           | 18                | 8294         |
| Albanian <sup>7</sup>   | 0            | 0           | 0          | 0                  | 796           | 0                 | 796          |
| Roma  | 1333         | 522         | 196        | 33                 | 574           | 75                | 2733         |
| Egyptian & Ashkali  | 1591         | 1432        | 529        | 67                 | 1155          | 239               | 5013         |
| Bosniak   | 439          | 702         | 17         | 107                | 20            | 300               | 1585         |
| Gorani  | 788          | 41          | 14         | 25                 | 21            | 139               | 1028         |
| <b>TOTAL</b>  | <b>12085</b> | <b>2793</b> | <b>775</b> | <b>240</b>         | <b>2785</b>   | <b>771</b>        | <b>19449</b> |

*! There have been 12,085 voluntary returns of IDPs from Serbia + 2'785 voluntary returns of IDPs within Kosovo: which brings the total figure to 14,870.*

"This chart contains Minority returns figures for the period 2000 – up to date, divided per Regions of returns and the previous places of displacements (PPOD)."

| Voluntary minority returns from the previous displacements for the period 2000-2009 |              |             |            |                    |               |                   |              |
|---|--------------|-------------|------------|--------------------|---------------|-------------------|--------------|
| Region of return  | Serbia       | Montenegro  | FYROM      | Bosnia Herzegovina | Within Kosovo | **Third countries | Total        |
| Mitrovicë/a   | 894          | 73          | 6          | 8                  | 812           | 23                | 1716         |
| Prizren   | 1902         | 233         | 84         | 65                 | 77            | 462               | 2763         |
| Gjilan/Gnjilane   | 2649         | 7           | 315        | 4                  | 546           | 18                | 3539         |
| Pejë/Pec  | 2256         | 2181        | 18         | 154                | 62            | 258               | 4879         |
| Pristina  | 4384         | 299         | 352        | 9                  | 1288          | 10                | 6342         |
| <b>TOTAL</b>  | <b>12085</b> | <b>2793</b> | <b>775</b> | <b>240</b>         | <b>2785</b>   | <b>771</b>        | <b>19449</b> |

[...] Kosovo wide monthly return figures for 2009: The return trend from returns within the Region in 2008 indicates 62.61 % decrease compared with 2007. The return trend for the period January - September in 2009 indicates an increase of 32 % compared with the same period in 2008.

#### **COE, Commissioner for Human Rights, 2 July 2009:**

In general terms, the return process to Kosovo has been very slow. As of April 2009, only 7 490 Roma, Ashkali and Egyptians returned to Kosovo since January 2000 according to UNHCR data. A number have subsequently left Kosovo due to economic reasons.<sup>73</sup> There has been a continuously declining trend of returns per year since 2003.<sup>74</sup> While municipalities are developing more returns projects, lack of funding and administrative/managerial capacity remain important obstacles. Nevertheless, following renewed joint efforts by the international community and the authorities in Belgrade and Prishtinë/Priština, 2009 may see an increased expression of interest in return by IDPs



and refugees in the region.

**UNSC, June 2009:**

The number of voluntary returns in 2009 is gradually increasing, even though it remains disappointingly low and continues to lag behind the 2008 figures. According to UNHCR estimates, 137 displaced community members, including 24 Kosovo Albanians, 30 Kosovo Serbs and 54 Roma, Ashkali and Egyptians, voluntarily returned to Kosovo between January and April. During the same period, 936 individuals were involuntarily returned to Kosovo from Western Europe, an increase of 27.3 per cent compared to the corresponding period in 2008. Of these, 40 persons belong to minority communities.[...]

. Over 660 families, totalling 3,100 persons, have expressed interest in returning in 2009. The Ministry is currently more responsive to applications for return and better placed to manage return requests owing to the finalization of its returnee database.

**AI, May 2009 (Serbia):**

"Serbs and other non-Albanians did not flee Kosovo after the declaration of independence as feared, but few returns took place during the year. Some 445 internally displaced people returned to their homes, of whom 107 were Kosovo Serbs. "

**UNSC, March 2009:**

The returns statistics for 2008 show a dramatic decline in the number of voluntary minority returns to Kosovo compared to earlier years. According to estimates by the Office of the United Nations High Commissioner for Refugees (UNHCR), only 582 minority community members returned to Kosovo in 2008, as compared to 1,816 in 2007 and 1,669 in 2006.

**USDOS, February 2009 (Serbia):**

"While government officials continued to make public statements that IDPs should return to Kosovo, senior government officials also claimed that it was unsafe for many to return. IDP returns to Kosovo slowed; [...]"

**USDOS, February 2009, (Kosovo):**

"Due to the country's declaration of independence, relatively few persons returned during the year. Between January and November, UNHCR registered only 533 returnees, considerably fewer than the 1,815 who returned in 2007 or the 1,669 who returned in 2006. The greatest number of returnees came from Serbia (323 returnees), followed by Montenegro (85) and Macedonia (36), with 15 returnees from all other countries. Seventy-four persons returned from displacement inside Kosovo. Most returns were concentrated in Peje/Pec and Pristina regions. While municipal governments generally supported returns, obstacles remained for Kosovo Serb returnees.

As of November, overall minority returns since 2000 stood at 18,527 persons. Kosovo Serbs comprised approximately 28 percent of returnees during the year, compared with 32 percent in 2007. Roma (including Ashkali and Egyptians) continued to return, comprising 48 percent of the overall number of returns compared to 49 percent in 2007. In Mitrovica/Mitrovica, Kosovo Serbs in the north and Kosovo Albanians in the south continued to illegally occupy each others' properties, hindering potential returns."

**BalkanInsight, 14 January 2009:**

"The Serbs' return is not the difficult part," Sasa Rasic, one of a handful of ethnic Serbs to participate in the Albanian-dominated government, told Radio Free Europe. "Their integration is a problem. Economic and political insecurity pose the greatest obstacles rather than return per se." [...]

He conceded that "after the declaration of independence in February 17 there has been a decrease of returns", but the ministry was trying to change that. Some 60 flats were being built in Llapna Sella and there were ongoing projects to woo people back to Novobrdó and Istog.

But the pace of the returns is currently very slow -- since October 2007, about 700 people returned voluntarily, and about 2,000 were forcibly repatriated from asylum countries. Structures created in 2005 to encourage a direct dialogue between Pristina and Belgrade on the return process is no longer operational. The last technical group on returns was held in 2007 and there is no talk of reviving the process following Kosovo's declaration of independence.

**EC, November 2008, (Kosovo):**

Despite some incidents targeting returnees, the overall security situation in Kosovo during the reporting period remained relatively calm. However, the pace of the returns process is very low and slowed down further following the declaration of independence. Since October 2007, about 700 individuals returned voluntarily, and about 2000 individuals were forcibly repatriated from asylum countries.[...]

**OSCE, September 2008:**

[...] there were also no significant returns, although Kosovo authorities officially encouraged returns.

**Ombudsperson Institution, July 2008:**

According to UNHCR's estimates, a small number of displaced persons and refugees who left Kosovo following the NATO military intervention in 1999, returned to their place of origin during the reporting period. The biggest challenge remains the return of minority communities, above all the Serbian, Roma, Ashkali and Egyptian communities, but the forced returns of potentially thousand of people, in majority Albanians, to Kosovo might also start to attract more attention in the coming years.[...]

UNHCR's statistics show that only 18 114 displaced persons and refugees belonging to minority communities returned voluntarily to their places of origin in Kosovo between 2000 and the end of April 2008. Last year, only 1 453 people returned, which is the smallest number of returnees in one year over the last four years. [...]

So far, there has not been much return to urban areas in Kosovo and the initiatives taken by MCR and various organizations involved in the return process have mainly been focused on returning people of minority communities to rural areas, despite the fact that some displaced persons have expressed interest to return in urban areas. Returns to urban areas are indeed much more delicate to organize due to the higher tensions that they are likely to generate. According to the MCR, the return to certain urban areas is often obstructed by the competent municipal authorities. For example, last year the MCR took the initiative to return 46 Serbian families from Pejë/Pec, whom had been living in Montenegro for nine years. These families had expressed their wish to return to their homes, but the municipal authorities in Pejë/Pec still refuse to cooperate with the Ministry of Communities and Returns on this issue. The MCR faces the same problem when it comes to returning people to the city of Prishtinë/Priština.

***For more information on the reasons of the slow number of returns see "obstacles to return (2009)".***

## **Main obstacles to return and reintegration (2009)**

- Many obstacles continue to hinder minority returns and their reintegration in Kosovo
- Lack of economic prospects due to Kosovo's difficult economic situation; real or perceived insecurity; restrictions of freedom of movement; ineffective system of property restitution and backlog of cases before the courts; difficult access to occupied agricultural land; lack of schools facilities for minority communities; restricted access to rights and services, such as health care, courts or public transportation are among the main obstacles to return and reintegration.
- Not all the Kosovo Municipalities have developed strategies for the return and integration of IDPs, and few of the one who did so have implemented them. Municipalities often lack funds and administrative capacity to develop and implement returns projects.
- Moreover, there is a lack of coordination between actors responsible for returns.
- The protocol for the voluntary and sustainable return of IDPs to Kosovo, signed between the then PISG, UNMIK and the Government of Serbia in June 2006 has not been implemented at all after Kosovo's declaration of independence, since the cooperation between Serbia and Kosovo has been discontinued.
- The Kosovo Ministry of Communities and Returns intends to place greater emphasis on promoting economic development and sustainability of minority communities to encourage returns.

### **UN SC, 30 September 2009:**

"However, reintegration of minority communities, especially the Kosovo Serb community, continues to be a challenge, primarily owing to lack of employment opportunities, a fragile economic situation, access to services, and, to a certain extent, security. By allocating €3,000,000 for community development projects this year, the Ministry of Communities and Return intends to place greater focus on economic development and sustainability of minority communities to encourage more returns."

### **UN HRC, 7 July 2009:**

"Persons who were internally displaced from and within Kosovo still face serious obstacles to return and local integration", said Walter Kaelin, Representative of the United Nations Secretary-General on the Human Rights of Internally Displaced Persons, after concluding a visit (28 June-4 July) to Belgrade, Pristina and other cities. [...]

The Secretary-General's Representative noted with appreciation that the relevant authorities expressed commitment to facilitate return of all internally displaced persons, regardless of their ethnicity. At the same time, Mr. Kaelin found that entrenched patterns of discrimination, lack of access to employment and livelihoods, too few schools for minorities and difficulties in repossessing property and having houses reconstructed are among the chief obstacles to return.

### **CoE, Commissioner for Human Rights, 2 July 2009:**

"There has been a continuously declining trend of returns per year since 2003. While municipalities are developing more returns projects, lack of funding and administrative/managerial capacity remain important obstacles. "

### **UNSC, June 2009:**

"According to the Ministry of Communities and Returns, reintegration of minority communities, especially the Kosovo Serb community, continues to be a challenge. As the primary factors

affecting reintegration include lack of employment opportunities, a fragile economic situation and limited access to public services and security, the Ministry intends to place greater focus on promoting economic development and sustainability of minority communities in order to encourage more returns. "

**AI, May 2009:**

Serbs and other non-Albanians did not flee Kosovo after the declaration of independence as feared, but few returns took place during the year. Some 445 internally displaced people returned to their homes; of whom 107 were Kosovo Serbs. [...]

Many other people were unable to return to their homes due to the backlog of 29,000 cases and 11,000 unimplemented decisions related to property claims originating from the 1999 war.

**BalkanInsight, 14 January 2009:**

"The long, difficult and expensive practical process of convincing thousands of Serbs to return to their homes in Kosovo will be nothing compared to the struggle it will take to get them to integrate in the newly independent state and feel comfortable living with its Albanian majority, said Kosovo's Minister for Return and Communities. [...]

The Serbs' return is not the difficult part," Sasa Rasic, one of a handful of ethnic Serbs to participate in the Albanian-dominated government, told Radio Free Europe. "Their integration is a problem. Economic and political insecurity pose the greatest obstacles rather than return per se."

**UN Committee on Economic, Social and Cultural Rights, 19 November 2008:**

"The Committee is concerned about the low number of internally displaced persons and refugees, in particular those belonging to minority communities, who have returned to their pre-armed conflict homes in recent years, despite the efforts undertaken to facilitate sustainable returns. (article 11)

The Committee recommends that UNMIK, in cooperation with the Kosovo authorities, intensify efforts to ensure the repossession of property, physical safety and sustainable return of internally displaced persons and refugees, in particular those belonging to minority communities, to their pre-armed conflict places of residence, e.g. by increasing income generation assistance for returnees, ensuring that the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2) are fully taken into account during the revision of the Revised Manual for Sustainable Returns (2006), and directly involving affected IDPs at all stages of adoption and implementation of Municipal Return Strategies."

**UN ESC, 10 November 2008:**

"Statement by Serbia:[...]

The lack of stronger security guarantees affected minority communities, whose freedom of movement was restricted, Mr. Stracevic said. The atmosphere of insecurity contributed significantly to the extremely slow process of the return of internally displaced persons to Kosovo and Metohija, which had virtually come to a halt. Freedom of movement remained precarious, and the overall situation remained disconcerting, involving a large number of displaced persons unable to return to their homes, as well as serious obstacles in terms of access to various services, ranging from health services to courts and public transportation. Of the 230,000 persons, predominantly Serbs, Roma, and other non-Albanians, who were forced to leave the Province after June 1999, and despite the nine years of international presence, only a few thousand had returned to Kosovo and Metohija. Needless to say that the basic human rights, such as the right to life, liberty and security of person and freedom of movement were crucial for the sustainability of the return of the internally displaced persons as well as for a peaceful and decent life of all inhabitants in the Province, and minority ethnic communities in particular."

**Ombudsperson Institution, July 2008:**

"Indeed, displaced persons generally suffer from a real or perceived fear for their safety when considering return and their decision to return remains largely affected by the lack of economic prospect due to Kosovo's difficult economic situation. The recent political developments and the Kosovo Declaration of Independence only add to the general tension and make it very difficult for displaced persons to assess whether or not sustainable return to their homes is possible and whether they can foresee their future in Kosovo. Despite these considerations, many internationally funded projects continue to be initiated to ensure that people, if they choose to do so, can return not only to their homes but also to places other than their homes where they feel more comfortable to live, often because they are then living among members of their community.[...]"

**Ombudsperson Institution, July 2008:**

"A protocol on the voluntary and sustainable returns of IDPs to Kosovo, signed between the then PISG, UNMIK and the Government of Serbia on 6 June 2006, have had so far a very limited impact. Even if this protocol helped to establish contacts and cooperation between the authorities in Serbia and the authorities in Kosovo, it did not manage to increase returns from Serbia to Kosovo and has not been implemented at all after Kosovo's Declaration of Independence in February 2008. Due to Serbia's decision not to recognize Kosovo as an independent country, displaced persons in Serbia remain the hostage of the current political situation. For the moment, there are little to no perspective for their return, while the cooperation between Serbia and the central and local institutions in Kosovo has been discontinued, without any indication that it would resume in the near future, at least concerning this issue.

The destroyed properties of displaced persons of minority communities who fled their homes during the March riots in 2004 have now for the most part been reconstructed by the Kosovo Government or by International Organizations and NGOs. However, many displaced persons do not feel safe enough to return to their homes and therefore they either visit their houses occasionally or try to sell them. Likewise, many displaced persons and refugees who fled in 1999 decide to sell their property after it has been reconstructed or after they managed to regain their usurped property. They usually go back to Serbia and sometimes to other enclaves in Kosovo where they feel more comfortable to live and where they have access to services entirely dedicated to Serbian speakers.

At the same time, four years after the violent events, some of the victims of the March 2004 violence are still waiting for the reconstruction of their houses and apartments or for the completion of the compensation proceedings for their damaged and destroyed furniture and other movable properties. Such cases involve citizens whose property is in the municipalities of Fushë Kosovë/Kosovo Polje, Prishtinë/Priština and Obiliq/Obilic. These people, although included in the list for reconstruction and compensation of damages, have not received compensation yet despite the fact that the Ombudsperson Institution has been asking for more expeditious compensation proceedings in four such cases. Indeed, since 2005, the Ombudsperson Institution has been requesting that the competent central and local authorities compensate these people or reconstruct their properties, but so far, the authorities have not taken any action nor provided adequate responses to these requests.[...]

[...] the sustainability of the voluntary returns in locations where Serbian displaced persons are a minority living among the ethnically Albanian majority remain problematic due to the overall lack of employment opportunities, primary health care institutions and education facilities, the difficult access to occupied agricultural land and the occasional provocations and intimidations. Such incidents lead many returnees to doubt whether it is possible for them to enjoy security, and they only occasionally come to visit their reconstructed houses. This is for example the case of returnees in the village Srpski Babuš/Babushi in the Municipality of Ferizaj/Uroševac. As mentioned earlier, returnees, Serbs and Roma in particular, generally feel more comfortable to return in places where they can live with people from their community because they have families, social

network and better access to services in their own language. However, it should be underlined that the general security situation and freedom of movement has improved over the past years, despite the continuous occurrence of sporadic, and sometimes dramatic, incidents that then have a very strong impact on displaced persons and returnees belonging to minority communities.

The OSCE Mission in Kosovo published a report in October 2007 assessing that municipalities in Kosovo had so far not done enough to adequately implement the existing Manual for the Sustainable Return of IDPs adopted in July 2006. In this report, the OSCE concluded that a lack of funds, access to public services and lack of coordination between the actors responsible for returns are the main factors that interrupt the process of returns. In addition to this, the report also stated that not all municipalities have developed strategies for the return of displaced persons, while those who already developed such strategies have only partially implemented them."

***See also in section on Self-reliance: "IDP's return hampered by lack of economic opportunities"***

### **Forced returnees do not receive adequate assistance and face risk of secondary displacement (2009)**

- Between 2005 and April 2009, there have been over 13,800 forcibly returned people belonging to the majority and minority communities to Kosovo
- Many forced returnees are not assisted by the Kosovo authorities upon return and find themselves homeless. Some have ended-up in the lead-contaminated camp of Osterode.
- Roma people in particular face continuous discrimination and persecution upon return
- Children who have lived in European countries since birth are unable to enrol schools in Kosovo since they do not have Albanian or Serbian language skills
- Many European Countries, among which Germany and Switzerland, are in the process of negotiating bilateral readmission agreements with the Kosovo authorities. Kosovo is under political pressure to accept these agreements but has neither budget nor the capacity to receive forced returnees in security and dignity.
- In October 2007, the government of Kosovo endorsed a Strategy for Reintegration of Repatriated Persons to address forced returns and in April 2008 it adopted and action plan. However, as of September 2009, the Strategy remains unimplemented. The Government took no steps to inform the municipal institutions about their responsibilities and resources are still not available.
- Since November 2008, the repatriation of forced returnees is dealt with by the Kosovo Ministry of Internal Affairs
- Since June 2006, UNHCR has maintained its position against the forced returns of Roma, Serbs and minority Albanians to Kosovo.
- In October 2007, the Council of Europe's European Roma and Travellers Forum called for a moratorium of at least 2 years regarding the implementation of readmission agreements.
- In July 2009, the European Commissioner for Human Rights stated that forced returns from Western Europe will have a negative effect on the situation of the minority communities currently living in Kosovo.
- The Commissioner appealed government in Europe to avoid forced returns of minorities to Kosovo since there is currently no adequate capacity to receive and integrate mass returns.

**UNHCR. 9 November 2009, p. 21:**

"Kosovo Roma may face the threat of physical violence and other human rights abuses throughout Kosovo based on their race and ethnicity. Many do not possess identity documentation. They are subject to prevalent societal discrimination. The risks are heightened when they travel beyond their places of residence. As a result, relocation within Kosovo would not meet the criteria of the relevance analysis. And as living conditions – already precarious in the regions of origin – would be even more difficult in areas outside their places of residence, the criteria of the reasonableness test would not be satisfied.

Although Kosovo Serbs may find an area for internal relocation where they are in the majority, relocation may not be reasonable given the prevailing security situation, the limited freedom of movement, and shortages of housing and employment. Kosovo Albanians from North of the Ibar River may, generally, find an internal relocation alternative in the South, although the specific circumstances of individuals should be taken into account in assessing the reasonableness of such relocation."

**OSCE, November 2009, p.11-12:**

"The Strategy for the Reintegration of Repatriated Persons and its accompanying Action Plan are the main documents aimed at ensuring sustainable and long-term solutions for repatriated persons in the areas of legal reintegration, health, education, employment, social welfare, housing and property related issues. However, the Strategy has not yet been adequately implemented at the central or local level. Few efforts have been made at the central level to ensure that the Strategy and Action Plan are adequately distributed throughout the public administration, including to and within municipalities, and that responsible authorities effectively implement the Strategy's provisions.

Consequently, local authorities are still sorely uninformed about their responsibilities vis-à-vis repatriated persons, and have not received further central government instructions outlining procedures and assigning clear responsibilities to relevant local authorities in the respective areas of reintegration. Relevant co-ordination and referral mechanisms between central and local level institutions have yet to be established. To date, municipalities have neither received advance notification about forthcoming forced returns nor have proper information sharing mechanisms been established between relevant ministries and municipalities to co-ordinate the implementation of the Strategy. As a consequence, none of the municipalities has established policies in the field of reintegration of repatriated persons or procedures to support repatriated persons upon their arrival in the municipalities of origin.

Despite the specific needs identified and the budgetary projections made by relevant ministries, the Strategy has received no direct funding at the local level. None of the municipalities has included costs associated with the implementation of the Strategy in their budgets, and no financial resources have been secured for the implementation of specific reintegration programmes in the areas identified by the Strategy. The sustainable return and reintegration of repatriated persons remains a major challenge for Kosovo's municipalities. While the vast majority of international assistance in the field of return is aimed to support voluntary returns, repatriated persons upon their return to Kosovo often remain without any assistance by either Kosovo institutions or international (non-)governmental organizations. Limited access to housing and property-related issues as well as difficulties in accessing essential services, including education, health care, employment and/or economic opportunities, are among the main difficulties faced by repatriated persons. It will take considerable efforts by relevant institutions at both central and local level to address these obstacles and to ensure the sustainable return and reintegration of repatriated persons."

**OSCE, November 2008, p. 2:**

"According to United Nations High Commissioner for Refugees (UNHCR) statistics, between January and September 2009, a total of 2,144 persons were forcibly repatriated to Kosovo, out of whom 130 belong to communities considered at risk and in need of continued international protection by the UNHCR.<sup>5</sup> The year 2008 saw the forcible return of 2,550 individuals, in comparison to 3,219 in 2007, 3,569 in 2006 and 3,554 in 2005.<sup>6</sup> The majority of repatriated persons are Kosovo Albanians, however, forced returns increasingly include persons belonging to non-majority communities, including Kosovo Roma, Ashkali, Egyptians, Kosovo Serbs, and Kosovo Albanians from the northern parts of Kosovo.<sup>7</sup> Kosovo Serbs, Roma and Kosovo Albanians in a minority situation at the municipal level continue to be considered at risk by UNHCR"

**MRG, 13 August 2009:**

"MRG partner organisation in Macedonia, Roma Democratic Development Association, 'Sonce', is seriously concerned for the fate of 20 Roma families who are under pressure from the Swedish government to 'voluntarily' return to Kosovo.

Reports highlight that Roma returned to Kosovo face continuous discrimination and violation of their human rights. In a number of cases, discrimination is so pervasive that they are unable to identify as Roma, instead forced to identify as Ashkalia or Egyptian.

Minority Rights Group International's (MRG) Director of Programmes, Snježana Bokulic, says, 'Sweden should ensure that before it returns Kosovo Roma, circumstances are created which allow them to live in dignity and without discrimination, and no-one should ever be returned to a situation where they face persecution.'

Although Roma under special protection may be offered some return assistance if they 'agree' to return, most are placed on planes without any aid and dropped at the airport in Kosovo without any support in terms of housing, employment or healthcare.

It is particularly difficult for children who have lived in European countries since birth and attended local schools. Lack of Albanian or Serbian language skills means that they are unable to enrol in schools in Kosovo, whilst no alternative arrangements have been made to enable their education.

Sweden and other European sending states are well aware of this situation; however, the onus is on the government of Kosovo to provide adequately for Roma returnees, which it does not. Sweden does have the obligation not to expel, deport or extradite a person to a country where there are substantial grounds for believing that this person would run a real risk of inhuman or degrading treatment. The European Court of Human Rights has long held that discrimination may constitute degrading treatment in violation of Article 3 of the European Convention on Human Rights. In particular, the Court has established that if a population was condemned to live under debasing conditions which violated the very notion of respect for the human dignity of its members, such discriminatory treatment amounts to degrading treatment and therefore a violation of Article 3 of the Convention.

MRG has grave concerns for the security of Roma returnees. Although Kosovo proclaimed its independence in 2008, nothing has been changed in practice for Roma and their peaceful coexistence.

**CoE, Commissioner for Human Rights, July 2009:**

The Commissioner discussed the issue of forced or involuntary returns, with a number of his interlocutors during the visit. Those countries which have accepted large numbers of refugees



from Kosovo are keen to return them. Since November 2008, the repatriation of forced returnees is dealt with by the Ministry of Internal Affairs. Between 2005 and April 2009, there have been approximately 13 828 forcibly returned persons belonging to the majority and minority communities to Kosovo.

155. The government approved a Reintegration Strategy for Repatriated Persons in October 2007. The strategy seeks to ensure sustainable and durable solutions for forcibly returned persons in the areas of health, education, employment, legal reintegration, social welfare, housing and property related issues. It also addresses the needs of vulnerable sections of society and minority communities. The Strategy has yet to be implemented. An action plan for the implementation of the reintegration strategy was finalised in April 2008.

156. Some countries believe that they should have the possibility of forcibly returning a person following an individual assessment of his/her case.<sup>76</sup> Many Western European countries, including Germany and Switzerland are in the process of negotiating bilateral readmission agreements with the Kosovo authorities. In the Commissioner's opinion, Kosovo is under political pressure to accept these agreements, without having in place the budget or the capacity to receive these families in dignity and security.

157. The Commissioner wishes to recall the standards contained in the Committee of Ministers Twenty Guidelines on Forced Return (2005)<sup>77</sup> according to which voluntary returns should be promoted by host states. Host states should also evaluate and improve, if necessary, programmes implemented to that effect.

158. Many of those forcibly returned are not assisted by the Kosovo authorities and find themselves homeless. Some have ended up in the lead-contaminated camp of Osterode. The Commissioner met one such boy, who had been forcibly returned with his family from Germany, and was living in the lead-polluted camp and attending a nearby Roma-only school.

The UNHCR has maintained its position against the forced returns of Roma, Serbs and minority Albanians to Kosovo since June 2006, assessing that the overall security situation has not changed since then. In its Position Paper on the Continued International Protection Needs of individuals from Kosovo, UNHCR states that "Roma and Serbs and minority Albanians are in need of international protection and their return to Kosovo should be limited to return on voluntary basis". In October 2007 the Council of Europe's European Roma and Travellers Forum called for a moratorium of at least 2 years regarding implementation of the those parts of readmission agreements concerning the return.

160. In the Commissioner's opinion forced returns from Western Europe and neighbouring countries will have a negative effect on the situation of the minority communities currently living in Kosovo as this will inevitably deprive them of the remittances they receive. The Commissioner shares the view expressed by the Council of Europe's Parliamentary Assembly that "a mass influx of returnees (forced or voluntary) would not be sustainable and could destabilise the already fragile security situation and increase ethnic tensions" [...]

The return process remains a key challenge for the Kosovo authorities. The Commissioner considers that those persons who wish to return to Kosovo should be supported by the Kosovo authorities and that the return process should be planned, informed and sustainable. The Kosovo authorities must provide a safe environment, housing, education and possibilities to earn a living for those who choose to come back. 163. The Commissioner appeals to governments in Europe to avoid forced returns of minorities to Kosovo and to regulate the status of those in their host country until conditions in Kosovo permit their safe return. In the Commissioner's assessment there is currently no adequate capacity on the part of the authorities to receive and integrate mass returns in Kosovo. The economic and social situation is a major obstacle to a sustainable

return process. While security issues have improved, in the Commissioner's opinion the situation remains tense with inter-ethnic violence occurring sporadically.

**UNSC, March 2009:**

In 2008, the overall number of those involuntarily repatriated to Kosovo reached 2,495. On 1 November 2008, the Kosovo Ministry of Internal Affairs took over the processing of readmission requests and other related communications, which had formerly been carried out by UNMIK. Non-implementation by the Kosovo authorities of the reintegration strategy for the forced returnees, in particular of those belonging to vulnerable sections of society, remains a concern.

**EC, November 2008, Kosovo:**

The government approved a Reintegration Strategy for Repatriated Persons to Kosovo in October 2007. The strategy seeks to ensure sustainable and lasting solutions for the needs of repatriated persons from abroad in the areas of health, education, employment, legal reintegration, social welfare, housing and property related issues. It also addresses the needs of vulnerable sections of society and minority communities. An action plan for the implementation of the reintegration strategy was finalised in April 2008.[...] Additionally, since January 2008, host countries requested Kosovo to readmit 2,900 persons. The reintegration strategy for repatriated persons is yet to be implemented.[...]

**OSCE, 5 September 2008:**

In October 2007, the Kosovo government endorsed the Strategy for Reintegration of Repatriated Persons to address forced returns. This policy framework also complies with international standards.[...]

The Kosovo government adopted an action plan including a budget for the implementation of the strategy for reintegration of repatriated persons, but took no steps to inform the relevant municipal institutions about their responsibilities. Resources are currently still not available for the integration of repatriated persons.

**Ombudsperson Institution, July 2008:**

The previous annual report already described the plight of refugees forcibly returned to Kosovo from their various host countries, under the so-called repatriation process. Most of these forced returnees are ethnic Albanians who were fleeing from the tensions and the conflict in the nineties and seeking asylum and protection in western countries. While many of them came back after 2000, not all of them chose to do so although they lost their right to stay legally in western countries, and consequently many host countries decided to sign agreements with UNMIK to organize their forced repatriation. UNMIK however, generally following the March 2005 UNHCR position paper assessing the need of international protection of individuals from Kosovo continues not to accept forced returnees from the Serbian and Roma communities and of ethnic Albanians coming from places where they are in a minority situation. Further, members of the Ashkali and Egyptian communities are only accepted if a prior screening has shown that returning to their place of origin will not violate their human rights. However, the practice has shown that UNMIK accepted the forced returns of some members of the Roma, Ashkali and Egyptian communities in occasions where the enjoyment of their human rights in Kosovo was not fully assured.

On 31 October 2007, the Government of Kosovo adopted the Kosovo's Readmission Policy, which has been approved by the SRSG on 28 November 2007. As of 1st January 2008, UNMIK continued to directly manage the repatriation of Kosovars denied legal status in third countries, but the Ministry of Internal Affairs started to establish the origins of persons proposed for repatriation.

While a substantive amount of money has been dedicated since 2000 to the voluntary returns of displaced persons, assistance and support for people forcibly returned to Kosovo has been until

now practically non existent and mainly provided by UNHCR and IOM right after the forced returns of these people. Many forced returnees indeed do not have a house anymore, are unemployed, their children do not have a good level of Albanian enabling them to follow the curricula in schools in Kosovo and they generally have a difficult time reintegrating in a society they left long time ago.

As mentioned in the previous annual report, a Steering Group was formed to draft a Strategy for Reintegration of Repatriated Persons, intending to help ensure that forced returnees will have adequate access to information, civil documentation, assistance and social services and that they can reintegrate in their places of origin and rebuild their lives. On 10 October 2007, the Government of Kosovo approved the Strategy for Reintegration of Repatriated Persons that foresees a certain number of obligations for various Ministries. The Steering Group, which elaborated this Strategy, was composed of representatives of the Kosovo Government and several international organizations, including UNMIK, OSCE, IOM, UNHCR and other organizations. An Action Plan was also finalized to plan the budgetary implication of this Strategy for each relevant Ministry and was sent to the Office of the Prime Minister for review in April 2008. The above strategy foresees the forcible repatriation of 5 000 people per year. According to the same document, the number of people from Kosovo with no legal residence title in third countries is estimated to approximately 100 000 persons, 53 000 of whom live in Germany alone. 38 000 of these persons are presumably belonging to the Roma, Ashkali and Egyptian communities. UNMIK reports that only in 2007, the overall number of forcibly repatriated persons reached 3.125, while the largest group of deportees, 896 persons, came from Germany alone.

#### **OSAR, Août 2008:**

On estime à 100'000 le nombre de personnes originaires du Kosovo qui séjournent actuellement à l'étranger sans statut légal durable. Et ce chiffre s'accroît encore. Fin juin 2007, plus de 48'000 personnes étaient rentrées au Kosovo. Parmi celles contraintes au retour, 53'000 vivent en Allemagne dont 38'000 sont des Kosovars issus des communautés minoritaires, soit les Roms, les Ashkalis et les Egyptiens (RAE).

Chaque pays d'accueil pratique les rapatriements conformément à son cadre légal et en tenant compte de plusieurs aspects de la politique intérieure du Kosovo. Par le passé, certains d'entre eux, comme la stabilité et la capacité d'accueil, ou encore la pérennité des retours, ont néanmoins joué un rôle plutôt mineur. Depuis de nombreuses années, différents pays européens, parmi eux l'Allemagne et les Etats scandinaves, ont exercé de fortes pressions sur l'administration de la MINUK pour qu'elle rende possibles les retours d'un nombre substantiel de réfugiés, en particulier les membres des communautés roms (RAE). Il est probable que ces pressions vont encore augmenter ces prochaines années.[...]

Alors que depuis 2000, des montants substantiels ont été alloués aux retours volontaires des réfugiés, l'assistance et le soutien aux personnes rapatriées de force sont quasiment inexistantes. Nombre d'entre elles n'ont ni logement ni emploi et leurs enfants ne parlent souvent pas suffisamment bien l'albanais pour suivre un cursus scolaire normal dans cette langue. En 2007, la MINUK et le gouvernement provisoire du Kosovo ont élaboré ensemble une stratégie autour des rapatriements et de l'accueil des réfugiés de retour (Strategy for Reintegration of Repatriated Persons und Readmission Policy). Fixée dans deux documents, cette stratégie définit les compétences de chaque intervenant en matière d'accueil des personnes de retour et contraint les autorités kosovares à respecter les standards internationaux. En janvier 2008, la MINUK a transmis quelques compétences en la matière au Ministère de l'Intérieur kosovar. Celui-ci a entre-temps commencé à enregistrer l'origine de tous les réfugiés pour lesquels un rapatriement est prévu. La responsabilité des rapatriements restera néanmoins partiellement entre les mains de la MINUK (qui s'appuie pour cela sur la prise de position du HCR sur la protection permanente des réfugiés originaires du Kosovo). La situation ne changera sans doute que lorsque une nouvelle résolution de l'ONU aura remplacé l'actuelle 1244. Le document Strategy for

Reintegration of Repatriated Persons prévoit un chiffre de 5000 personnes rapatriées par an. Dorénavant, le Ministère du Travail et des Affaires sociales sera en charge des transports, des hébergements provisoires et des documents administratifs. Ce papier mentionne également les groupes de personnes vulnérables, fréquemment confrontés à la discrimination, à la violence, aux catastrophes naturelles et aux problèmes économiques. Parmi eux, on compte les minorités ethniques, les familles marginalisées, les mineurs non accompagnés, les mères isolées, les personnes âgées et handicapées, ainsi que les malades chroniques.

S'appuyant sur la position du HCR, les deux papiers, (Readmission Policy et Strategy for Reintegration of Repatriated Persons) élaborent un plan d'accueil détaillé des rapatriés de force. Les ONG craignent cependant que la protection des minorités ne durera au mieux que pendant une période transitoire mais qu'ensuite, les Etats européens vont modifier de manière draconienne leurs pratiques des rapatriements. Raison de cette affirmation: l'appartenance ethnique des réfugiés ne sera bientôt plus du tout enregistrée, il manquera donc un repère essentiel pour définir leurs besoins en protection. A cet égard, la phrase suivante est très révélatrice: ...once the mandate of the UNMIK has expired, the situation may change and host countries may not any more follow the UNHCR recommendations as closely as they are at present. Les déclarations de certains Ministres des Länder allemands font également penser que cette crainte n'est pas sans fondement, notamment quand ils indiquent que les accords passés jusqu'ici avec la MINUK sont obsolètes, que le filtrage des membres des minorités va être supprimé (par exemple en rapport avec les possibilités d'hébergement) et qu'ils espèrent par conséquent une simplification de la procédure des rapatriements. Rappelons tout de même que les deux papiers stratégiques de la MINUK et du gouvernement kosovar faisaient référence à la validité du plan Ahtisaari. Malgré tout, la MINUK restera au Kosovo plus longtemps que prévu. Elle a beaucoup fait ces dernières années pour éviter les rapatriements de masse et la déstabilisation de la situation des minorités dans le pays. Les affirmations de son chef, Lamberto Zannier, selon lesquelles la mission préservera certains aspects de son mandat, notamment l'engagement qu'elle a envers les minorités, permettent de penser que jusqu'à nouvel ordre, l'organisation considère la protection des minorités comme faisant partie de ses fonctions, pour autant bien sûr que les Européens continuent à la considérer comme un partenaire sérieux. Du côté de l'EULEX, on ne sait pas encore comment, à long terme, elle s'emploiera à remplir son mandat de protection puisqu'elle aura de tout autres fonctions que la MINUK.<sup>40</sup> Il sera donc important de voir si elle entend la politique de «human security» qu'elle mènera au Kosovo non seulement comme une tâche de sécurisation physique, mais aussi d'assistance juridique et sociale, et si elle en aura réellement les capacités et les moyens.[...]

Les autorités kosovares doivent encore comprendre que l'accueil des personnes rapatriées de force est de leur ressort et qu'elles sont en devoir de leur venir en aide. Mais jusqu'ici, elles ont manqué de la prise de conscience et des moyens financiers nécessaires. Les compétences n'étaient pas définies et les possibilités d'hébergement et de reconstruction inexistantes. Aujourd'hui encore, la plupart des communes ne prévoient aucun poste ad hoc à leur budget. Comme l'argent manquait et que les municipalités ignoraient fréquemment les retours, les personnes rapatriées devaient généralement se débrouiller seules. Ni les organisations internationales ni le gouvernement de Pristina, ni même les autorités locales, n'étaient en mesure de contribuer à l'hébergement des rapatriés, de leur apporter un soutien social, médical ou psychologique, ou de les aider à la reconstruction de leurs maisons. Si assistance il y avait, elle était surtout destinée à la population kosovo-albanaise, rarement aux minorités. Il n'est donc pas surprenant que dans ces conditions, les retours soient fréquemment suivis d'un nouveau départ à l'étranger.

Ces dernières années, les membres des minorités revenant au Kosovo ont montré qu'ils devaient généralement se débrouiller seuls ou que les administrations auxquelles ils s'adressaient les invitaient à chercher de l'aide auprès de leurs familles. On ne voit pas encore très bien ce qui aurait pu changer en la matière depuis la déclaration d'indépendance. Les communes n'ont

toujours aucune possibilité d'hébergement dans des «structures publiques». Une aide quelconque à la recherche d'un emploi ou à toute autre forme de réintégration n'existe pas non plus. Par ailleurs, il ne faut surtout pas penser que toutes les personnes dans le besoin perçoivent l'aide sociale. Les critères d'obtention sont extrêmement sévères et exigent entre autres qu'au moins un enfant de moins de cinq ans vive dans le ménage."

***For more information see "Implementation of the Strategy for Reintegration of Repatriated Persons in Kosovo's municipality", OSCE, November 2009***

### **International initiatives for IDPs' return and reintegration (2009)**

- Many international funded projects continue to be implemented to ensure that people who want to return are able to do so.
- The Return and Reintegration Project in Kosovo (RRK), a joint initiative of the Government of Kosovo, the European Commission Liaison Office and UNDP, is being implemented in 4 municipalities (Istog/Istok, Peje/Pec, Fushe Kosove/o Polije and Gjilan/Gnjilane) and aims at supporting sustainable return of refugees and IDPs with a strong involvement of state and non-state actors at central and municipal level. 180 IDP and refugee families are expected to return to the four municipalities through this project.
- The Sustainable Partnership for Assistance to Minority Returns to Kosovo (SPARK individuals returns), implemented since 2005 and funded by the British Government,, provides full and partial housing reconstruction and repair for returnees of ethnic minority communities. In 2007 273 families have been assisted with housing rehabilitation.
- The SPARK project also provides socio-economic assistance and trainings to improve the integration and the sustainability of returns.
- UNHCR continues to organize in cooperation with municipalities and with other international organizations "go and see" and "go and inform" visits to IDPs in order to provide them with first-hand information on the situation of their place of origin and to inform them on the different return projects available.

### **Ombudsperson Institution, July 2008:**

[...] many internationally funded projects continue to be initiated to ensure that people, if they choose to do so, can return not only to their homes but also to places other than their homes where they feel more comfortable to live, often because they are then living among members of their community.[...]

### **Go and See and Go and Inform Visits:**

#### **UNSC, March 2009:**

In order to provide internally displaced persons with first-hand information on the current situation in their places of origin, as well as on procedures that need to be followed for return, UNHCR continued to organize "go and see visits" and "go and inform visits". In 2008, a total of 65 "go and see visits" and 37 "go and inform visits" were undertaken, with 684 and 531 beneficiaries respectively.

#### **CRP/K, website:**

#### **Go-Inform Visit for Internally Displaced Persons (IDPs)**

On May 14, 2009, In organization of Danish Refugee Council and in cooperation with UNHCR and Municipality of Pristina/Prishtine, a Go-Inform Visit was conducted for Internally Displaced Persons (IDP) from Pristina/Prishtine in Novi Sad where CRP/K's representatives participated. The main goal of the visit was to asses the interest of RAE IDPs towards return, as well as to inform them on existing return activities and projects. Moreover, this meeting was opportunity to disseminate official information about activities and plans of relevant institutions and organizations involved in the return process. Meeting was attended by 35 IDPs which received valid and crucial information from the side of representatives of Pristina/Prishtine Municipality, UNHCR, Ministry for Communities and Returns, CRPK and DRC, related to the return process

**Project : Return and Reintegration in Kosovo (RRK)**

**UNDP, website accessed on 28 October 2009:**

**"Return and Rintegration in Kosovo (RRK)**

The objective of the Return and Reintegration project in Kosovo is to support the sustainable return of internally displaced persons (IDPs) as well as refugees through the increased involvement of state and non-state actors at central and municipal level and the strengthening of administrative structures and accountability mechanisms.

**How this will be achieved:**The Project will ensure the coherence of approaches and actions by working with government agencies in the fields of local governance and economic development, as well as with interested non-state actors. It will also liaise with institutions and organisations outside Kosovo, notably the Government of Serbia, to facilitate cross-boundary return."

**UNDP, 24 July 2009:**

"Minister for Communities and Returns said: The Return and Reintegration in Kosovo project is the way forward; in the returns process as it focuses on strong involvement of municipalities in assisting displaced persons to return. It is us, the government institutions at local and central level, which have to serve the citizens, particularly those who live in dire conditions in displacement and who wish to return home. Municipalities and the Ministry are working jointly on providing this service to returnees and will provide all assistance possible to make return and reintegration possible [...]"

The project Return and Reintegration is being implemented in four municipalities: Gjilan/Gnjilane, Istog/Istok, Fushe Ksove/Kosovo Polje, and Peja/Pec. Its aim is to support sustainable return of refugees and internally displaced persons, with considerable involvement of the Ministry for Communities and Return and local municipal authorities. Altogether around 180 internally displaced and refugee families are expected to return to four selected municipalities".

**UNSC, March 2009:**

On 11 November, the Kosovo authorities launched the return and reintegration in Kosovo project, aimed at supporting the return of at least 180 displaced families. It has a budget of €7 million and is funded jointly by the European Commission and UNDP. On 12 December, 14 Kosovo Serb families returned to Berkovë/Berkovo (Klinë/Klina) under a project funded by the British Government. The Ministry of Communities and Returns has approved 109 community development and Stabilization projects for 2009, worth €2 million.

**UN SC, June 2009:**

Moreover, 23 returnee families have already been assisted with housing reconstruction in 2009 and another 45 housing units should be reconstructed by the end of the year under the UNDP-managed Sustainable Partnerships for Assistance to Returns in Kosovo (SPARK) programme, funded by the British Government and the Ministry of Communities and Returns. An additional 180 returnee families will be assisted under the Return and Reintegration to Kosovo project, jointly funded by the European Commission, the Ministry of Communities and Returns and

UNDP. The one hundredth Kosovo Serb family has returned to Klinë/Klina town since the first urban returns in Kosovo in February 2005.

**Project: Kosovo Government's SPARK organized return programme**

**UN SC, 30 September 2009:**

The Ministry of Communities and Returns is implementing seven organized return projects, targeting the return of 181 Kosovo Serb families in Vushtrri/Vuèitrn, Prizren, Klinë/Klina, Istog/Istok, Novobërdë/Novo Brdo and Pristina municipalities. Moreover, 44 returnee families (159 individuals) have already been assisted with housing reconstruction in 2009 and another 44 houses are being reconstructed under the project Sustainable Partnership for Assistance to Returns in Kosovo (SPARK), which is managed by the United Nations Development Programme (UNDP) and funded by the British Government and the Ministry of Communities and Return. The Ministry has provided extra funding for the reconstruction of 10 more houses under SPARK. Additionally, 180 displaced families will be assisted to return this year under the project Return and Reintegration to Kosovo, jointly funded by the European Commission, the Ministry of Communities and Return and UNDP. So far, 73 houses are under construction and the construction of 83 additional houses has been tendered for bids."

**UNDP, 25 February 2009:**

"An agreement document was signed on Tuesday, 24 February 2009, between Klina Municipality, the British Embassy, UNDP and Ministry for Communities and Return has been signed for a return project in Rudica village. The first phase of the Euro 248,800 project financed by the British Government, foresees construction of 10 houses for K – Serb returnees and one for a vulnerable K-Albanian family. Overall infrastructure rehabilitation will be improved and initial assistance will be provided. Also, a small bridge will be constructed to connect village Rudice with neighboring village Berkovo. [...] peaking on the occasion of signing the agreement, UNDP Resident Representative MR Frode Muring said that this is the fifth UNDP organized return in Klina Municipality following successfully implemented projects in Klinavac and Berkove village. 'With more such municipalities, the return process would have been for more successful' Muring said adding that the contribution of local communities is crucial for future projects.

The project return to Rudice village was developed by Kosovo Government's SPARK organized return programme partially financed by British Government and managed by UNDP. The contribution to this project came from the UK Government's Conflict Prevention Pool. "We are happy to support another project in Klina", said Anna Jackson, Deputy Head of the British Embassy Mission in Kosovo adding that 'given the the commitment of the Klina Municipal Officials and the receiving community to the process, the British Government is pleased to support the Government of Kosovo with its important returns programme'.

Mr. Sokol Bashota, Mayor of Klina municipality says that municipality has started preparations for return and 'the road infrastructure was partially finished, so it will make our job easier, also, rehabilitation of water and savage system are our future priorities". Welcoming returnees at the signing ceremony, Mr. Stanisa Petrovic, adviser to the Minister for Communities and Returns, has repeated government's and ministry's commitment to the return process, saying "today's event is just another proof of our commitment that we go right path.' "

**UNDP, December 2007:**

The provision of adequate housing assistance is an important precondition for achieving substantial return and enabling returns to be sustainable. Both UNDP implemented projects for supporting individual returnee households, the Rapid Response Returns Facility (RRRF), operational from 2003 to 2005, and the Sustainable Partnerships for Assistance to Minority

Returns to Kosovo (SPARK Individual Returns), implemented since 2005, responded where individual returnee households required full or partial housing reconstruction and repair. Under the RRRF 224 returnee families have been supported with housing reconstruction and the SPARK IR project provided between October 2005 and December 2007 housing assistance to 273 families Kosovo-wide.[...]

The Project provides both full and partial housing reconstruction and repair for returnees of ethnic minorities whose houses suffered Category III, IV or V damage (partial or full damage) as a consequence of the war. Individual minority returnees possessing the title deeds of a war damaged house / apartment and who intend to return to Kosovo are eligible for SPARK IR housing assistance.

As of end of December 2007, 273 families have been assisted with housing rehabilitation under SPARK Individual Returns and for a further 216 potential beneficiary households who requested support preparatory works are ongoing for preparing for the provision of housing assistance in 2008. Returnees to 23 different municipalities in Kosovo and of all ethnicities have received housing

assistance, reflecting the diversity of those displaced and those wishing to return to their homes. The referral and assessment process for housing assistance is ongoing. Continuously, the SPARK IR regional teams are working closely with Municipal Returns Officers (MROs) in all municipalities. Close cooperation is also established with the Ministry of Communities and Returns (MCR), Municipal authorities (CEOs, Directors of health/education departments, Municipal Community Officers (MCOs, procurement office, etc.), UNMIK/OCRM, UNHCR and Partners, NGOs as well as with IDP Associations.[...]

Most individual/spontaneous returnees in Kosovo are highly vulnerable, with very limited assets and few marketable skills. To address their immediate and medium-term needs, SPARK provides socio-economic assistance and trainings to support returning families to generate an income. The objective is to support economic livelihoods of returnee households through the form of economic grants for starting up a small business or generating income with agricultural activities and/or skills development training. Training is provided to returnees accordingly. In order to support the returnee families with socio-economic assistance, the NGOs Agjensioni i përkrahjes së punësimit Kosovë (APPK) and Regional Enterprise Agency Prishtina (REA) were involved as partner organisations for implementing the provision of assistance to 175 beneficiaries to contribute to improving living conditions of returnee families and their sustainability upon return to their newly rebuilt houses. 175 returnee families Kosovo wide have been assisted with income generation grants, e.g. cows with calves, motor cultivator, chicken plant and IT equipment set etc.[...]

Community development is key for integration and the sustainability of return, especially in mixed communities. Under SPARK, a community development voucher scheme is implemented in partnership with municipal authorities for providing in-kind support to selected primary healthcare and education facilities or the implementation of small community projects.

The objective is to enhance public primary healthcare and education facilities and to implement small community development projects in mixed communities where spontaneous returns are taking place, thereby ameliorating the social environment of the returnees' location and simultaneously benefiting the entire community.[...]

135 families, who benefited housing assistance and returned to their place of origin have been involved in the reconciliation process with providing vouchers to public health/education institutions in 13 municipalities. The municipality purchased in-kind support such as equipment, books, furniture, etc. with the funds received, which contributed to improving services to returnee families and the community at large. In every municipality where the scheme was implemented, the municipal authorities expressed their appreciations to returnee families who symbolically donated vouchers to the selected institutions, which received essential support. Also the returnee families expressed their readiness for involvement in this scheme as part of



the reconciliation process.

### **Kosovo Ministry of Communities and Return lacks efficiency and capacity (2009)**

- The Ministry for Communities and Returns, which coordinates the voluntary return of refugees and IDPs to Kosovo since 2006, organizes returns projects for the return of minority communities
- The MRC also provides funds for projects providing assistance to municipalities to help them integrate returnees, although municipalities complain that often they do not receive guidance and support from MRC
- According to the Ombudsperson Institution, the MRC lacks administrative capacity and budgetary resources
- Until July 2009 the MRC did not have a database on returnees, which created confusion and uncertainty. Recently, a database has been created and the MRC is now better able to manage return requests

#### **UN SC, 30 September 2009:**

[...] At the same time, 1,295 families comprising some 5,000 individuals have expressed an interest in returning to Kosovo during 2009. The Ministry of Communities and Returns is now proactively dealing with applications for return and is better able to manage return requests thanks to a new returnee database. According to the Ministry of Communities and Return, preparations for assistance to the above families are under way, and task forces at municipal levels are reviewing applications in line with the current criteria for assistance.

#### **CoE, Commissioner for Human Rights, 2 July 2009:**

While municipalities are developing more returns projects, lack of funding and administrative/managerial capacity remain important obstacles. Nevertheless, following renewed joint efforts by the international community and the authorities in Belgrade and Prishtinë/Priština, 2009 may see an increased expression of interest in return by IDPs and refugees in the region.

The Ministry for Communities and Returns co-ordinates the voluntary return of refugees and IDPs to Kosovo. Unfortunately, it still has no database on returnees, which leads to confusion and uncertainty. At the local level, municipal authorities need to improve their capacity to implement return policies. The Commissioner recalls the 1998 UN Guiding Principles on Internal displacement according to which states have the duty to establish conditions and provide the means which would allow displaced persons to consider one of the following options: Voluntary return: that the IDPs return to their homes or places of habitual residence in safety and with dignity; Voluntary resettlement: that they resettle in another part of the territory; and local integration: that they get support for their choice to stay in the community where they are and integrate there.

#### **UN SC, June 2009:**

The Ministry of Communities and Returns is implementing six organized return projects targeting the return of 143 Kosovo Serb families in Vushtrri/Vuèitn, Klinë/Klina, Istog/Istok, Novobërdë/Novo Brdo and Pristina municipalities.

#### **EC, November 2008, (Kosovo):**

At the central level, administrative capacity and budgetary resources are insufficient, even though the 2008 budget for return increased by 35% (€7.14 million) compared to 2007. The Ministry of

Communities and Returns has been confronted by a wide range of irregularities and management problems and has taken some measures to address them. Following the resignation of the incumbent minister, a new minister was appointed in September. At the local level, municipal teams are not properly equipped to implement return policies. The Ministry for Communities and Returns still has no database on IDPs, which leads to confusion and uncertainty. Overall, the return process has slowed down during the reporting period and remains a key challenge for Kosovo authorities.

**Ombudsperson Institution, July 2008:**

The Kosovo's Ministry of Communities and Returns (MCR) is responsible for all matters pertaining to voluntary returns and minority communities. However, almost three years after its creation, this Ministry remains notoriously characterized by its lack of efficiency and capacity. On the positive side, the MCR plans to realize three major organized returns projects for displaced persons of minority communities by the end of 2008. It indeed plans to build three apartment buildings in the village Laplje Selo/Llapllë Sellë in the Municipality of Prishtinë/Priština for 60 displaced families who currently live in Serbia. The Ministry also plans to build 18 houses in the village Klobukar/Klobukar in the Municipality of Novo Brdo/Novoberdë. The intention of the MCR is to build 15 houses for Serbian returnees and three houses for social cases from the Albanian community of this village. A third project, to be implemented by the end of 2008, consist in the construction of 14 houses for returnees of the Serbian community in the village Sinajë/Sinaje, in the Municipality of Istog/Istok.

Besides these three projects, the MCR also provides funds for projects providing assistance and support to municipalities to help them integrate returnees, develop small businesses, reconstruct infrastructure, and implement projects related to culture, sports, education etc. However, municipalities often complain that they do not receive guidance and support from the MCR.[...]

The MCR has recently taken the lead in the Steering Group for Returns, which was established in 2006 and previously led by the Ministry for Local Government Administration. This Steering Group deals with issues related to Standards 3 and 4, respectively standards on Freedom of Movement and Sustainable Returns and the Rights of Communities and their Members. This Steering Group drafted an Action Plan, according to which the Group should meet once a month, submit reports about these standards and their progress in relevant municipalities. The Ombudsperson Institution participates in the work of the Steering Group as an observer. This Steering Group has recently intensified its work but it is not clear whether it has been successful in improving the implementation of Standards 3 and 4 over those past years.[...]

Kosovo authorities still need to take more responsibility for the plight of displaced persons and returnees, both voluntary and forced returnees. They also need to show their commitment towards the sustainable integration and reintegration of these returnees in the Kosovo society. A serious and coherent approach needs to be developed and adequate funds should be dedicated in order to ensure such integration, both at the central and local level. Indeed, many municipalities do not foresee in their budget the necessity to assist forced returnees who are in most cases left to themselves.

**Reconfigured UNMIK mission continues to monitor return issues and strategies (2009)**

- UNMIK, through its reconfigured field presence, continues to monitor return issues and the implementation of the returns strategies

**UN SC, 30 September 2009:**

Through its reconfigured field presence UNMIK has been closely monitoring returns issues, including actions of the local authorities on the implementation of the returns strategies and the creation of conditions conducive to returns and integration. UNMIK staff continued to stay in daily contact with minority community leaders and local authorities, and to report on “go-and-see visits” or trips of Kosovo-Serb IDPs to return sites to other United Nations partner agencies and main international stakeholders.

**Return movements continue to decrease and reach its lowest number in the first months of 2007 (2006-2007)**

- Only 16,661 IDPs and refugees of minority communities returned voluntarily to their places of origin in Kosovo between 2000 and the end of May 2007, which is only 6.76% of the 245,353 displaced persons overall
- The number of returns reached an all-time high in 2003 and it has been decreasing since to reach its lowest in the first months of 2007
- The biggest challenge is the return of members of minority communities, in particular the Serbian and Roma, but also the Ashkali and Egyptian
- These IDPs still generally cite economic and security factors, difficulties accessing their agricultural land and property as well as uncertainty regarding the future status outcome as the primary reasons for their reluctance to return

**Ombudsperson Institution in Kosovo, 11 July 2007, p.43:**

“Despite these good intentions, however, UNHCR statistics show that only 16 661 IDPs and refugees of minority communities returned voluntarily to their places of origin in Kosovo between 2000 and the end of May 2007. This number includes 7 288 Serbs, 4 428 Ashkali and Egyptians, 2 113 Roma, 1 447 Bosniaks and 708 Gorani. This is only 6, 76% of 245 353 displaced persons overall. While the number of returns reached an all-time high in 2003 with 3 556 people choosing to return, numbers have decreased since the targeted inter-ethnic violence of the March 2004 riots. The lowest return rate was noted during 2006 and January–May 2007, when only 2 098 persons returned over a year-and-a-half time period, most of them from the Roma, Ashkali and Egyptian communities.”

**UN SC, 9 March 2007, Annex, paragraph 51:**

“According to the Office of the United Nations High Commissioner for Refugees, 1,608 minorities (593 Serbs) returned voluntarily in 2006, the lowest minority returns figures since 2001 and the lowest Kosovo Serb returns figures since proper monitoring was established in 2000. The low figures are partly due to the improper management of the budget of the Ministry of Communities and Returns in the previous years.”

**Ombudsperson Institution in Kosovo, 11 July 2007, pp.41-42:**

“When talking about returns in Kosovo, the focus is usually on voluntary returns. Many internationally funded projects have been initiated over the last few years to ensure that people who were displaced before, during or after spring 1999 could return to their homes. The biggest challenge in this respect is the return of members of minority communities, in particular the Serbian and Roma, but also the Ashkali and Egyptian communities. According to UNHCR estimates, 245 353 IDPs from these communities were displaced after the end of hostilities in

1999; 207 069 fled to Serbia proper, 16 284 went to Montenegro, and 22 000 remained in Kosovo. Due to the breakdown of their relationship with the Albanian majority population in Kosovo before and during the fighting in 1998-99, these IDPs still generally suffer from a real or perceived fear for their safety when considering return. The current political situation, marked by constant discussions on the future status of Kosovo, only adds to the general tension and makes it very difficult for displaced members of minority communities to assess whether or not sustainable return to their homes is at all possible. Another issue that must be considered is Kosovo's difficult economic situation.

Reports filtering back from those who have returned only add to the concerns of potential returnees. In June 2006, a Serbian returnee was murdered in his house in Klinë/Klina, and in September 2006 two Serbian returnees' houses suffered a bomb attack that injured four people. These incidents were widely condemned in Kosovo by both international and Kosovan politicians and have thus far not reoccurred; nevertheless, potential returnees often fear that such events could happen again. Many returnees continue to suffer from an irregular pattern of harassment including intimidation, attacks on life and property and the stoning of buses. Such incidents lead many returnees to doubt whether it is at all possible for them to enjoy total security. Nevertheless, it should be noted that the overall security situation has continued to improve over the last few years and that the number of attacks on returnees has fallen.

Returnees and displaced persons of mainly Serbian origin are still having difficulties accessing their agricultural land property, either because it is occupied by others or because it is not located in the direct vicinity of their areas of residence. The Kosovo Property Agency (KPA) is now responsible for the repossession of such land, and once it has started evicting illegal occupants from these areas, the issue of access to land for some of these people may improve.

Returnees of mostly Serb and Roma communities still harbour real or perceived fears for their security. These fears generally prevent them from moving around Kosovo freely and impede access to the employment market and public services. As a protective measure, the Kosovo Police Service (KPS) conducts frequent and intensive patrols in areas inhabited by returnees. So-called humanitarian bus lines funded by the Kosovo Consolidated Budget connect returnee villages with larger Serbian enclaves where the returnees can buy groceries and other necessary items or visit health care centres."

**UNHCR, November 2006, pp. 8-9:**

"... after the 2003 peak of 3,801, returns dropped to 2,463 in 2004 and to 2,126 in 2005. In total, 15,280 minority returns took place from 2000 to June 2006, or just over 6% out of a population displaced within Kosovo and elsewhere in the sub-region currently estimated at around 250,000 persons (207,100 IDPs in Serbia, 16,500 in Montenegro, 21,000 within Kosovo, 2,000 refugees in The former Yugoslav Republic of Macedonia and 3,000 in BiH). This continuing decline in minority returns is also a sign of the continuation of low-intensity harassment, coupled by sporadic violent crimes against minorities. Unresolved property issues (residential, commercial and agricultural) as well as lack of freedom of movement affecting their access to basic services are other major impediments to the sustainable return of minorities even though the majority of the 4,200 persons displaced by the March 2004 events returned after a reconstruction programme implemented by the PISG."

**UN SC, 1 September 2006, paragraph 23:**

"While remaining steady, the number of minority returns to Kosovo is not satisfactory; the Office of the United Nations High Commissioner for Refugees estimates that only 770 minority community members returned from January to June 2006. Internally displaced persons continue to cite economic and security factors as the primary reasons for their reluctance to return, as well as uncertainty regarding the future status outcome."

**COE PACE, 21 June 2006:**

“Serbs outside their compact areas of settlement face threats to their basic rights, such as freedom of movement and freedom of expression, and discrimination and intolerance towards persons belonging to minority communities continue. Related security concerns, coupled with limited employment opportunities and problems with repossession of property and other factors, are a real obstacle to sustainable return. Security concerns also affect the implementation of the Framework Convention in such fields as education, use of languages and participation. This concerns the Serbs and also persons belonging to certain other communities, especially the Roma.”

*Apart from voluntary returns, a significant number of forced returns have been noted. For more on this issue see "As forced returns continue more and more people face secondary displacement (2006-2007)" also in this section.*

**As forced returns continue, more and more people face secondary displacement (2006-2007)**

- Over 47,000 people had been forcibly returned to Kosovo by the end of March 2007
- An estimated 90,000 are subject to deportation and return as readmission agreements continue to be signed
- Forcibly returned, and especially Roma and members of other minority communities, face particularly difficult situation upon return
- Forced returns of Roma to Serbia, including to Kosovo, and to Montenegro stepped up in 2006, causing serious concerns as to the safety of these returns and the capacity of the authorities to absorb the returnees
- Most of the forcibly returned face secondary displacement and receive limited assistance
- UNHCR and IOM provide initial support and advice to forced returnees, but the issue of how to integrate thousands of people repatriated every year has not been given due attention
- As of May 2007, UNMIK was developing a Reintegration Strategy to ensure access to information, civil documentation, assistance and social services and enable reintegration of forced returnees

**Ombudsperson Institution in Kosovo, 11 July 2007, p.41:**

“...several years after the end of hostilities, many of their host countries began returning them [IDPs and refugees] by force (repatriation). Some of these countries signed agreements to this effect with UNMIK and now, based on UNMIK statistics from the end of March 2007, 47 738 people have been returned to Kosovo in this manner. UNMIK continues not to accept forced returnees from the Serbian and Roma communities and of ethnic Albanians to places where they are a minority. Members of the Ashkali and Egyptian communities are only accepted if a prior screening has shown that returning to their place of origin will not violate their human rights. In addition, UNMIK urges that the repatriation of the elderly, the ill, and separated children for whom relatives and care-givers have been identified may only be effected if the care and protection provided for these people is not diminished as a result.”

**UN SC, 9 March 2007, paragraph 17:**

“In 2006, the overall number of persons involuntarily repatriated from host countries reached 3,598. Repatriation functions are in the process of being transferred to the Provisional Institutions. Another 90,000 Kosovans are subject to deportation and return to Kosovo, adding urgency to the Government/UNMIK plan to address reintegration needs.”

**UN SC, 20 November 2006, Annex I, paragraph 55:**

“The repatriation of Kosovans returning from third countries after being denied legal status presents a huge potential problem of resources and organization. An estimated 90,000 are subject to deportation and return to Kosovo. UNMIK and the Provisional Institutions have developed a joint plan to address their needs and to manage the transfer of repatriation functions to the Provisional Institutions.”

*Displaced and forcibly returned members of minority communities, especially Roma, face a particularly difficult situation:*

**COE PACE, 24 May 2007 :**

“11. The situation of displaced Roma remains a particular concern, especially in the light of many readmission agreements which have been signed recently with European Union member states. Most returnees face the situation of secondary displacement upon return. The Assembly therefore reiterates its concern that the readmission agreements do not clearly define the conditions for the reception of returned persons; they do not put any responsibility on the receiving state with regard to the reintegration of returnees; and they lack accompanying assistance programmes or funding towards durable integration.

67. It is of concern that a large number [] of asylum seekers who fled Kosovo and sought refuge in other European countries are today being returned to Serbia (forced or voluntary returns) directly into a situation of secondary displacement. The Rapporteur recalls the position of the Parliamentary Assembly in its Recommendation 1633(2003) on forced returns of Roma from the Council of Europe member states [], particularly related to the conditions in which forced returns take place and the situation in which rejected asylum seekers (mainly Roma) find themselves upon their return. Regrettably, readmission agreements do not clearly define the conditions for the reception of returned persons; they do not put any responsibility on the receiving state with regard to the reintegration of returnees; and they lack any accompanying assistance programmes or funding towards reintegration.

87. Nonetheless, any large scale return of Roma, Ashkali and Egyptians to Kosovo without proper preparation of the infrastructure to receive them and a proper programme to support their reintegration would only exacerbate the very fragile political and economic situation in Kosovo. The MG-S-ROM report cautions against a large scale forced return from Western European countries in line with the concerns expressed by UNHCR []”

**COE PACE, 30 March 2007, paragraph 21:**

“Forced returns of Roma to Serbia, including to Kosovo as well as to Montenegro stepped up in 2006, with serious concerns being raised by civil society members and UNHCR as to the safety of these returns and the capacity of the authorities to absorb these returns.”

**UNHCR, November 2006, p.8-9:**

“...UNHCR is therefore still advocating that Serbs, Roma and Albanians in a minority situation (i.e. from northern Mitrovica) [] should continue to benefit from international protection, or at least complementary forms of protection. They should not be forced back to Kosovo against their will where they could still face persecution or insecurity, nor should they be sent back to Serbia and Montenegro other than Kosovo on the basis of the so-called “internal flight alternative” where they would end up in secondary displacement in collective centres (...).”

*Displaced and forcibly returned receive only limited assistance:*

**Ombudsperson Institution in Kosovo, 11 July 2007, p. 48:**

“... assistance and support for people returned to Kosovo forcibly has been rudimentary at best. While UNHCR and IOM continue to provide initial support and advice to forced returnees, the issue of how to integrate thousands of people repatriated every year continues to be sidelined by

both UNMIK and the PISG. So far, neither UNMIK nor the PISG have allocated funds to enable these people to lead sustainable lives. Many children of forced returns continue to encounter difficulties with regard to school education in Kosovo because they speak the language of their former host country better than they speak Albanian or Serbian.

Inexplicably, the issue of forced returns or forced repatriation has, from the beginning, been treated separately from voluntary returns. So separately, in fact, that none of the organs usually competent for returns feels responsible for this large group of returned people. In cases where forced returnees have come to the Ombudsperson Institution, staff found that UNMIK considered the question of integration and support to these people as falling under the sole competences of the municipalities. The municipalities, on the other hand, still suffer from a chronic lack of funds and complain that they are often not informed about repatriations beforehand. As a result, the municipalities have also not done much to help these people. The Ministry of Returns and Communities does not consider the issue of forced returnees as falling under its competences.

In many cases, the houses belonging to forced returnees are still in ruins. They remain displaced and have so far had no other choice but to turn to relatives, acquaintances or other forms of assistance. In many cases, those who could did try to return to their former host countries by whichever means possible, usually illegally. While UNMIK has meanwhile set up a Repatriation Working Group to support and advise the PISG on future migration policies and practices, this still does not resolve the problems faced by persons who have already been repatriated to Kosovo. A Steering Group consisting of UNMIK and various Ministries has been formed to draft a Strategy for Reintegration of Repatriated Persons, which will help ensure that forced returnees will have adequate access to information, civil documentation, assistance and social services, so that they can reintegrate in their places of origin and rebuild their lives. Unfortunately, this strategy is still in the drafting stages and until it is completed, the dire situation of most repatriated Kosovans is unlikely to improve. There has also been no support from former host countries to improve living conditions for forced returnees in Kosovo, possibly because they only want to “reward” voluntary returnees.”

**AI, May 2007, pp.14-15:**

“According to UNMIK, as of March 2007, “The issue of social assistance to the vulnerable sections of returnees is being accorded utmost priority by UNMIK as well as the Provisional Institutions of Self Government, who for some months now have been engaged in an effort to organize adequate responses to the social needs of the deportees in the framework of a comprehensive Migration Policy, which will also address issues of Repatriation.”

UNMIK is currently developing a Reintegration Strategy in close cooperation with the Ministry of Local Government and Administration, the Ministry of Internal Affairs, the Ministry for Labour and Social Welfare, Ministry of Education, Ministry of Health, Ministry of Environment and Spatial Planning, Municipalities, representatives of civil society and international actors, including UNHCR and the International Organisation for Migration. The Strategy will seek to ensure that persons forcibly repatriated to Kosovo should have adequate access to information, civil documentation, assistance and social services, in order to be able to reintegrate in their places of origin and to rebuild their lives.”

**Lack of funding for return projects remains a major obstacle to returns (2006-2007)**

- Organised return projects continue to be developed at the municipal level
- 5 organised return projects were launched in Kosovo in the first half of 2007 and further 47 community development and stabilisation projects were approved by the Ministry of Communities and Returns

- Still, lack of reconstruction plans in western Kosovo impedes Serbian returns, while there continues to be no progress for ethnic Albanians displaced from northern Mitrovica.
- Municipalities are increasingly demonstrating the capacity to directly implement components of returns projects, making them more sustainable and less expensive
- However, the lack of funding, including for already approved projects, remains the most important obstacle to returns

**UN SC, 29 June 2007, Annex, paragraph 43:**

“Five organized return projects, costing €3.2 million, for the return of 120 minority families have been launched in 2007 in Lipjan/Lipljan, Gjilan/Gnjilane, Vushtrri/Vucitrn, Klinë/a and Fushë Kosovë/Kosovo Polje. While additional projects continue to be developed at the municipal level, funding remains the most important obstacle to returns. The Ministry of Communities and Returns has approved 47 community development and stabilization projects worth €2.08 million to facilitate integration of all communities in Kosovo.”

**International Crisis Group, 14 May 2007, p. 24**

“The new Serb-majority municipalities might be able to encourage return, attracting Kosovo government, Serbian and international funding for constructing homes. But there are no reconstruction plans in other areas such as in western Kosovo where thousands of destroyed Serb homes remain. The relatively compact and vocal 500 or more displaced Albanian families from north Mitrovica are also left out in the cold, their continuing predicament stoking possible conflict in the city.”

**UN SC, 9 March 2007, paragraph 16**

“...The funding shortfall of €15.4 million also negatively affects the return rate. Municipalities are increasingly demonstrating the capacity to directly implement components of returns projects, making them more sustainable and less expensive. After the change of leadership, the Ministry of Communities and Returns needs to continue restructuring, paying particular attention to implementing the recommendations of the audits performed in 2006. The funding shortfall affects 18 approved return projects at present, all of which have been either re-evaluated with stakeholders or are in the process of re-evaluation to bring down projected costs. Cooperation on returns between the Provisional Institutions and the Government of Serbia continued at the local level, particularly on matters of humanitarian concern.”

**UN SC, 9 March 2007, Annex**

“19. Despite an administrative instruction of the Ministry of Finance and the Economy on the implementation of fair-share financing issued on 10 August 2006, only 16 of the 27 reporting municipalities had prepared the Annual Plan for Minority Projects and Expenditure for the 2007 budget (as at 19 January). The Ministry of Finance and the Economy has threatened the non-compliant municipalities with sanctions. The third-quarter report on fair-share financing in 2006 shows that 20 of the 27 municipalities reached or exceeded their target, which was slightly better than the second quarter, in which 17 did. Zvečan/Zveçan has still not submitted any fair-share financing reports for 2006 despite receiving funds from the Kosovo consolidated budget.

52. The current funding gap of €15,400,000 for 18 organized multisectoral returns projects remains the single most important obstacle to returns. An amount of €5,200,000 have been allocated in the 2007 budget for returns projects. The Ministry of Communities and Returns has indicated that it will focus on individual returns — a more cost-effective and economically viable approach to displacement.

53. During the reporting period, returns projects were completed in Siga/Sigë, Brestovik, and Ljevoša/Levosha (Pejë/Pec) and Babush i Serbëve/Srpski Babuš (Ferizaj/Uroševac) for 40 and 74 Kosovo Serb families, respectively. However, some of them postponed their return until spring.



Another project for 27 families was completed in Klinafc/Klinavac thus making Klinë/Klina the first municipality in Kosovo to fully implement a returns project.”

**UN SC, 20 November 2006, paragraph 18**

“...Municipalities are also demonstrating the capacity to directly implement components of returns projects, making them more sustainable and less expensive. The Office of the Prime Minister took corrective action to allocate remaining funds to support returns of internally displaced persons to Kosovo. However, a funding shortfall of €20 million affects 22 approved return projects, all of which have been recently re-evaluated with stakeholders to bring down projected costs. Cooperation on returns between the Provisional Institutions and the Government of Serbia continued at the local level, particularly on matters of humanitarian concern. From January to September 2006, the overall number of persons involuntarily repatriated from host countries reached 2,697. Repatriation functions are in the process of being transferred to the Provisional Institutions.”

**Return movement in 2004 decreased by 40 percent compared to 2003 and prospects for further returns are limited (2005)**

- The momentum behind the return process and interest in return was severely eroded by the events of March 2004
- The issue of final status is key to any individual decision to return or not
- The latest inter-ethnic clashes have seriously undermined the return process and exacerbated already heightened tensions
- The departure of members of minority communities is expected to continue
- A total of 12,218 members of ethnic minority communities returned to Kosovo by the end of 2004
- 2,302 members of minority communities returned to Kosovo during 2004, a 39% decrease from the 3,801 minority returns in 2003, marking the first decline since 1999
- The prospect for returns varied considerably according to region and ethnic group
- More minority community members were displaced in 2004 than were able to successfully return to their homes
- The March violence had a particularly negative impact on urban returns
- Minority returns moved up on the domestic political agenda and led to the adoption of municipal returns strategies and the creation of a new Ministry for Communities and Returns
- Most of the Kosovo return budget has been directed to projects involving Kosovo Serbs

**UNHCR, 1 June 2005:**

“The civil unrest in March dashed hopes of a strengthening in 2004 of the slow and fragile process of return to Kosovo.”

**UNHCR, 15 September 2004:**

“This sudden escalation of violence has left all minority communities with a heightened sense of fear and isolation. Freedom of movement and access to essential services which were not guaranteed before the current outbreak of violence, have now deteriorated even further. As a result, a certain momentum behind the return process has been lost and interest in return severely eroded - many ethnic minorities in displacement have adopted a cautious “wait and see” position. Resumption of the process will largely depend on the response of the PISG and UNMIK to social frustrations; the restoration of confidence in the security environment; the improvement

of living conditions for minorities notably freedom of movement, and; the speed with which reconstruction and systems of compensation can be established. Key to any formulation of an individual decision to return or not, is the issue of final status – most internally displaced persons will not make a decision until they know what they are returning to.

The persistent lack of economic opportunities continues to plague all Kosovo population and particularly affects vulnerable minority communities – this seriously undermines the sustainability of both residents and new arrivals (organised or spontaneous returns). UNMIK estimates unemployment at 60% among Albanians and 95% for minorities. Future prospects for economic growth and development are largely dependent on foreign investment and the successful privatisation of state and publicly owned property. (...)

The latest inter-ethnic clashes represent a serious set-back in the return process and have only helped to exacerbate already acute difficulties with security, freedom of movement, unresolved property claims, access to services (especially education) and employment. The willingness of displaced minority populations to return to their home communities is likely to remain low in 2005 while the sustainability of return will remain fragile until a more secure environment is in place. Secondary displacement to mono-ethnic communities is also a strong possibility if security incidents continue. In view of the situation, departure of members of minority groups from Kosovo, especially Romas and Ashkaelis, is expected to continue. "

**USDOS, 28 February 2005:**

"Since 1999, just over 910,000 internally displaced persons (IDPs) and refugees have returned or been repatriated, mostly ethnic Albanians; however, few IDPs returned during the year. Some international agencies and NGOs continued to organize small-scale return projects, which experienced setbacks as a result of the March riots. UNHCR estimated that 230,000 members of ethnic minority communities were displaced during the 1999 conflict. A total of 12,218 returned to Kosovo by year's end, it was unclear how many of the 230,000 persons originally displaced had returned or had integrated locally in Serbia by year's end. According to UNHCR, 2,302 minorities returned to Kosovo during the year, a 39 percent decrease from the 3,801 minority returns in 2003. This marked the first decline since 1999, a difference largely attributable to the impact of the March riots. Although the overall number of minority returns decreased during the year, a higher number of Roma, Bosniaks, and Goranis returned during the year compared to 2003. Of the additional 4,000 Serbs and Ashkali displaced during the March riots, 1,864 had not yet returned to their homes by year's end. The PISG reconstructed over 90 percent of the over 900 houses damaged or destroyed during the March riots, but many remained unoccupied at year's end.

The prospect for returns varied considerably according to region and ethnic group. The ability to speak the language of the majority community as well as the level of contact between IDPs and their neighbors prior to the conflict greatly affected the returnees' chances for reintegration. During the March riots, the Ashkali neighborhood in Vushtrri/Vucitrn was burned and looted, and its inhabitants took shelter at a KFOR base. Many refused to return by year's end. Many of those displaced in March, including Ashkali residents and Serbs, were displaced and had their homes burned for the second time."

**SG, 17 November 2004:**

"More minority community members have been displaced in 2004 than have been able to successfully return to their homes. (...) The March violence had a particularly negative impact on urban returns: the only significant urban returns projects now under way involve the return of Kosovo Roma and Egyptians. Returns projects in urbanized areas are also under way in both the Pec and Klina municipalities. Returns projects are proceeding in two municipalities that had not seen significant organized returns prior to the current year (Urosevac and Dakovica).

While the level of municipal engagement in the returns process has increased during the reporting period, most municipalities still lack both the capacity and political will to assume full responsibility for minority returns.”

**SG, 14 February 2005:**

“[P]rogress on property rights and sustainable returns has been severely impeded by the absence of effective mechanisms to ensure delivery at the municipal level and to capture municipal-level data, and by growing backlogs in the courts. Some municipalities have impeded returns. Isolated incidents of stoning of minority transport continue, and are not always condemned by local political leaders. Illegal occupation and use of property remain widespread.”

**SG, 23 May 2005:**

“Incidents continue to occur that undercut the efforts of the Government, municipalities and individuals to support sustainable returns by, and rights of, all communities (both *priorities*). During this period, these incidents included the erection of a banner in Pristina listing alleged suspects in the killing of 122 Kosovo Albanians in 1999. The banner — which was not condemned by public officials — could have been said to comprise hate speech and/or incite to violence against the listed individuals, and was removed by UNMIK. T-shirts were on sale in northern Mitrovica featuring Serbian Special Forces insignia and “Kosovo: We’ll be back”. The Municipal Assembly of Kacanik rejected its municipal returns strategy, arguing that Kosovo Serbs from Kacanik had committed crimes prior to their departure.

New language policy compliant road signs were quickly defaced (by painting over Serbian names) in Malisevo and Gnjilane. Serbian media reports that the Government of Serbia discourages returns, and inaccurate media reporting of security incidents, reduce willingness to return and the confidence of Kosovo Serbs living in Kosovo to pursue productive and sustainable lives. Looting and vandalism of unoccupied reconstructed houses, and low levels of inter-ethnic crime, continued. All actors need to help strengthen conditions conducive to returns, the confidence of potential returnees to return, and of returnees to pursue productive and sustainable lives, and a climate where they can.”

**On the positive side:**

**UNHCR, 1 June 2005:**

“Protection of communities and minority returns moved up on the domestic political agenda and led to the adoption of municipal returns strategies and the creation of a new Ministry for Communities and Returns. Minority returns have remained low. The overall security situation has improved markedly since the March events, but for minority groups a pervasive collective fear of violence remains, aggravated by periodic security incidents.”

**SG, 17 November 2004:**

“While returns funding will remain stable in 2005, Kosovo has now assumed the position of the leading funder of returns. Efforts have continued to ensure that returns funding is distributed according to need and involves all communities. Most of the Kosovo budget has been directed to projects involving Kosovo Serbs (who constitute approximately 75 per cent of the displaced), but projects have also been funded for the return of Gorani families in Dragas, Kosovo Roma, Ashkali and Egyptian families in Dakovica and Mitrovica, and Kosovo Albanian returns to the Serb-majority municipality of Strpce.”

**SG, 23 May 2005:**

“The Government and most municipalities significantly increased official support for returns (*priority*), and undertook a wide ranging outreach programme (*priority*) designed to strengthen and support freedom of movement, returns, dialogue and tolerance building. Data is incomplete but at least 14 municipalities participated in visits to returns sites, visits of internally displaced persons to cemeteries, go-and-see visits or go-and-inform visits. The Prime Minister, Ministers

and many municipal leaders actively engaged with internally displaced persons. For the first time, Ministers visited internally displaced persons and refugees in Kosovo, Montenegro and Macedonia, including joint visits by the Minister for Communities and Returns (a Kosovo Serb) and the Minister for Local Government Administration (a Kosovo Albanian). The Prime Minister and 23 municipalities (all Kosovo Albanian majority) adopted on 25 February a joint declaration urging the displaced to return, the majority population to accept and implement its special responsibilities towards minority communities, and the protection of property rights and release of illegally occupied property. (...)The first urban return by Kosovo Serbs took place in Klina with Prime Ministerial and Municipal Assembly President support. Authorities continued to provide timely documentation to all returnees. The Association of Kosovo Municipalities initiated an inter-ethnic dialogue programme with the support of CARE International."

**See also map:** [Minority returns from internal and external displacement](#), UNHCR, 30 April 2005

### **Less than 10,000 displaced members of minority communities returned to Kosovo since 1999 (2004)**

- Only a very small fraction of IDPs from Kosovo has returned
- Return rate accelerates at low level
- Over 3,370 displaced persons returned from Serbia and Montenegro in 2003
- Return process is hindered by precarious inter-ethnic relations, insecurity, restricted freedom of movement, lack of rule of law, unresolved property issues and the economic situation

**According to UNHCR, an estimated 9,779 internally displaced members of minority communities have returned to their homes in Kosovo as of 30 January 2004. For more detailed statistics, see [UNHCR, 30 January 2004 \[internal link\]](#)**

**During 2003, a total of 3,629 persons returned to communities where they are in the minority, including 1,487 Kosovo Serbs, 1,387 Roma/Ashkali/Egyptians, 377 Bosniaks, 133 Gorani and 245 Kosovo Albanians, according to the UN (UN SC, 26 January 2004).**

#### **UNSC, 15 October 2003:**

"Despite setbacks resulting from recent violent incidents involving Kosovo Serb victims, the overall rate of returns continued to accelerate during the reporting period [July-October 2003]. Over 2,200 displaced persons have returned so far this year to areas where they are a minority (including 1,016 Kosovo Serbs, 693 Roma/Ashkali/Egyptians, 242 Bosniaks, 74 Gorani and 239 Kosovo Albanians). This figure represents an increase in the number of Kosovo Serb returns by 68 per cent over the same period in 2002, but this is still a small fraction of the large number of Kosovo Serbs internally displaced in Serbia and Montenegro. The level of returns in the Roma/Ashkali/Egyptian communities has remained relatively stable."

#### **UNHCR-UNMIK, January 2003:**

"Although the security situation and efficiency of administration in protecting minority rights have improved considerably since 1999, this has only allowed for the return of a small number of displaced persons. Precarious inter-ethnic relations, insecurity and restricted freedom of movement, lack of confidence in the rule of law and in the enforcement of property rights, and lack of material and economic opportunities in the place of return continue to affect the returns process adversely.

Substantial further improvements are necessary to enable return of displaced persons, irrespective of their place of origin and their ethnicity. The prospects for returns vary considerably

according to region, even within each region, and among different ethnic groups. In some locations IDPs/Refugees with a strong desire to return did do so through establishing contacts with the Municipalities and receiving communities. In other locations, such re-establishment of dialogue and obtaining support of receiving communities requires greater efforts and time.

While some Roma, Ashkali and Egyptian (RAE) populations have experienced advances in relations with the majority population, security remains a major concern, especially for Roma who are often grouped by Kosovo Albanians with Kosovo Serbs. In some cases though, opposition to return is motivated by material interests, such as the occupation of houses or land usurpation.

Opposition towards returns of Kosovo Serbs is particularly widespread and deep-seated, and is expressed in a variety of ways, ranging from demonstrations and outright hostility towards attempts to re-establish inter-ethnic relations, to simple reluctance and footdragging. In general, interaction at the grassroots level between different communities has sharply increased during 2002. Although this has helped to build up inter-ethnic tolerance, it does not necessarily mature into a reconciliation process and acceptance of returns without assistance and effort.

In addition to security, minority rights and interethnic relations, housing is a fundamental aspect of the return and integration process. Uninhabitable or illegally occupied housing and damaged or destroyed social infrastructure undermine the ability of IDPs/Refugees to exercise their right to return, as there are important factors facilitating self-sufficiency. Until recently, the issue of housing and reconstruction has often been secondary to IDPs/Refugees' decisions to return since the main obstacle remains security. However, the issue of reconstruction, whether housing, social infrastructure or both, is becoming an increasingly important determinant to the sustainability of return. Moreover, a great number of accommodation belonging to displaced persons is illegally occupied. Lack of housing reconstruction forces IDPs/Refugees to return to situations of internal displacement, usually to overcrowded and unsustainable host family situations.

Some returnees may even go back to their place of displacement if they are unable to access assistance on their return. By the same token, fragile and unstable local communities effectively prohibit return opportunities for a larger number of IDPs/Refugees if attention is not paid to the rehabilitation or reconstruction of social infrastructure and public utilities in the return communities, in addition to housing.”

### **Return movements tend to strengthen a process of enclavisation of minorities (2001-2002)**

- Return of displaced Kosovo Serbs is not necessarily be motivated by a fundamental change in the environment (2000-2002)
- Many ethnic Serb displaced had the opportunity to return to their homes in a select few enclaves in 2000
- In general, there were more departures from the Kosovo Serb Communities than returns in 2001
- This was especially the cases in semi-urban and ethnically mixed, areas or in rural, ethnically-mixed communities
- The population in larger mono-ethnic enclaves tended to stabilize
- The organised return to Osojane (summer 2002) led to the creation of a new Serbian enclave in Kosovo
- A mass return of Kosovo Serbs displaced in Serbia was planned in September 2002 by the Committee for Serb returns to Kosovo, but was averted

**UNHCR/OSCE, May 2002, para. 164:**

"**Kosovo Serb spontaneous returns** in 2000 numbered a little over 1,800 persons, while spontaneous return of Serbs to Kosovo in 2001 reached only a little more than 500 persons. [106] These downward trends might be explained by several factors. Perhaps most importantly, the *relatively* larger numbers of return in 2000 largely reflected return to large enclaves (such as Gorazdevac) by IDPs who had fled temporarily during the height of violence against minorities in summer and fall of 1999; thus, the returns in 2000 were not necessarily return motivated by a fundamental change in the environment. Thus, those who had the opportunity to return to their homes in a select few enclaves had already returned in 2000. Furthermore, the late winter of 2001 was marked by the Niš Express bombing which resulted in the death of 11 Serbs, dealing a massive blow to minority confidence and marking the height of a period of upsurge in violence against minorities precisely before the opening of spring, [107] the season when refugees and IDPs may be considering the prospects for return. Certain regions, in particular Gjilan/Gnjilane, also experienced instability related to the conflicts in FYROM and Southern Serbia proper during the first half of the year, reducing confidence and return opportunities. But perhaps most significantly, the situation in 2001 increasingly consolidated the reasoned perception amongst IDPs and refugees that, notwithstanding marginal and relative improvements in local security in their immediate places of origin, the overall situation did not warrant the belief that, upon return, their families would enjoy any positive long-term perspective or future in Kosovo. The example of Slivovë/Slivovo in Prishtinë/Priština rural south clearly demonstrates the fact that, notwithstanding a stable and relatively secure local environment for the remaining Serb inhabitants, return of significant numbers will not take place whilst freedom of movement is still highly restricted to circumscribed locations and constrained by special collective transport arrangements, without confidence in rule of law including enforcement of property rights, without economic perspectives, without social, educational and job opportunities for youth, and without full and guaranteed support for reintegration such as reconstruction aid."

[Footnote 106: It should be noted that over half of those spontaneous returns of Kosovo Serbs in 2000 were to fortified enclaves (such as Gracanica, Upper Rahovec/Orahovac, Gorazdevac, etc.) by IDPs who, after a brief period of refuge outside of Kosovo, returned to the largest enclaves. Spontaneous returns in 2001, in contrast, took place to a wider variety of locations but in smaller numbers, pointing to the fact that the generalised situation outside of the fortified enclaves is still largely prohibitive of return for the vast majority of displaced persons.]

[Footnote 107: Trends in ethnically-motivated violence during the period referred to are reviewed in the 7th Minorities Assessment which covers the period October 2000 – February 2001. ]

**UNHCR/OSCE, May 2002, para. 169:**

"In **Prishtinë/Priština** region, **Kosovo Serbs** departed Kosovo in larger numbers than they returned. During the period May 2001 to March 2002, more than 500 persons departed, while about 385 persons returned. While Kosovo Serb departures outnumbered returns from a quantitative perspective, the numbers alone do not tell the whole story. Particularly vulnerable Kosovo Serb communities, especially those in semi-urban and ethnically mixed areas such as Lipjan/Lipljan and Fushë Kosovë/Kosovo Polje experienced large outflows and very few if any returns. This phenomenon in specific semi-urban and mixed areas is explained by the fact that Serbs tended to be scattered in mixed neighbourhoods and therefore more exposed to threat and the impact of restricted freedom of movement, combined with the fact that Kosovo Serbs in Fushë Kosovë/Kosovo Polje tended to own strategically important properties on the main thoroughfares (resulting in high levels of property sales to Kosovo Albanians). Return and departure in rural areas varied, depending on the level of isolation and the particular security situation, with the most isolated and rural villages often experiencing more departures, and less isolated and more stable villages receiving more returns. This is simply explained by the fact that the most rural and isolated of Kosovo Serb communities, while often experiencing security threats or low-level intimidation ranging from the occasional to the unremitting, tended to enjoy the least amount of freedom of movement and less access to services and goods than larger and less isolated

minority communities, translating into greater push factors to depart than pull factors to return. In contrast to the rural areas, the larger, fortified semi-urban minority enclaves such as Gračanica/Gračanicë received many more spontaneous returns than new departures. **The contrasting return and departure trends in different types of areas inhabited by Kosovo Serbs tended to support the consolidation of the 'enclavisation' of minority life in Kosovo.** Many smaller, rural minority communities or semi-urban communities in more mixed areas tended to experience drops in their minority population ranging from small to highly significant, while the population of larger mono-ethnic enclaves (whether semi-urban or rural) tended to remain more stable."

**UNHCR/OSCE, May 2002, para. 177:**

"The return generating the most political interest and general debate was the return of Kosovo Serbs to the **Osojane Valley** in Istog/Istok municipality. The return of a group of IDPs representing more than 65 families to four hamlets in the Osojane Valley took place during the August/September period, into an area which suffered massive property destruction after the flight of the entire Serb population in the summer of 1999 and had been deserted since then. The return to an empty and destroyed area required a large-scale reconstruction effort; reconstruction assistance was provided for 55 households. KFOR undertook a highly resource-intensive exercise to seal and secure the valley to ensure returnee security. Pre-return discussions were undertaken between the international community, Albanian leadership at the central and municipal levels as well as surrounding communities, but the environment did not exist for dialogue and confidence-building between the Serb returnees and the Albanians prior to the return. Infrastructure and community development projects were implemented in the Albanian communities immediately neighbouring Osojane in order to try to balance attention to majority community needs (for this reason, termed 'balancing projects'). Although one peaceful public demonstration occurred in Istog/k to protest against the return, security remained stable. However, the relations between returnees and the majority population remained virtually 'untested' given the security mechanisms which, while necessary to ensure immediate security during the early phases of return, did have the unfortunate side-effect of entrenching separation between the returnee community and the Albanian population. Reducing barriers by normalising preventive security measures, by ensuring the delivery of municipal services to the returnee community, and by enhancing inter-ethnic contact through dialogue, economic interaction and returnee participation in municipal structures remain perhaps the most important challenges in the consolidation of the return process. The pre-return and immediate post-return phases of the Osojane Valley return were co-ordinated by UNHCR. With the consolidation of the returnee group and attention on the priority issues of reintegration, the UNMIK Regional Office assumed the lead co-ordination function, in particular, overseeing reconstruction, infrastructure recovery and municipal services issues, while UNHCR continued to support the return process with particular attention to humanitarian needs and co-ordination with IDPs in Serbia. During early 2002, UNMIK, UNHCR and KFOR along with a range of partners began planning for a second phase of return to Osojane, given high levels of interest amongst Osojane IDPs in Serbia to return to their community."

**UN OCHA, 26 April 2002, p. 29:**

"The organised return to Osojane led to the creation of a new Serbian enclave in Kosovo, and there is a general agreement among the international community that future organised return movements should avoid the creation of further enclaves. Future return will have to include elements of reintegration of the returnees into wider communities."

**UN OCHA, 31 October 2002:**

"A mass return of K. Serbs displaced in Serbia was planned in September 2002 by Committee for Serb returns to Kosovo, but did not receive UNMIK support and was later postponed. At Merdare border crossing point between Kosovo and Serbia, 40 K. Serb IDPs held a peaceful protest demanding their unconditional return rights to Kosovo."

**UN SC, 9 October 2002, para. 37:**

"A possible mass return, which could have led to serious disruption and violence, from Serbia proper was averted in September 2002 after contacts between UNMIK and the Belgrade activities."

**Return of non-Serb displaced remains limited and aggravates the displacement crisis in Kosovo (2002)**

- Most Ashkaelia and Egyptian refugees in Macedonia returned to situations of internal displacement in Kosovo or Serbia
- One key obstacle to return remains the unsustainable living conditions even in areas where security has improved
- The limited absorption capacity of hosting communities, inadequate living conditions and occupation of homes by other Roma IDPs resulted in the departure of returnees back to Serbia or Macedonia (2001)
- There are no indications of aspirations amongst Bosniac IDPs and refugees to return to Kosovo in the foreseeable future

**UNHCR/OSCE, May 2002, paras. 171-172:**

"Trends in **Kosovo Roma and Ashkaelia** return and departure in the Prishtinë/Priština region differed substantially from that of the Kosovo Serbs in the same region. During the period May 2001 to March 2002, a total of about 225 persons departed the region while almost 500 returned (of which 63% were Ashkaelia) mostly from FYROM. The ratio between returns and departures heavily favoured return from the quantitative perspective. Qualitatively, returns of RAE to Prishtinë/Priština region from FYROM tended to have one primary characteristic: most Roma and Ashkaelia families tended to return into displacement (usually with hosting relatives in a house, village or town other than the place of origin), due to the fact that their own villages or neighbourhoods were deserted, security conditions did not exist, their properties were destroyed, they could not access reconstruction assistance in the foreseeable future, or their own properties were occupied by displaced Albanians, Serbs or even other displaced RAE families. Return into internal displacement to a very limited number of locations contributed to the further overburdening of existing communities. Patterns of Roma return differed from Ashkaelia return. Roma tended to return to the Kosovo Serb villages of Prishtinë/Priština rural south only into very overburdened Roma communities. Kosovo Roma return most often occurred into displacement. Ashkaelia return was limited almost entirely to Fushë Kosovë/Kosovo Polje, also usually into displacement in host family arrangements, contributing to further saturation of the community. A second trend seen, most commonly amongst Serb-speaking Roma, was that of refugee families returning for a transitory period and departing again after a period of only a few weeks. In 2001, of 15 Roma families who returned to Gračanica/Graçanicë, only 1 family remained while the other 14 departed again for FYROM or Serbia. The extremely limited absorption capacity of hosting communities, inadequate living conditions and occupation of returnees' homes by other Roma IDPs contributed to this phenomenon. New departures of long-time RAE community members from the Prishtinë/Priština region were not noted.

Virtually no returns of members of the **Kosovo Bosniak** minority to Kosovo were recorded during the period, except for a few individual or exceptional cases (including a few cases of forced return/deportation). Although the overall security situation for Bosniaks has stabilised considerably and mobility and confidence continues to slowly improve, ongoing individual departures continue on a very slow but steady basis from Bosniak communities in many regions. The most significant departures during the period occurred in the Podgor area (Prizren region),



where approximately 20 Bosniak families left the village of Grncare/Granqar during a three-month period. Most Bosniaks displaced outside of Kosovo since 1999 have found refuge in Montenegro or Bosnia & Herzegovina, but new departures appear to be largely destined for other European asylum countries. The primary reasons for departure are not direct security threats per se, but rather a function of the inability of Bosniaks to confidently use their own language in public outside their very small communities without facing a security risk, which effectively creates social and economic isolation, pressure to assimilate, and an environment of discrimination. There are no significant indications of aspirations amongst Bosniak IDPs and refugees to return to Kosovo in the foreseeable future."

### **Very slow return of Albanian displaced to Serb-dominated municipalities (2001-2002)**

- Ethnic Albanian displaced persons have asked increasingly the international community for return assistance
- Prospects for a potential return of ethnic Albanians to the northern part of Mitrovica remain extremely remote
- There have been some return movements of ethnic Albanians to other northern municipalities
- More confidence-building work needs to be done to allow more ethnic Albanian to return to Štrpce

### ***September 2001-April 2002***

#### **UNHCR/OSCE, May 2002, paras. 173-174:**

"No significant progress was made on laying the groundwork for returns of displaced Kosovo Albanians where they constitute a minority. There was, however, a notable increase in expression of aspirations to return among Kosovo Albanians displaced from majority Kosovo Serb areas, demonstrated by increasing demands to the international community to facilitate return and reconstruction, requests to visit villages of origin, and attempts to exercise freedom of movement. Realistic potential for return of Albanians to the northern parts of Mitrovicë/Mitrovica municipality remained extremely remote, hindered by the tense political environment and ever-present uncertainty about the security situation. Pointing to this is the fact that none of the Albanian families forcibly evicted from apartments in North Mitrovicë/Mitrovica in 2000 and 2001 (which KFOR and UNMIK Police were unable to prevent) have been able to reclaim or re-inhabit their properties to date. Another indicator is the fact that a few Go-and-See Visits of Kosovo Albanians to their villages of origin within northern Mitrovicë/Mitrovica which were organised by UNMIK and KFOR at the request of the Albanian IDPs generated protests, roadblocks from Serbs in the north, highlighting the potential for violent backlash. The situation in north Mitrovicë/Mitrovica remains fundamentally unstable, and risks to remaining (mostly housebound) non-Serb minorities continue to be ever-present. The scenario is generally less dramatic in the other Serb-dominated municipalities of the north, outside of northern Mitrovicë/Mitrovica. The Kosovo Albanian enclaves in the majority Serb municipalities of Laposavië/Leposaviq, Zubin Potok and Zveëan/Zveçan continued to receive small and incremental spontaneous returns of Albanian IDPs from the south. Indeed, return is expected to increase in part due to the establishment of a new school, ambulanta, shop, UNMIK community office and a mini-bus shuttle which will connect the three principal Albanian villages in Laposavië/Leposaviq. Unlike in north Mitrovicë/Mitrovica, the low-key and gradual small-scale return of non-Serbs in these other northern areas is not as strongly obstructed by the same political obstacles, although conditions for more significant numbers of ethnic Albanian returns are still tenuous.

No tangible progress was made on the return of **Kosovo Albanians** displaced from their homes in majority-Serb municipality of **Štrpce/Shtërpçë**. However, Albanian access to the municipality

saw slight improvements toward the end of the period following the highly contentious incidents surrounding the issue of lack of access of the Albanian Municipal Assembly members to the municipal building in Štrpce/Shtërpçë town in January and February. The recent development of Kosovo Albanians accessing and working in the municipal building, if sustained, will mark a first step towards increasing interaction with the Serb population. The situation continues to be quite fragile, and confidence-building measures must bear fruit before the contentious issue of return will realistically be able to be added to the agenda."

### **IDPs from Southern Serbia: some have chosen to integrate in Kosovo (2001-2002)**

- Restoration of Serb control in Southern Serbia and the implementation of confidence building measures have made return possible for at least half of the displaced in Kosovo
- Return of displaced to Southern Serbia eased the pressure on minority communities close to IDP concentrations
- A significant proportion of the returnees has come back to Kosovo for the winter
- IDPs from southern Serbia still in Kosovo in August 2002 have registered as residents with UNMIK (2002)

### **UNHCR/OSCE, October 2001, para. 18:**

"A second major population movement relevant to the interests of minority communities commenced during the summer with the **return of ethnic Albanian IDPs** to their homes in southern Serbia. Tensions in southern Serbia over the course of the past year had provoked a sizeable outflow of ethnic Albanians, many of whom sought temporary refuge in Kosovo. These were estimated to number just under 20,000 persons as of early June 2001. The smooth relaxation of the Ground Safety Zone which resulted in the return of Yugoslav forces to the 5 km stretch along the boundary line from which they had previously been excluded, paved the way for the initiation of confidence building measures and the possibility of return. Between those who have opted to return on their own initiative and those who have sought UNHCR assistance to do so, it is estimated that the current IDP population in Kosovo, originating from southern Serbia, has dropped by half. This has eased the pressure on a number of minority communities living in close proximity to concentrations of IDPs. In the longer term, it may even open up return possibilities for displaced minorities as the departing Albanian IDPs vacate minority properties that they had illegally occupied during their stay in Kosovo."

### **UNOCHA, 29 January 2002:**

"The return of IDPs to the region has been viewed as a success. Through their statements and actions the authorities and UN and other international agencies and the European Community Monitoring Mission (EUMM) encouraged some 5,300 IDPs in Kosovo to return to South Serbia during the summer. However, some returnees complained of a lack of infrastructure, inadequate assistance to repair houses and too little food aid in many villages. A significant proportion – between one third and one-half – have returned to Kosovo for the winter. There is optimism that the bulk of these will return again and be joined by new returnees in the spring, assuming that the other issues identified in this paper are addressed."

### **UN OCHA, 31 August 2002, p. 3:**

"With its implementing partners, UNHCR Kosovo conducted a sample survey of the ethnic Albanian IDPs from Southern Serbia. The survey covered 681 families with 4,500 members, which represent 50% of the estimated ethnic Albanian IDPs from Southern Serbia, accommodated in Kosovo. The survey results indicated that these IDPs have already integrated with the local communities and registered themselves with UNMIK as residents of Kosovo."

*As concerns ethnic Albanian IDPs from Southern Serbia in Kosovo, UNHCR estimates that there are about 5,000 in the province (UNHCR, January 2004)*

## **Return prospects**

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### **Government of Serbia's initiatives to support IDPs' return to Kosovo (2009)**

- The Serbian Government and his Ministry for Kosovo-Metohija support IDPs who want to return to Kosovo financially or by helping to build and repair houses in Kosovo.
- The Serbian Government, in coordination with UNHCR, has agreed to initiate a survey of IDPs from Kosovo living in Serbia to identify those who want to return to their place of origin.
- Between March and August 2009, 1,212 families (3,200 IDPs) from 55 collective centres have applied to return to Kosovo. However, the registration did not include IDPs who have private accommodation or those Serbs and non-Albanians who were driven out of their homes but remained in the province.
- Through the project "Social Housing in Protected Conditions for IDPs", financed by different international organizations and the Government of Serbia, IDPs from Kosovo-Metohija who do not want to return can find another type of housing solution in Serbia

### **Government of Serbia, 17 September 2009:**

"Serbian Assistant Minister for Kosovo-Metohija Bojan Andjelkovic said today that 1,212 families or 3,200 Internally Displaced Persons (IDPs) have applied to return to Kosovo.

Speaking at a press conference about the completion of the return application registration and the problems of IDPs in Djakovica, Anjelkovic said that the registration process was completed between March and the middle of August and was limited to IDPs in 55 refugee centers and those who expressed a wish to return to Kosovo.

He said that the registration did not include IDPs who have private accommodation or those Serbs and non-Albanians who were driven out of their homes but remained in the province.

He said that of the total of the IDPs registered, nearly 10% or more, more than 400 individuals, belong to ethnic minorities, Roma, Muslim, etc.

Andjelkovic said that 848 housing units need to be reconstructed or rebuilt for the return of those registered this year, noting that 340 houses were completely destroyed while others can be reconstructed.

According to Andjelkovic, 240 apartments owned by Serbs and now illegally occupied by Albanians need there present occupiers evicting.

Most of these apartments are in Djakovica, he said noting, that 228 families from Djakovica have applied to return.

Another 100 apartments should be built to house the displaced there, Andjelkovic said."

### **Government of Serbia, 20 June 2009:**

"State Secretary at the Serbian Ministry for Kosovo-Metohija Oliver Ivanovic today visited Kosovo returnees and said that the Ministry must continue to build and repair houses for those returning to the province. "

**Government of Serbia, 9 June 2009:**

"State Secretary at the Serbian Ministry for Kosovo-Metohija Oliver Ivanovic said today that the Serbian government and his Ministry will support all returnees to Kosovo by helping them financially and otherwise.

During a visit to the village of Sinaj, near Istok, Ivanovic said that he is pleased to see that eight families have returned.

The Ministry for Kosovo-Metohija can help construct houses for returnees and I am certain that by improving living conditions we will encourage more people to return, said Ivanovic.

On May 12, eight Serb families returned to Sinaj, where 18 houses are being built for Serb returnees."

**UNSC, March 2009:**

"The authorities in Serbia, in coordination with UNHCR, have agreed to initiate a thorough survey of internally displaced persons from Kosovo to identify those interested in returning to Kosovo. The information collected will be transferred by UNHCR offices in Belgrade and Pristina for incorporation into the Ministry of Communities and Returns database for further action."

**Political climate for minority returns improves (2003-2004)**

- Kosovo Albanian leaders publicly call for the return of minority IDPs
- Kosovo governments allocates €7 million to support return in 2003
- Municipal authorities are increasingly engaged in return process
- Resistance remains at community and village levels

**UNMIK, 15 December 2003:**

"12. In the past year [2003], the returns environment in Kosovo has undergone a substantial change. A year ago, Kosovo Albanian leaders were cautious about being seen to support returns, and their actions reflected that timidity. Over the course of 2003, the political context for returns has undergone a 180-degree shift. While once those who supported returns were afraid of the consequences of expressing such views, now it is those who would oppose returns who are out of step with the accepted line on returns. Valid questions remain about how deep-seated these new positions are, but this change nevertheless constituted an important thawing of the environment for returns. The most obvious indication of this change was the issuance on 3 July of "An Open Letter to the Displaced Residents of Kosova/Kosovo in Serbia, Montenegro and Macedonia" signed by all the major Kosovo Albanian leaders (Prime Minister Bajram Rexhepi, President Ibrahim Rugova, President of the Assembly Nexhat Daci, PDK Leader Hashim Thaci, AAK Leader Ramush Haradinaj, and KPC Commander Agim Ceku). The Open Letter called for the displaced to return to their homes in Kosovo, and committed the signatories to working "to

build a democratic, peaceful, secure, multi-ethnic Kosova in which all citizens are treated equally before the law and enjoy equal opportunities in fulfilling their human potential.”

13. While the Open Letter was a crucial step in improvement of Kosovo’s returns environment, it does not stand alone. In fact, growing engagement in returns activities by Kosovo Albanian authorities at the municipal level was already visible in all regions of Kosovo in the months preceding the letter’s release. In particular, the increasing involvement of Kosovo authorities in the work of Municipal Working Groups on returns, and the enhanced effectiveness of those bodies, signalled a fundamental improvement in the political climate for returns in Kosovo. By mid-2003, Municipal Working Groups had been formed in 29 of 30 municipalities (with the exception of Gllgovc/Glogovac which before the conflict had virtually no minority population and where there is no current demand for return), and municipal authorities were involved in all of them.

14. Most notably, during 2003, municipal authorities played a supportive role in virtually all locations where returns projects were underway or envisioned in the near future. While the level of engagement and activism on behalf of returns by municipal leaders varies, compelling examples of an improved environment for returns abound, including municipal authorities of different ethnicities working together to support the process. In Obiliq/Obilic, for example, MWG meetings are co-chaired by the Kosovo Serb and Kosovo Albanian Vice Presidents, while in Rahovec/Orahovac, a Sub-Committee on Returns comprised of two Kosovo Albanians, two Kosovo Serbs and one RAE representative has worked actively on returns efforts. As in several municipalities, in Istog/Istok the Municipal Assembly President co-chairs the MWG, and heads of municipal departments regularly attend MWG meetings.

15. These improvements at the municipal level were echoed in more visible support for returns within central government structures. On 10 July, the Kosovo Assembly held a session dedicated to minority returns, during which representatives of each of the major Kosovo Albanian political parties committed themselves to supporting returns of displaced persons. The Assembly adopted a resolution in which the Assembly pledges to “engage to create an atmosphere of insurance and trust and confidence to assist the process of returns.” That same day, President Ibrahim Rugova and PDK Leader Hashim Thaci travelled with the then-head of the U.S. Office in Pristina, Reno Harnish, to Ferizaj/Urosevac where they met with Kosovo Serb representatives and displaced people, and publicly called on Kosovo Albanians to welcome their neighbours back. Prime Minister Rexhepi has travelled several times to returns sites to demonstrate his commitment to the process, and has spoken in Serbian on numerous occasions with returnees and journalists. Prime Minister Rexhepi, President Rugova, Assembly President Daci, and party leaders Hashim Thaci and Ramush Haradinaj have also spoken out on behalf of returns in public meetings, newspaper interviews and television appearances.

16. Most significantly, the Kosovo government allocated €7 million from the 2002 Kosovo Consolidated Budget (KCB) surplus to support returns. In accordance with the budget proposal submitted by the UNMIK Office of Returns and Communities, €5 million of these funds are being used within returns projects that have been endorsed by Municipal Working Groups and are on the Returns Coordination Group’s List of Priority Projects. This support has allowed most of the gaps on the RCG List of Priority Projects to be filled. Late dispersal of funds has meant that only the first phase of some projects will go forward this year, with reconstruction waiting until next spring (Kosh/Koš, Biti e Eperme/Gornje Bitinja, Rahovac/Orahovac, Radeshe/Radesa and Vranishte/Vraniste). In a number of other projects, KCB funds will be used to complete a project for which partial funding was already available (Dubravë/a, Llukafci i Thatë/Suvi Lukavac, Bellopojë/Belo Polje, and Fushe Kosovo/Kosovo Polje). Finally, KCB funds will be used for most components of one project that had been awaiting funding throughout the year (Bablak/Babljak), and for an inter-ethnic dialogue project that will fill gaps in existing and planned projects, helping to reverse a phenomenon in which this component of a project – which should begin first – is

often the last to receive funding. These projects are being implemented by NGOs, with UNDP providing overall management for the fund.

17. The remaining €2 million from the KCB budget forms a Municipal Communities Fund (MCF) that provides support for municipal projects that contribute positively to returns, either directly or by contributing to municipal efforts to build a tolerant and multi-ethnic environment. Twenty-six of thirty municipalities submitted a total of 161 proposals for funding to the MCF, seeking more than €11 million. Notably, the Review Committee charged with dispersing these funds includes representatives of the Prime Minister, President, Assembly President, Inter-Ministerial Coordinator for Returns, Office of Communities within the Prime Minister's office, and four representatives of the Roma, Ashkali, Egyptian and Bosniak communities. This ground-breaking engagement by the government in returns-related funding is itself an important indicator of the improved returns environment in Kosovo.

18. This support for returns by Kosovo Albanian leaders had several important effects. First, the fact that all major political parties have endorsed returns decreased the potential for this issue to be used for political purposes, thereby helping to avoid politicisation of the returns process, at least at the central level. Second, support from these influential political figures opened the door for a more tolerant climate in Kosovo for returns more generally. Some Kosovo Albanians have pointed to the existence of a "silent majority" of citizens who recognize the right to return and who are willing to focus on Kosovo's future, rather than the past. By speaking out in favour of returns, Kosovo's leaders have given encouragement to those who might have been reluctant to express support for returns before, and have set an example for those who may hold different views.

19. While the improvement in the political climate within Kosovo is notable, much remains to be done to provide a hospitable environment for returns. In particular, Kosovo authorities need to take a more active role in working to eliminate barriers to return, and to counter obstructive sentiments expressed from within their ranks or among the population. Even with municipal support for returns, projects often encounter resistance at a community or village level, which must be overcome through the concerted engagement by the responsible authorities. Positive statements must be translated into concrete actions to avoid the impression that today's support for returns is simply required window-dressing for the broader aspirations of Kosovo's leaders.

20. During 2003, Serbian authorities have begun to engage more constructively in the Kosovo returns process. As the host government for the majority of the displaced, Serbia and Montenegro has a compelling interest in ensuring that the right to return is respected. Given the political significance of Kosovo, however, Serbian authorities have at times sought to capitalize on the Kosovo situation in a manner that did not contribute helpfully to returns by minimizing positive developments and providing a lopsided view of the security situation. In recent months, however, a more constructive approach has been evident. The Coordination Centre for Kosovo's Returns Coordinator, Vladimir Cucic, meets frequently with UNMIK returns staff and the PISG's Inter-Ministerial Coordinator for Returns to discuss returns activities. CCK representatives have also been involved in a helpful manner within some MWGs and project task forces. Both Deputy Prime Minister Nebojsa Covic and Mr. Cucic have moderated their statements regarding returns to Kosovo recently, noting progress in Kosovo Serb returns and avoiding pejorative comments about security incidents."

### **More than 40% of IDPs in Montenegro do not intend to return to Kosovo (2003)**

- Destroyed property and integration into new place of residence are main factors in decision not to return

- More than a quarter intends to return, and an additional quarter would do so provided security improves

**UNDP, 2003:**

“More than half of the displaced persons currently living in Montenegro plan to stay in this area in the future; one-fifth (19.6%) have submitted papers for Montenegrin citizenship, while nearly half (46.3%) plan to ask for citizenship. The remaining three of ten (31.9%) displaced persons do not plan to ask for Montenegrin citizenship. [...]”

In total, two of five displaced persons currently living in Montenegro do not intend to return to Kosovo (43.2%), either because of destroyed property (17.1%), the property is sold (8.9%), or because they are currently infiltrated in the place where they live now (17.2%). However, more than one-quarter of respondents (28.7%) do intend to return to their property and an additional one quarter (27.9%) would do so if it were safe.”

## **Return policy**

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### **Protocol on the Voluntary and Sustainable Return of IDPs to Kosovo not implemented after Kosovo's declaration of independence (2009)**

- The protocol on the voluntary and sustainable returns of IDPs to Kosovo, signed in 2006 by PISG, UNMIK and the Government of Serbia has had a very limited impact
- The protocol did not manage to increase returns from Serbia to Kosovo
- After Kosovo's declaration of independence, the protocol has not been implemented at all due to Serbia's decision not to recognize Kosovo as an independent country

**Ombudsperson Institution, July 2008:**

A protocol on the voluntary and sustainable returns of IDPs to Kosovo, signed between the then PISG, UNMIK and the Government of Serbia on 6 June 2006, have had so far a very limited impact. Even if this protocol helped to establish contacts and cooperation between the authorities in Serbia and the authorities in Kosovo, it did not manage to increase returns from Serbia to Kosovo and has not been implemented at all after Kosovo's Declaration of Independence in February 2008. Due to Serbia's decision not to recognize Kosovo as an independent country, displaced persons in Serbia remain the hostage of the current political situation. For the moment, there are little to no perspective for their return, while the cooperation between Serbia and the central and local institutions in Kosovo has been discontinued, without any indication that it would resume in the near future, at least concerning this issue.

**UNIJA, December 2008:**

Still in 2006, the tripartite Protocol of Cooperation on Voluntary and Sustainable Returns was signed and □]contrary to what stated in the UNMIK report . was never implemented.

### **Initiatives to secure the right to voluntary return to Kosovo (2006-2007)**

- Securing the right to return came to undelie a number of initiatives in 2006-2007
- Protocol on Voluntary and Sustainable Returns was signed in June 2006 by SRSG and the Belgrade and Pristina representatives on the Working Group on Returns

- This policy guide, however, failed to increase returns, one of the reasons for it being its policy nature and lack of approval by the Kosovo Assembly
- In July 2006 UNMIK prepared revised Manual for Sustainable Return, which stresses the sustainability of returns and consultation with the internally displaced persons, and foresees a greater involvement of the PISG in the returns process, both at a central and municipal level
- The right to voluntary return and the right to choose one's residence were also envisaged among the main provisions of the Comprehensive Proposal for the Kosovo Status Settlement and stressed by CoE's Parliamentary Assembly Rapporteur

**UN SC, 1 September 2006, paragraph 23**

“A welcome development was the signing of the Protocol on Voluntary and Sustainable Returns in Pristina on 6 June by my Special Representative and the Belgrade and Pristina representatives on the Working Group on Returns. The Protocol signals the operational and technical cooperation of Belgrade and Pristina to improve the conditions for, and facilitate the returns of, internally displaced persons to Kosovo. It had an immediate impact: more than 70 families agreed to return to one Serb-majority village.”

**Ombudsperson Institution in Kosovo, 11 July 2007, p.44**

“A protocol on the voluntary and sustainable return of IDPs to Kosovo signed between the PISG, UNMIK and the Government of Serbia on 6 June 2006 has so far not managed to increase returns from Serbia proper to Kosovo. This protocol acknowledges the obligation of all parties to provide the safe and free return of IDPs to their places of origin in a safe and dignified manner, as well as the return of their property rights. It also includes the obligation to create proper conditions for the freedom of movement and establishes mechanisms enabling cooperation between the receiving municipalities in Kosovo and the current host municipalities in Serbia proper.

In part, this protocol's lack of success is probably due to the nature of the document – as a policy guide issued by UNMIK and the Office of the Prime Minister, it has not been approved by the Kosovo Assembly. Thus, many municipalities do not consider it to be legally binding and have not included it into their returns strategies.”

*To enable returns, the Committee of Ministers of the Council of Europe urged the removal of obstacles to return and better guarantees of the freedom to choose one's residence:*

**COE CMN, 21 June 2006, p.3**

“Take vigorous practical measures to remove the obstacles to sustainable return by seriously addressing security concerns of Serbs and others concerned and also by ensuring, including in the implementation of the recently adopted legislation, repossession of, and unhindered access to, agricultural and other property and by designing further targeted income generating activities.

Pursue plans to make the assistance schemes more flexible so as to better guarantee the freedom of choice of place of residence in Kosovo for persons belonging to minority communities.”

*UNMIK drafted and redrafted many strategies and projects to ensure the return of members of minority communities to Kosovo:*

**Ombudsperson Institution in Kosovo, 11 July 2007, pp. 42-43**

“The most recent strategy and guideline in this respect is UNMIK's revised Manual for Sustainable Return of July 2006. It is based on the principles that returns must be sustainable and that this is only possible if returnees are able to take a free and informed decision on whether they wish to return or not, and on where they want to return to (preferably their place of origin). The IDPs themselves should be the driving force behind such return, although it is also important



that the entire community of the place to where they wish to return is engaged in the process. There is a great focus on preparing the environment before returns take place, as well as on outreach activities, inter-ethnic dialogue and so-called “go and inform visits” and “go and see visits”, where people wishing to return can visit the municipalities to where they wish to return and assess the situation themselves.

The Manual foresees a greater involvement of the PISG in the returns process, both at a central and municipal level. Municipal working groups manage the return of people to their municipalities. These working groups are made up of representatives of the respective municipality, as well as IDPs, the KPS, the international community and civil society. At a central level, voluntary return projects and related initiatives are reviewed by the Central Review Mechanism chaired by the Ministry of Returns and Communities, while a Steering Group co-chaired by the SRSG and the Prime Minister and consisting of several Ministries, international community representatives, the KPS and the KPA reviews the work of the Central Review Mechanism as well as the returns process and related policy as a whole.”

*The right to voluntary return and the right to choose one’s residence were also envisaged among the main provisions of the Comprehensive Proposal for the Kosovo Status Settlement:*

**UN SC, 26 March 2007, S/2007/168, Annex, paragraph 7**

“All refugees and internally displaced persons from Kosovo shall have the right to return and reclaim their property and personal possessions based upon a voluntary and informed decision. The Settlement reaffirms the principle that displaced persons shall be able to return to a place of their choice in Kosovo, and not only to their original place of residence.”

*It has also been stressed by the Rapporteur of the Committee on Migration, Refugees and Population of the Parliamentary Assembly of the Council of Europe:*

**COE PACE, 24 May 2007, paragraph 88**

“The Rapporteur reiterates the position of UNHCR that all rights of IDPs including the right to life and personal security and to freely and voluntarily choose their place of residence must be safeguarded. Options for a durable solution – whether in the form of return or integration in a place of displacement – should be provided to internally displaced persons based on the following considerations:

- uphold the right to return: it is important to highlight that the right to return constitutes a right, not an obligation.
- voluntary and individual choice : the decision to settle in a place other than home (including internal displacement within Kosovo) must be truly voluntary, free from any manipulation or coercion; the decision must be also individual, and must not derive from undue forms of pressure, manipulation or push factors including financial and other incentives.
- access to full and objective information : IDPs from Kosovo must be able to access objective information on local conditions for return in order to make a free and informed choice.
- alternative durable solutions : achieving durable solution in place of displacement should not infringe on the property rights of IDPs in their place of origin.”

**UNMIK and the PISG launch Strategic Framework for Communities and return (2005)**

- The objective of the Strategic Framework is to energise the return process
- Strategic Framework reinforces the responsibilities of the PISG in particular the Ministry for Communities and Returns with regard to return
- A Programme of Action based on broad consultations with all actors will be defined within a few months after the launch of the Framework

**UNMIK, 19 July 2005:**

"SRSG Søren Jessen-Petersen and Prime Minister Bajram Kosumi today launched the 2005 Strategic Framework on Communities and Returns during the first meeting of the High Level Task Force on Returns. Among those present on the occasion were representatives of political parties, Contact Group members, Heads of UNMIK Pillars and representatives of international organizations and NGOs.

Addressing the meeting, the SRSG said, "The issue of returns is clearly a critical one for Kosovo – the priority standard of priority standards in some respects. My hope is that today's launch of the Strategic Framework will help to energise the returns process and thereby lead to significant advances, not necessarily in the number of returnees, but to the quality of life for those that do come back, and for the quality of choice for those that are considering returning."

Prime Minister Bajram Kosumi expressed the Government's readiness to take responsibility for all citizens of Kosovo. "The Strategic Framework on Communities and Returns shows clearly the policy of the Government. It confirms Government's position on returning all refugees in their properties. Furthermore, it confirms our readiness to offer financial help to the returnees. The matter of Communities and Returns shall be treated carefully in our future long term policies," said the Prime Minister.

The Strategic Framework on Communities and Returns outlines the "road ahead" for the returns process, and is articulated around three main priority areas: the promotion of safety and freedom of movement; the creation of sustainable conditions for returns; and the enhancement of institutional support for returns.

The framework will be followed, in the coming months, by the formulation and implementation of specific activities to be included in a "Programme of Action on Communities and Returns". This process will be based on inputs and consultation with all stake holders such as political parties, minority leaders, IDP representatives, donors, NGOs, UNMIK and the PISG."

See also :

[" Special press briefing on Strategic Framework on Communities and Returns, UNMIK, 27 July 2005](#) and ["Strategic Framework on Communities and Returns", UNMIK/PISG, 18 July 2005](#)

**UNMIK creates an operational framework to increase return (2002-2003)**

- 2004 return strategy focuses on involvement of provisional authorities, engagement of IDPs, improved information and resolving property issues
- A "Manual for Sustainable Return" was published by UNMIK in 2003
- The Office for Returns and Communities (ORC) has been established within UNMIK
- The Task Force on Returns ensures coordination among international and national actors in Kosovo
- UNMIK and UNHCR will cooperate closely at the operational level
- Municipal Working Groups on Returns play a key role in supporting and planning return

**UNMIK, 15 December 2003:**

"39. One of the greatest strengths of the returns process in Kosovo is the commonality of purpose between those involved. The key elements of returns policy set forth in UNMIK's May 2002 policy paper, and elaborated in the 2003 Returns Strategy as well as the Manual for Sustainable Returns produced by UNHCR and UNMIK, have been accepted by both Kosovo

authorities and the CCK. This policy consensus means that very little time is wasted in debating *what* we are trying to jointly accomplish, although the question of *how* we proceed continues to give rise to considerable discussion. The key elements of this agreed policy include:

**The right to return applies equally to members of all communities** regardless of their ethnicity, cultural, religious or linguistic belonging.

All **returns must be voluntary** based upon a free and informed choice by the individual.

The process must respond to the **expressed wishes of IDPs**.

The priority is to **support returns to the places of origin**.

Returns must be **sustainable**.

There can be **no political or other conditionalities** placed on returns by the receiving communities.

### **Core Principles**

40. The core principles that guided the returns process in 2003 remain unchanged. Indeed, experience in the past year has only reinforced the importance of these fundamental principles to the success of the returns effort. The 2004 returns strategy will thus continue to be based upon: 1) a **“bottom-up” methodology** that engages local communities in the returns effort; 2) involving displaced persons directly in the returns process through **cross-boundary and cross-border efforts**; 3) a **multi-sectoral approach** to ensure the sustainability of returns; and 4) **engaging the entire community** through programs facilitating inter-ethnic dialogue and contributing to both the returning and “receiving” communities.

### **Operational Framework**

41. Based on these principles, an operational framework has been established to maximize opportunities for returns. In January 2003, UNMIK and UNHCR published the “Manual for Sustainable Returns,” a step-by-step guide to both the policies and structures of the returns process. The Manual has been widely distributed across Kosovo, and has provided support to all those involved in the returns process. The “engine” for the returns process is the Municipal Working Group, which brings together efforts to support the returns process and endorses concepts for facilitated returns initiatives. Regional Working Groups ensure information sharing and coordination of returns efforts. The central-level Returns Coordination Group meets bi-weekly to address problems that arise in ongoing operations that cannot be resolved in the field, and to allow for continuing review and revision of returns strategies. The Task Force on Returns provides high-level support for returns efforts and helps ensure that the returns process receives the priority and political backing it deserves.”

See [UNMIK 2004 Strategy for Sustainable Return, 15 December 2003 \[Internal link\]](#)

**UNMIK, 5 November 2002, paras. 30-36:**

“[...] an operational framework has been established to maximize the opportunities for minority returns in the coming year. The framework clearly delineates roles and responsibilities for the many actors involved in the returns process, in an effort to ensure a coordinated, non-duplicative approach. Key elements in the operational framework include:

### **Manual for Sustainable Returns**

[...] The Manual is designed to clarify the roles and expectations of all the organizations involved in returns efforts. In addition, the Manual will help ensure a consistent and transparent approach to steps such as prioritising returns projects, by providing detailed guidance and criteria for returns-related activities.

### ***Office of Returns and Communities***

UNMIK established the Office of Returns and Communities in late 2001 to respond to the growing focus on and opportunities for minority returns in Kosovo. This year, UNMIK has undertaken a restructuring of the ORC to allow it to continue to respond effectively to this burgeoning field of work. In particular, the ORC is in the process of establishing regional teams that will provide additional support and guidance for returns processes at the municipal and regional levels. The enhanced ORC will help ensure a consistent and comprehensive approach to returns, and will increase cross-fertilisation between efforts from region to region. In addition, an expanded Pristina office of the ORC will provide a contact point for donors to facilitate access to information and returns structures, and for information on returns projects priorities. Finally, the ORC will create a more direct link to displaced communities and to relevant authorities in Serbia through placing staff within UNMIK's Belgrade office.

### ***Returns Coordination Mechanisms***

In addition, the **Task Force on Returns** will play a crucial role in ensuring coordination and support for returns efforts among UNMIK, the PISG, UNHCR and KFOR. The Task Force will also provide an important forum for discussion and endorsement of returns policy and processes. Given the many challenges facing minority returns, the Task Force can also be essential in ensuring that the returns process receives the priority and political backing it deserves.

At a more operational level, UNMIK will continue to work closely with UNHCR to support day-to-day returns work. In particular, UNMIK and UNHCR will hold frequent returns coordination meetings with a broad range of returns partners, including KFOR, UNMIK Police, the PISG and relevant Serbian authorities, to address problems that arise in ongoing operations that cannot be resolved in the field, and to allow for continuing review and revision of returns strategies.

### ***Municipal Working Groups***

Municipal Working Groups on Returns are the key building block of the returns process. They have a central role in developing and prioritising returns projects, and in supporting ongoing minority returns. Municipal Working Groups have been established in 24 of 30 municipalities, and ensuring that these bodies are established and fully functioning throughout Kosovo during 2003 will be a core UNMIK priority. Municipal Working Groups are composed of many actors, including UNMIK and local municipal authorities, UNHCR, KFOR, members of the displaced community, local (receiving) community representatives, and NGOs.

The Municipal Working Group acts as the main mechanism through which displaced persons can access the returns process and request support to return, and is the principal executive and coordination body for returns projects with primary responsibility for ensuring the sustainability of returns efforts. Municipal Working Groups also provide a forum for displaced and receiving communities to engage in an internationally-facilitated dialogue on returns issues. Municipal Working Groups facilitate development of returns projects, and then prioritise efforts based on a confluence of return opportunities and identified needs of the displaced community."

### ***See also the following UNMIK documents:***

- [Manual for Sustainable Return](#)[\[Internet\]](#)
- [Coordination structure \(chart\)](#) [\[Internal link\]](#)
- [Coordination mechanisms \(The municipal Working Groups\) \(chart\)](#) [\[Internal link\]](#)
- [Returns to Kosovo: a New Approach \(map\)](#) [\[Internal link\]](#)

## **UNMIK promotes the principle of return to places of origin (2002)**

- The political climate seems to be more conducive to promoting inter-ethnic dialogue and the possibility of return
- There are also indications that inter-communal relations are slowly improving at the local level
- In this context, the UNMIK launched its 'concept paper on the right to sustainable returns' based on the principle of the individual right to return to the place of origin
- 30 return projects have been approved by the municipal and regional working groups and have received financing from a number of Member States (October 2002)
- UNMIK opposes the return of minorities to new settlements as advocated by Yugoslavia's Coordination Center for Kosovo (April-May 2002)

### **UNSC, 17 July 2002, paras. 32-37:**

"Over the past few months, a climate has been created that, for the first time since the arrival of UNMIK, appeared conducive to promoting inter-ethnic dialogue and the possibility of return. An important development in this regard was the inclusion of both the majority and minority communities as an integral part of the return process. The Government followed up previous statements on its commitment to the return and reconciliation process with concrete action: the Prime Minister, Bajram Rexhep attended the opening of a multi-ethnic youth centre in Kamenica and delivered part of his speech in Serbia; he also attended the Orthodox Easter ceremony at the Pec Patriarchate; and several ministers visited mixed municipalities to meet with representatives of the minority communities. On 28 June, all the municipal assemblies agreed to a Strategy of Joint Principles affirming the right to return. Also in June, the Kosovo Serb Senior Adviser on Returns joined the Office of my Special Representative.

On 4 July, the Assembly adopted a resolution on rights of communities and their members and on the conditions for return of internally displaced persons and refugees proposed by the Government. It underlined the right to return, repossess property and enjoy freedom of movement, and called on the competent institutions to facilitate return. The resolution was subsequently endorsed by Mr. Covic, who called it a very significant, positive step.

[...]

Although progress remained mixed, there are indications that inter-communal relations are slowly improving. Grass-roots reconciliation projects have begun in several areas, such as a milk-sharing project in Novo Brdo, and there have been several multi-ethnic cultural and sporting events. For the time being, it is these smaller-scale, trade-based and cultural projects, which break the enclave mentality and improve freedom of movement, that hold out the best hope for success. More ambitious projects, such as a multiethnic market in Lipljan, have not been so successful, but remain an important target.

An important factor in building inter-communal trust was that Kosovo Albanians began to be sentenced for crimes committed against minority communities following the arrival of the international presence in June 1999. In May 2002, for example, a panel of international judges handed down a 15-year sentence to a Kosovo Albanian male for the murder of an elderly Kosovo Serb woman in Prizren.

UNMIK sought to capitalize on these positive developments, which it also helped to bring about. In May 2002, my Special Representative briefed donors on the financial requirements of the returns process, which amount to over 16 million euros. Shortly thereafter the Mission launched its 'concept paper on the right to sustainable returns' based on the principle of the individual right to return to the place of origin. The key principles were supported by Mr. Covic and the Coordinating Centre at a meeting of the High-Ranking Working Group on 31 May. The aim is to achieve increasing returns this year so as to create the momentum for more significant numbers

in 2003 and 2004. UNMIK has increased its grass-roots efforts to support minority returns: there are now 5 regional working groups on return, 24 municipal working groups, and 12 small task forces to address specific aspects of returns in particular locations. In addition, UNMMIK continued to address remaining obstacles to return, including freedom of movement, providing internally displaced persons with accurate information about the situation in Kosovo, determining the fate of the missing of all communities, and the question of property."

**UNSC, 9 October 2002, para. 39:**

"Thirty projects have been approved by the municipal and regional working groups and have received financing from a number of Member States. For example, in the Klina municipality, a group of 44 Kosovo Serbs returned to the villages of Bica and Grabac in two stages during July and early September 2002. In the Lipljan municipality, 26 Ashkali families returned to two villages. Signals from government officials at the central political level also continued to be positive on returns. However, more substantial and regular engagement from all local participants is required and the many positive statements have yet to be turned into concrete action. A broad range of activities continued to promote inter-ethnic dialogue and reconciliation. For example, a number of football and boxing clubs representing minority communities joined the respective Kosovo Sports federations and will now participate in Kosovo-wide league matches in the upcoming season- Additionally, a number of cultural events took place in the northern region of Kosovo and brought different ethnic groups together."

**UN OCHA, 31 May 2002:**

"In April and May, the Coordination Center for Kosovo (CCK) and UNMIK released documents which underscore different strategies on return of IDPs to Kosovo. The CCK plan specifies certain towns and 24 localities all over Kosovo suggesting that returns could be most successful if they are organized primarily toward clusters and specified localities. The approach also includes the elements of security, economy, health services and decentralization of local government. The UNMIK concept paper 'The Right to Sustainable Return' outlines a rights based approach to IDP return founded on individual voluntary choice. It includes the goal of creating a multi-ethnic Kosovo, preference for return to place of origin, creation of suitable return conditions in advance of returns and does not support relocation or mono-ethnic clusters. So far in 2002, UNHCR estimates approximately 700 spontaneous returns of IDPs to Kosovo from Serbia and Montenegro."

**UN OCHA, 11 July 2002:**

"The Serbian parliament has endorsed 'Principles of Programme of Returns of IDPs from Kosovo and Metohija', which was prepared by the CCK and completed in April, 2002."

**UN OCHA, 7 June 2002:**

**"New papers released by UNMIK and Yugoslavia's Coordination Center for Kosovo show different philosophies on returns, but Kosovo leader makes new overtures**

UNMIK and the Yugoslav/Serb government's Coordination Center for Kosovo (CCK), the two bodies charged with coordinating minority returns to Kosovo, last month outlined their respective views regarding minority returns to Kosovo.

The Office of the SRSG released a concept paper entitled 'The Right to Sustainable Return' in which basic humanitarian principles are outlined, including the goal of creating a multi-ethnic Kosovo . The paper, however, takes exception with the CCK's detailed plan for returns 'in clusters'. The CCK, led by Serbian Deputy Prime Minister Mr. Nebojsa Covic, advocates clustered returns to Kosovo for reasons of safety, economy, and community.

The UNMIK paper notes: 'In general the concept of relocation, including proposals for clusters of new settlements, is not conducive to the long-term goal of promoting a multi-ethnic society in

Kosovo.' The difference in philosophy between the two bodies has prompted discussions within the humanitarian community. The issues were discussed at a recent meeting of the UNHCHR (Human Rights) Contact Group on IDPs, which was attended by UN agencies, NGOs and others."

**See also:**

- [UNMIK, "The right to sustainable return – Concept paper", 17 May 2002 \[Link\]](#)
- [CCK, Principles of the Program for Return of Internally Displaced Persons from Kosovo and Metohija, April 2002 \[Link\]](#)

**On the right to return home and its implementation, see "[Kosovo: The Human Rights Situation and the Fate of Persons Displaced from their Homes](#)" (16 April 2002), by Mr Alvaro Gil-Robles, Council of Europe Commissioner for Human Rights, paras. 163ff [Internet]**

### **KFOR releases its policy paper on the feasibility to accommodate returns in Kosovo (May 2002)**

- KFOR will move away from overly restrictive security measures in order to facilitate inter-ethnic interaction
- It is also planning to play a less prominent role and to transfer tasks to UNMIK and the Kosovo authorities

#### **COE, 16 October 2002, para. 178:**

"In the light of the improved security situation in certain areas, and the political imperative to stimulate return, KFOR has considered that the correct approach should be flexible and decentralised and follow on a case by case basis, whilst avoiding the creation of new isolated enclaves. This means that KFOR moves away from *'impos[ing] conditions on visits and returns, which were in many instances overly restrictive'* [HQ Policy Paper on the Feasibility to Accommodate Returns in Kosovo, 21 May 2002]. Rather, it is acknowledged that *'[s]ecurity measures need to facilitate and make inter-ethnic interaction possible instead of creating barriers that entrench separation and impact on the chances of realising other rights [...]. Efforts will be undertaken to scale down the level and visibility of area-specific security measures in order to avoid perceptions of continued separation between minority and majority communities.'* In the same vein, KFOR considers that *'[a]s soon as the situation allows [it] should play a less prominent role in Kosovo security matters handing over as many tasks as possible to UNMIK Police and the KPS'*. In other words, KFOR is ready to take some risks, and the ongoing process of removal of escorts and checkpoints is conducive to the idea of removing barriers between the different communities."

#### **UNHCR/OSCE, May 2002, para. 188:**

"An important shift in KFOR strategy toward minority return was noted during the reporting period. KFOR's active participation in return planning and implementation, as well as their general experience on the ground in minority communities, prompted analysis of the most appropriate security responses in the context of return. Moving a step beyond an exclusive focus on deployment of military assets to address inadequate security environments, KFOR began to foresee the need to take a more comprehensive, developmental approach to transforming the local environments where inadequate security exists (and not only pursuing the 'containment' of conflict), in order to more fully comply with the mandate to ensure a safe and secure environment under UN Security Council Resolution 1244. In this regard, KFOR increasingly noted the need to ensure that regional security planning is designed to assist minorities and surrounding majority populations to overcome psychological barriers (rather than reinforcing subjective fears and an

'enclave mentality') and complement confidence-building activities. While the majority of contingents in the regions have embraced their responsibilities for enhancing, to the extent possible, freedom of movement, and assisting in the return planning process (by developing security plans and providing support for Go-and-See Visits, for example), there have been some notable exceptions which are also problematic from the human rights perspective. **KFOR MNB (S) [Multinational Brigade South] in particular continues to place restrictions on free movement for Kosovo Serbs in the Prizren region** which have curtailed a potential increase in normalisation of movement of displaced Serbs to visit their properties and undertake social visits in Zhupa Valley, or to spontaneously return. Often, **MNB (S)'s positions on return issues have been seen as incompatible with the overall KFOR strategy of reducing barriers between ethnic groups**, in fact, often giving the opposite impression that complete restriction of contacts between minority and majority communities is a necessity for preventive security reasons. MNB (S) positions sometimes also give the troubling impression that the majority community should de facto be given a veto on the right to return. However, despite some inconsistencies on the ground, KFOR's overall strategic approach towards return for 2002 and beyond is being developed in a very positive and forward-looking direction. The overarching strategy foresees the need to enhance troop presence in potential areas of return, but also foresees the importance of incrementally reducing presence as confidence is established between communities, in part so as to ensure that security measures do not have a negative impact on inter-ethnic contacts and confidence-building measures. These developments are welcome and it is hoped that this strategic direction will be consistently reflected in the security planning of each Multi-National Brigade."

#### **The support to return: a resource-intensive process (2001-2002)**

- Confidence-building projects are underway in mixed municipalities, as part of the planning process for return
- UNMIK has also intensified its outreach to the IDPs in Serbia and to minorities in Kosovo
- Joint UNMIK-Yugoslav campaigns have led to an increasing number of go-and-see visits to possible return sites in Kosovo
- Go-and-inform visits to IDP communities in Serbia proper have also been organised

#### **UNHCR/OSCE, May 2002, para. 180:**

"The inter-agency planning activities undertaken in 2001 to enable organised minority returns to take place to Osojane Valley, Gornji Makres/Makresh e Ultë, Ljestar/Leshtar and Vranjevac/Kodra e Trimave brought into focus for the principal agencies and organisations involved some key lessons learned. Most importantly, the highly complex, time-consuming, resource-intensive and multi-sectoral nature of facilitating a safe and sustainable return became absolutely evident. It was increasingly understood that, **under prevailing circumstances, which continue for the most part to prohibit spontaneous return, opportunities for replicating return successes are directly proportionate to limited human resources.** Resources and efforts must be mobilised among a multitude of agencies in order to build confidence and create a minimum level of area stability to responsibly allow returns to take place; even the return of a very small number of minority families requires a disproportionately large level of resources, especially human resources. If we compare the social environments of the four organised return locations in 2001, it also becomes evident that, even with a massive commitment of resources, creating an environment which ensures at least some contacts between ethnic groups and no inter-ethnic violence requires a fundamental qualitative change in the political and social relations between Kosovo's ethnic groups. Returns to environments where stringent security measures are required to ensure returnee safety are ultimately much less sustainable. An approach based on ensuring returnee security primarily or exclusively through preventive deployment of military assets



ensures that return will only occur in very small numbers as determined by military asset levels. This approach to return also fails to provide guarantees of returnee security when military assets in the region are reduced. For these reasons among others, building tolerance was recognised to be one of the key factors necessary to create safe conditions for returns."

**UN SC, 22 April 2002, paras. 34-35:**

"An important part of the planning process for returns are confidence-building measures aimed at promoting reconciliation and a climate conducive to return. Several reconciliation projects are under way in mixed municipalities, such as Kamenica, where a multi-ethnic youth project has been launched. UNMIK's institution-building pillar has also brought together Kosovo Albanian civil society representatives and non-governmental organizations from Serbia proper to develop civic dialogue and build trust. A similar exercise was carried out by bringing Kosovo Albanian journalists to visit Belgrade media outlets with a view to promoting understanding and cooperation.

Another important part is demystifying the situation in Kosovo in the minds of many internally displaced persons and those who live in the enclaves and have little contact with the outside world. UNMIK has stepped up its outreach to the internally displaced persons themselves. The Department of Non-Resident Affairs in the Ministry of Culture, Youth and Sports of the provisional institutions of self-government publishes a monthly magazine in Serbian entitled *Most* (Bridge), which keeps internally displaced persons informed of UNMIK policy and the situation on the ground in Kosovo. This, together with joint UNMIK-[Kosovo] Coordination Centre public information campaign, has led to an increase in 'go-and-see' visits to possible return sites in Kosovo. As for the Kosovo Serbs isolated in enclaves, new community information centres are playing a key role in keeping them informed of events. So far, UNMIK has set up three of these centres in Gracanica, Slivovo (both in the Pristina region) and Mitrovica. They distribute UNMIK factsheets and other sources of information. In February, the centres launched a newsletter on developments in neighbouring communities. This newsletter is also distributed to internally displaced persons."

**UNSC, 17 July 2002, paras. 39-40:**

"An important innovation was the beginning of 'go and inform' visits to communities of internally displaced persons in Serbia proper, which included, on at least one occasion, a member of the Kosovo Albanian community. The resulting town meetings with the internally displaced communities are now run jointly by UNMIK and the Coordinating Centre for Kosovo. On 5 July, my Special Representative visited the Smederevo Collective Centre in Serbia proper to exchange information with the internally displaced persons there.

UNMIK also worked to reach internally displaced persons through Internet-based information systems and cross-boundary media projects. The Serbian daily *Danas* began printing supplements on Kosovo issues, for example; and Radio Television Kosovo agreed to air children's programmes in Serbian. UNMIK worked to integrate its outreach approach to the internally displaced community, both with the Coordinating Centre for Kosovo and other actors involved in the process. The use of the media for outreach purposes was facilitated by agreements reached during a conference on bridging the information gap, held at in Pristina at the end of May, with media representatives from Kosovo, Serbia proper, Montenegro and other parts of the region. "

**UN OCHA, 11 July 2002:**

"UNHCR is in the process of gathering 167 minority village profiles in Kosovo. The village profiles provide valuable and timely information on security issues, infrastructure, housing, health services, economic activities, education services as well as a summary of key problems in the area. The problem is that they are presently only available in English. If translated these profiles could be a valuable asset for IDPs wanting to know more about specific villages. OCHA Belgrade

is currently discussing with UNHCR Prishtina/Pristina and Belgrade the possibility of translating the village profiles.

**UNHCR/OSCE, May 2002, para. 187:**

"During the reporting period, **UNMIK also began to develop a more robust information outreach policy** vis-à-vis minority communities and IDPs, also at least in part as a result of the experience of outreach to IDPs mainly in Serbia in the pre-election period. UNMIK Department of Public Information began to intensify consultations with several agency partners, including UNHCR, to discuss strategies for outreach to IDPs through the mass media in FRY, production of written materials about the situation in Kosovo and other initiatives. Implementation will require attention in the coming months. During the period, UNMIK established three Community Information Centres in Gračanica/Gračanicë (Prishtinë/Priština), Silovo/Shillovë (Gjilan/Gnjilane) and north Mitrovicë/Mitrovica. Similar centres are also planned to open in the Prizren and Pejë/Pec regions, in Upper Orahovac/Rahovec and Gorazdevac/Gorazhdevc respectively. These offices were designed in order to increase information flow between UNMIK and minority communities, and as the centres develop, will hopefully engage in information outreach to minorities displaced outside of Kosovo as well. "

*For more details on international return assistance, see [UNMIK map 2002 return activities \(as of October 2002\)](#) [Internal link]*

**Return policy: cautious approach of the international community (2000-2002)**

- UNHCR was originally tasked with the overall supervision of the safe and voluntary return of all refugees and IDPs to their homes in Kosovo
- The Joint Committee on Returns of Kosovo Serbs (JCR) was established in May 2000 coordinates return policy in consultation with representative of the Kosovo Serb community
- A Framework on Serb Return 2001 (January 2001) defines principles for the return of Kosovo Serbs
- The Principles were endorsed by the Interim Council Administrative Council for Kosovo in June 2001
- An Action Plan for some ten initial return locations was produced by Local and Regional Working Groups and presented to donors in June 2001
- International agencies also supported Go-and-See visits to Kosovo and information initiatives among IDP communities in Serbia
- Following the signing of the Common Document with Belgrade (November 2001), the Special Representative established the Office of Returns and Communities
- The Joint Committee on Returns was discontinued in December 2001, following the transfer of the supervision of return from UNHCR to UNMIK in 2002

**UNHCR. 2001:**

"Security Council Resolution 1244 (1999) tasks the UN Mission in Kosovo through its international security presence (KFOR) and its civil presence (UNMIK) to establish a secure environment and to enable all refugees and internally displaced persons (IDP) to return, in safety and unimpeded, to their homes. UNHCR is tasked with the overall supervision of the safe and free voluntary return of all refugees and IDPs to their homes in Kosovo.

In May 2000 the SRSG established a the **Joint Committee on Returns of Kosovo Serbs (JCR)** consisting of the principals of UNMIK, KFOR, OSCE and UNHCR and the Commissioner of Police and the heads of key units of the UNMIK with the task 'to explore ways and means of the

safe and sustainable return of Kosovo Serbs'. The JCR pursues its aim through a Steering Committee under the Chairmanship of UNHCR which again includes besides Serb representatives all members of the JCR to ensure coordination between those who are responsible for security or the provision of various public services.

During the last months of 2000 a small planning group with the help of five Regional Working Groups drafted a comprehensive analysis of the obstacles to return and a broad and balanced concept for ways and means by which the conditions could be changed so that they became more conducive to the return of Kosovo Serbs to their homes. The efforts led to the adoption of a **Framework on Serb Return 2001** on 13 January 2001 by the JCR.

The Framework lays out (i) the agreed-upon principles of return for Kosovo Serb IDPs; (ii) the current situation in Kosovo and (iii) analyses as examples 25 potential locations of potential return and identifies (iv) in general and for the concrete locations the measures which would be required to sustain a returns process and contains (v) the agreed on roles and responsibilities of the major actors who would be engaged in the return and reintegration processes.

In early June 2001 the **Principles** of this return concept have been endorsed by the Interim Administrative Council (IAC) for Kosovo which besides international and Serb representatives includes the three main Kosovo Albanian political leaders. The overriding principle guiding the JCR strategy is the fundamental right of all displaced to return to their places of origin in conditions of safety and dignity which ensures also adequate freedom of movement. The return planning which is carried out through Local and Regional Working Groups foresees return to multiple geographic areas in an incremental, low-profile and orderly fashion. Return planning should be undertaken in a transparent fashion. This includes the maximum consultations with the displaced and with local community representatives and the promotion of inter-ethnic dialogue and confidence-building measures whenever possible. Finally return planning is to be undertaken on the basis of comprehensive assessments of individual potential return locations, in order to identify the necessary measures required to create appropriate conditions for safe and sustainable return.

The required **measures for the creation of minimum conditions of return** concern the areas of security, freedom of movement, property, housing, infrastructure, public utilities, health and social services, education, employment and income generation, and humanitarian assistance. Emphasis is also placed on the importance of tolerance-building and creation of inter-ethnic dialogue on the local community, regional and provincial levels on the issue of Kosovo Serb return and co-existence. The participation of the Serb community in the central and local governing and administrative structures and in the democratic political process in Kosovo has increasingly emerged as an important element for co-existence and the potential improvement of the conditions for sustainable return.

The aim is to facilitate some return as part of a more long term process in a responsible manner without prejudicing the security of the persons concerned and without creating additional tensions in the communities to where return takes place. Return must be voluntary and based on an informed decisions about the conditions prevailing in Kosovo including remaining risks and prevailing substantial shortcomings.

While conditions of minority, including Serb communities in Kosovo are generally difficult, they differ substantially from one location to the other. Therefore, on 11 May 2001 the JCR tasked the Steering Committee to identify those locations within Kosovo as to which the conditions favouring return were relatively more advanced and return was probably possible still in 2001. It was acknowledged that conditions would not allow the return of large numbers at the moment. Conditions facilitated initial returns to rural rather than urban areas. Such progress at a small

scale is, however, considered crucial for the mid- and long-term progress on return for the large number of other displaced over time.

With the help of the LWG and RWG, the SC produced an **Action Plan** for some ten initial, most advanced return locations and on 29 June the international donor community was briefed about expected resource requirements by the SRSG and UNHCR to ensure that in case of return appropriate assistance can be made available in support of the re-integration and the stabilisation of the returnee populations in their communities. UNMIK, KFOR, OSCE, UNHCR, UNMIK Police and their regional and local representatives besides representatives of the Serb communities and of the displaced were all part of the preparatory process and will be so for the implementation. Since July 2001 representatives of the FRY Federal Government Committee for Kosovo have been participating in this planning work at all levels side beside with the other members of the JCR and the R/LWG on return. In addition efforts were made together with other UN and NGO partners to improve the information flow on the conditions and activities in the specific locations to the displaced outside Kosovo. A series of Go-and-See visits have been organised to the home communities. On other occasions several representatives of UNMIK, KFOR, UNHCR, OSCE and local Kosovo Serbs went to Serbia and Montenegro and visited IDPs and briefed them and answered questions. The aim is to enable the displaced to take an informed decision about their future. The idea of improving the conditions in the home communities is, to give IDPs a realistic choice, an alternative option to remaining displaced. the final decision about return rests, however, always with the IDPs themselves and for that they need all the information and be fully aware about the prevailing conditions and remaining risks at home."

**See the full text of the [Return Principles \[Internal link\]](#)**

"One of the most important concerns of the Kosovo Serb community and a key objective of UNMIK is the creation of conditions for the sustainable return of internally displaced persons and refugees. Following the signing of the Common Document, the Special Representative established within his own office the Office of Returns and Communities, to coordinate UNMIK's work on community issues, maintain close links with all key stakeholders, including the Governments of the Federal Republic of Yugoslavia and Serbia, and the donor community, and provide strategic advice to the Special Representative on ways to advance the return and reintegration of displaced persons. Work has begun on a framework for 2002/2003, which will combine economic incentives and other measures in order to offer longer-term prospects to returnees and internally displaced persons." (UN SC 15 January 2002, para. 18)

"With the creation of the [Office of Returns and Communities (ORC)], return co-ordination mechanisms were restructured to reflect an enhanced role of UNMIK on the return issue. [...] The Steering Committee of the JCR (chaired by UNHCR) as well as the JCR itself, which existed as the primary central-level fora for return planning in 2000 and 2001, were discontinued in December 2001 and is to be replaced by a Task Force on Return and Reintegration (TFR)." (UNHCR/OSCE May 2002, para. 186)

**See "[UNMIK creates an operational framework to maximise return in 2003 \(2002\)](#)" [Internal link]**

### **Return of Roma communities: wide consultations contribute to the search for joint solutions (2000-2001)**

- A Declaration and a Platform for Joint Action were adopted in April 2000 by leaders of the Roma communities and Albanian representatives

- A Statement of Principles relating to return of Roma communities were adopted in May 2001 by all relevant actors in the province

**UNHCR, 2001:**

"Concurrent to the joint efforts regarding Serb, activities have also been undertaken to address the specific situation of the Roma/Ashkaliya/Egyptian (RAE) communities and to explore ways and means for their sustainable return. A series of Humanitarian Round Tables were initiated by UNHCR in early 2000. These meetings brought together RAE representatives and international actors to discuss the humanitarian needs faced by RAE communities. The discussion process resulted in an April, 2000 meeting between RAE leaders and leading Kosovo Albanian political leaders which endorsed two basic working documents: Declaration from Humanitarian Round Table and Platform for Joint Action. The Platform for Joint Action was subsequently endorsed by both the IAC and the Kosovo Transitional Council (KTC) during a special joint session held on the occasion of the visit of Security Council members to Kosovo in late April 2000.

The Platform for Joint Action identifies the major issues facing RAE communities, both those who remain in Kosovo and those who would like to return, and suggests ways to address these. It serves as a frame of reference for numerous activities such as the two consultative sessions between RAE community leaders and JIAS officials (Sept. 2000 and Jan. 2001). They allowed for open discussions and contributed to a constructive search for joint solutions. On 7 May 2001 RAE community leaders, Kosovo Albanian political leaders and international actors, including the Commander of KFOR and the UNMIK Police Commissioner were brought together in a meeting on return, security and reconstruction. This meeting endorsed the Statement of Principles related to return. It also reviewed the progress made vis-a-vis small scale individual and group return during the course of the preceding year. Also RAE return continues to be hampered by outstanding security concerns and humanitarian need."

**See also:**

- [Platform For Joint Action - Regarding Kosovar Roma, Ashkaliya and Egyptian Communities \[Internal link\]](#)
- [Statement Of Principles \[Internal link\]](#)
- [Declaration From Humanitarian Round Table 12 April 2000, Pristina \[Internal link\]](#)

# NATIONAL AND INTERNATIONAL RESPONSES

## Overview

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### National and international responses (January 2010)

#### *Government of Serbia*

Despite Kosovo's declaration of independence, Serbia is still active in Kosovo, particularly in Mitrovicë/a and the municipalities north of the town. Soon after the declaration of independence, Serbia took several initiatives to assert its role and presence in Kosovo, and prevent further Serb displacement by reinforcing its parallel municipal institutions directly competing with those of the Republic of Kosovo in areas such as health, education, welfare and infrastructure (ICG, 12 May 2009). These actions do not only confirmed the Serbian authorities' role and presence in Kosovo but have provided jobs which have helped Kosovo Serbs remain in Kosovo.

The Serb strategy of creating parallel institutions has had limited impact in areas outside the northern part of Kosovo, where Serbs, displaced or not, are more scattered. Many of them have adopted a pragmatic attitude, approaching Kosovo institutions for documentation or social assistance (ICG, May 2009; IDMC interviews of Kosovo Serbs, May 2009). While many Serbs employed by the PISG stopped going to work after the declaration of independence, most heeded a deadline from the Kosovo authorities and returned to work by the end of June 2008 (UNSC, September 2009). The participation of Kosovo Serbs in November 2009 municipal elections, which set up decentralised municipalities with wider responsibilities, was higher than anticipated. The decentralisation process was one of the key elements of the Ahtisaari plan to engage Serbs in Kosovo institutions and convince them that they have a future in Kosovo (ICG, 12 May 2009).

The Serbian Ministry for Kosovo and Metohija is also active in the area of return. [See *Serbia overview*]. Like the return projects supported by Kosovo institutions and the international community, Serbian government programmes also support "return to locations in Kosovo" other than the former place of residence. This reflects the fact that many Kosovo Serbs previously living in areas where they constituted a minority would prefer to settle in areas mainly inhabited by Serbs (interviews with Kosovo Serb IDPs, May 2009).

#### *Kosovo Ministry for Communities and Return*

The Ministry for Communities and Return (MCR), led by a Kosovo Serb, is the main national body supporting minority communities, IDPs and returnees through community development activities, return, social housing and local integration projects. An Office for Communities also exists within the Prime Minister's Office. In 2009, the MCR budget was €7.5 million (\$10.8 million) of which €3 million was dedicated to community development, and the rest to return and local integration in Kosovo (UNSC, September 2009). This represents a greater emphasis on economic support to facilitate the social integration of minority communities and should indirectly encourage the return of displaced populations. This emphasis is in line with an ongoing revision of the *Manual for Sustainable Return* a document previously drafted by UNMIK and the PISG describing Kosovo's return policy and procedures. The revised version puts more focus on community stabilisation and should simplify the cumbersome procedures required to finalise and implement return projects.

In 2009, MCR supported return and local integration projects for 181 families (UNSC, September 2009). MCR also supported return projects with the international community, notably with UNDP which is the agency leading the rebuilding of houses for returnees. UNDP's main return programmes are: Return and Reintegration in Kosovo (RRK), supporting return through the strong involvement of municipal and central government, and strengthening of administrative and accountability mechanisms; Sustainable Partnership for Assistance to Minority Returns to Kosovo (SPARK), which supports both spontaneous and organised returns; and the Rapid Response Return Facility (RRRF) which supports only spontaneous return. The RRK (UNDP, 24 July 2009; UNDP website, accessed 28 October 2009). In 2009, MCR was due to assist 180 displaced families through the RRK programme. In 2009, 88 returnee families were selected for assistance through RRRF (UNSC, September 2009). A return and IDP database was created in 2009 (UNSC, September 2009).

#### *International community*

Following the declaration of independence, the international community and both Serbian and Kosovo authorities, have increased their support to minority communities in Kosovo to address their social and economic marginalisation and allow them to stay in Kosovo. In parallel, and in view of the limited number of returns to place of origin, more projects have supported construction and social housing projects to facilitate local integration of those displaced within Kosovo, or settlement in new localities for IDPs returning to Kosovo.

In addition to return projects, UNDP supports the Roma Regional Project which involves capacity building of local and central government bodies and civil society. A UNIJA project on prevention of displacement seeks to respond to the challenges faced by minority communities and IDPs since the declaration of independence. In municipalities considered at risk of displacement, Community Councils have been established, bringing together IDP associations and municipal officials to plan and implement projects to realise economic empowerment of returnees, small public infrastructure works and the construction of community resources such as cultural centres.

UNHCR facilitates go-and-see visits for IDPs to give them a better idea of the environment in their place of origin, supports monitoring of return and capacity-building of municipal authorities through KAAD, a local NGO, and leads a regional programme of civil registration to address the RAE communities' lack of documentation and mitigate the threat of statelessness.

UNMIK now focuses on monitoring of returns, confining its contacts with minority communities and authorities to issues related to this.

The Organisation for Security and Cooperation in Europe (OSCE) Mission in Kosovo monitors human rights and legal issues affecting return. These include housing and property rights, non-discriminatory access to public services and employment, issuing of civil documentation, security, freedom of movement, and access to justice (OSCE, 19 June 2009).

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