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Совет по правам человека

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**Поощрение и защита всех прав человека,
гражданских, политических, экономических,
социальных и культурных прав,
включая право на развитие**

**Доклад Специального докладчика по вопросу
о правах человека внутренне перемещенных лиц
Чалоки Бейани**

Последующая миссия в Сербию, включая Косово* ** ***

Резюме

В настоящем докладе содержатся выводы и рекомендации, сделанные Специальным докладчиком по вопросу о правах человека внутренне перемещенных лиц (ВПЛ) по итогам его последующей миссии в Сербию, включая Косово*, осуществленной с 9 по 12 октября 2013 года. Миссия Специального докладчика в Белград, Приштину и другие места была осуществлена в полном соответствии с резолюцией 1244 (1999) Совета Безопасности. Любое упоминание Косово, касающееся будь то территории, учреждений или населения, должно пониматься в соответствии с проводимой Организацией Объединенных Наций политикой строгого нейтралитета в отношении статуса Косово.

В настоящем докладе Специальный докладчик анализирует положение внутренне перемещенных лиц, принимая во внимание значительные усилия, предпринятые правительством Сербии и властями Косово с целью улучшения положения ВПЛ со времени визита предыдущего мандатария, г-на Вальтера Ке-

* Представлен с опозданием.

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лина, в 2009 году. Специальный докладчик призывает правительство Сербии и власти Косово сосредоточить свое внимание на эффективных мерах по обеспечению правопорядка, проявлении политической воли и обеспечении координации усилий по реализации долгосрочных решений в интересах ВПЛ. Он выражает признательность правительству Сербии и властям Косово за их гибкость при рассмотрении местной интеграции в качестве жизнеспособного долгосрочного решения, наряду с возвращением или расселением.

Появились новые возможности, благоприятные для реализации долгосрочных решений, в контексте проводимых с Европейским союзом дискуссий по возможному присоединению Сербии и Косово.

Тысячи ВПЛ по-прежнему проживают в коллективных центрах в тяжелых условиях, если и имея, то лишь ограниченный доступ к водопроводу, электричеству и топливу для обогрева и пользуясь общими кухнями и санузлами. Условия жизни других ВПЛ, проживающих в частном жилом секторе, не лучше. К наиболее уязвимым ВПЛ относятся рома, ашкали и египтяне, многие из которых проживают в неформальных поселениях и не имеют личных документов; вследствие чего они могут стать лицами без гражданства и испытывать трудности с получением доступа к государственным услугам.

Для многих ВПЛ остаются нерешенными вопросы прав собственности, которые крайне необходимо решать более эффективно. Решения, принимаемые Косовским управлением по имущественным вопросам в Приштине, необходимо приводить в исполнение, и администрация должна предотвращать противопоставленное владение собственностью вопреки решениям, принятым в пользу ВПЛ. Более того, очевидно, что вопросы прав собственности, регистрации избирателей из числа ВПЛ и порядка голосования должны регулярно обсуждаться в ходе переговоров между Белградом и Приштиной.

Annex*[English only]***Report of the Special Rapporteur on the human rights
of internally displaced persons, Chaloka Beyani****Contents**

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I. Introduction

1. At the invitation of the Government of Serbia, the Special Rapporteur on the human rights of internally displaced persons, Mr. Chaloka Beyani, conducted an official follow-up visit to Serbia, including Kosovo, from 9 to 12 October 2013. The objective of the visit was to re-examine the human rights situation of IDPs and to follow up on the official visits made by the Representative of the Secretary-General on the human rights of internally displaced persons in 2005 and 2009.

2. The Special Rapporteur emphasizes that he conducted his mission in full compliance with Security Council resolution 1244. Accordingly, any reference to Kosovo, whether to the territory, institutions or population, is to be understood in line with the United Nations policy of strict neutrality on the status of Kosovo.

3. The Special Rapporteur had meetings in Serbia with the Prime Minister, the Minister of Foreign Affairs, the State Secretary, the Head of the Department of the United Nations at the Ministry of Foreign Affairs, the Commissioner for Refugees and Migration, the Director of the Government Office for Human and Minority Rights, and a Member of Parliament. In Kosovo, the Special Rapporteur met with the Special Representative of the Secretary-General for Kosovo, the Minister for Communities and Return, the Minister of Internal Affairs and other officials. The Special Rapporteur also appreciated the opportunity to speak with other representatives of the international community, civil society and internally displaced communities, and with the Ombudsperson of Serbia and the Ombudsperson of Kosovo, during the course of his visit. The Special Rapporteur would like to thank all his interlocutors for taking the time to share their perspectives with him.

4. The Special Rapporteur visited Belgrade, Sopot and Smederevo in Serbia. While in Kosovo he visited Prishtinë/Priština, Mitrovica/Mitrovicë North and South, Zvečan/Zveçan, Fushë Kosovo/Kosovo Polje and Graçanicë/Gračanica. The visits were kindly organized by the United Nations High Commissioner for Refugees and kindly facilitated by the United Nations Interim Administration Mission in Kosovo, in conjunction with the authorities concerned. The Special Rapporteur is thankful for all the support provided during the course of his visit.

5. The Special Rapporteur would like to express his sincere gratitude to the Government of Serbia and the authorities in Kosovo for their full cooperation. He is also grateful to all his interlocutors, especially IDPs, who kindly shared their experiences and different perspectives with him. He looks forward to a fruitful and continued dialogue both with authorities and with other stakeholders on the implementation of the recommendations contained in the present report.

6. The present report is intended to provide an assessment of the human rights situation of IDPs. Section 2 provides a brief overview of current political and economic conditions in Serbia and Kosovo and also of the present situation of IDPs. Section 3 analyses the dire situation of Roma, Ashkali and Egyptian IDPs and the measures that the authorities have taken to improve their situation. Issues related to land, housing and property are analysed in section 4, and this is followed by a discussion of the legal framework for IDPs. The report then looks at durable solutions and the steps that are necessary in order to achieve them. Finally, the report presents the Special Rapporteur's recommendations to the Government of Serbia, to the authorities in Kosovo and to the international community.

II. Internal displacement situation

7. Since the conflict that took place in Kosovo in 1998 and 1999, thousands of people have lost their homes and are unable to return to their places of origin. Serbia, including Kosovo, currently has one of the largest numbers of IDPs in Europe. The Special Rapporteur was informed by the Government of Serbia that there is a total number of 227,112 IDPs in Serbia, including in Kosovo, and that this includes 209,112 in Serbia and an estimated 18,000 in Kosovo. However, according to estimates provided by the Office of the United Nations High Commissioner for Refugees (UNHCR), the IDPs in need of assistance number 97,000 in Serbia and 17,500 in Kosovo.

8. Few IDPs are able or willing to return to their places of origin, despite the large number of IDPs and the difficult living conditions that many of them are facing. The year 2013 was marked by a low rate of return, which is not expected to rise. The main obstacles to sustainable return in Kosovo involve a lack of security, a lack of mechanisms for the protection of rights, unresolved issues in relation to property and reconstruction, restricted access to public services, and a lack of economic opportunities, among others. The lack of security and marginalization of returnees often leads to secondary displacement. The Special Rapporteur found that the problem of return has remained the same as when it was examined by his predecessor (see A/HRC/13/21/Add.1, section on obstacles to sustainable returns (p. 8)). Freedom of movement in Kosovo is still an issue. For example, in the north of Kosovo, cars with licence plates from Serbia have difficulty in entering certain parts of the towns where Albanians are in the majority. Conversely, cars with licence plates from Kosovo have similar difficulties in entering areas where Serbs are in the majority.

9. Many IDPs are still living in collective centres, in dire conditions. Whereas in 1999 there were 700 collective centres, today there are 23 formal collective centres accommodating 1,398 people, of which 14 collective centres accommodating 1,016 people are located in central Serbia and the remaining 9 centres accommodating 382 people are located in Kosovo and Metohija. The number of these centres has fallen due to the provision of assistance to IDPs that resulted in the planned closure of collective centres.

10. Nevertheless, entire families have been living in spaces of about 12 square metres for over a decade, with limited access to running water, electricity and heating fuel, and sharing kitchens and bathrooms. After 14 years of displacement, new generations have little knowledge of their places of origin and have developed ties to their places of displacement.

11. The vast majority of IDPs (75 per cent) from Kosovo and Metohija are of Serb ethnicity, about 10 per cent are Roma, and the remainder belong to a total of 29 different minority groups (A/HRC/13/21/Add.1, para. 6). Among the extremely vulnerable IDPs are the Roma, Ashkali and Egyptians, who represent 10 per cent of the overall IDP population in Serbia and 5 per cent in Kosovo. However, they share common challenges in terms of difficulties in obtaining personal documentation, limited access to basic public services such as health care and education, limited penetration in the formal economy, low housing and hygiene standards, discrimination and evictions. The Special Rapporteur notes that there were limited yet important improvements in comparison to the dramatic situation facing Roma, Ashkali and Egyptians in Serbia and in Kosovo that his predecessor, the Representative of the Secretary-General on the human rights of internally displaced persons, encountered at the time of his visit.

12. Problems in relation to IDPs' properties in Kosovo are numerous; they include indirect discrimination against IDPs, limited restitution of property documentation, illegal occupation and fraudulent transactions. The Kosovo Property Agency is the mass claims mechanism for dealing with property claims and it works in parallel with the courts of

Kosovo. It is overburdened with a huge backlog of pending cases and lacks effective capacity to resolve property issues; moreover, many of its decisions remain unenforced.

13. More than 19,000 claims for compensation for destroyed property were submitted to the courts in Kosovo, but the majority of the courts declared that they were not competent to examine such claims. Additionally, there are some 1,500 claims before the courts in Kosovo for property damaged during the riots of 17 March 2004. Thus far, none of the aforementioned claims have produced a positive decision.

14. In order to address the complex situation of IDPs, a number of positive steps towards attaining durable solutions have been taken. In Kosovo, the Ministry of Communities and Return is in charge of working out durable solutions, in parallel with local authorities. In Serbia, temporary and durable solutions are being implemented by the Commissariat for Refugees and Migration of the Republic of Serbia, which is the governmental body officially in charge of providing assistance to IDPs, while the Office for Kosovo and Metohija of the Government of the Republic of Serbia is in charge of the overall situation of IDPs and their sustainable return to Kosovo.

15. The economic level of Serbia and Kosovo has been low since the 2008 world economic crisis. The lack of economic prospects represents a serious challenge to putting durable solutions in place, particularly as regards IDPs' local integration and livelihoods.

16. Employment opportunities are lacking for IDPs. In addition, there is a linguistic obstacle with regard to the free use of the Serbian or Albanian languages in certain areas. This is despite the fact that, according to the Government of Serbia, over 90 per cent of IDPs registered and displaced in Serbia speak the Serbian language, as do many of the Roma, Ashkali and Egyptians.

17. The talks currently being held with the European Union on eventual accession by Serbia and Kosovo are a positive opportunity for seeking durable solutions for IDPs, and they have brought about a spirit of political cooperation between the Government of Serbia and the authorities in Kosovo. On 19 April 2013, the First Agreement on Principles Governing the Normalization of Relations was signed, as a result of the ongoing dialogue between Belgrade and Prishtinë/Priština, facilitated by the European Union. This new framework has also provided opportunities for addressing problems regarding IDPs as well as the remaining obstacles to durable solutions. The momentum provided by the new framework should be sustained in line with chapter 23, on the judiciary and fundamental rights, and chapter 24, on justice, freedom and security, of the *acquis* on membership of the European Union.

18. The municipal elections held in November 2013 and the parliamentary elections held in March 2014 should build confidence and bring about enhanced opportunities for exploring durable solutions for IDPs.

III. Profile of internally displaced persons and the specific case of Roma, Ashkali and Egyptians

19. In Serbia, there are about 20,000 Roma IDPs, representing just over 10 per cent of the overall IDP population, according to information received from Roma leaders and confirmed by UNHCR. Many Roma IDPs are accommodated in one or another of 593 settlements, 217 of which are informal settlements. Of the 593 settlements, 140 are in the Belgrade area. In Kosovo, UNHCR estimates that there are about 810 Roma, Ashkali and Egyptians, who account for 4.6 per cent of the IDP population.

20. Among IDPs' most urgent protection needs is obtaining documentation to enable them to access basic public services. The Special Rapporteur witnessed how the lack of

documentation forces Roma, Ashkali and Egyptian IDPs to live in informal, substandard and overcrowded settlements without electricity, energy, water or sanitation.

21. A considerable proportion of Roma IDPs do not have birth certificates as their birth was never legally registered, while some lost their birth certificates during flight and remain without access to official registration books. Generations are being affected, as thousands of people are “legally invisible” and potentially stateless. Not having a birth certificate impedes registration and the issuance of an identity card, on which access to public services such as health care, education, housing programmes and employment programmes, as well as social integration in general, depends.

22. In Serbia, for example, urgent admissions to hospitals are available for IDPs, but regular treatment and medication is only available in Kosovo at IDPs’ place of origin. In Kosovo, access to public services for the Roma, Ashkali and Egyptian communities varies greatly, depending on where they are resident and whether the IDP concerned seeks services from Kosovan or Serbian administrative institutions. Each administrative institution requires its own documents (Serbian or Kosovan) before granting access to services. However, documents issued by one are not recognized by the other. The Roma community, to a larger extent, relies on Serbian administrative structures for public services in the areas of health, education and social assistance. Conversely, the Ashkali and Egyptian communities rely more on Kosovan institutions. This dichotomy should be addressed in a spirit of cooperation between the Government of Serbia and the authorities in Kosovo. Differential treatment for Roma children extends to education, as Roma face constraints on their access to schools. It also involves language barriers, as not all Roma speak Serbian and not all Roma speak Albanian. In addition, Roma, Ashkali and Egyptian IDPs suffer from differential treatment due to the combination of their ethnicity and their displacement. There is a clear need for awareness-raising among the general population, that is designed to combat discrimination against Roma IDPs. Principle 1 of the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2) requires that IDPs enjoy, in full equality, the same rights and freedoms as do other persons in their country, and that they not be discriminated against on the ground that they are internally displaced.

23. The Special Rapporteur calls upon the Government of Serbia and the authorities in Kosovo to provide IDPs with personal documentation in accordance with principle 20 (2) and (3) of the Guiding Principles on Internal Displacement. The lack of such documentation does not take away the right of IDPs to recognition everywhere as persons before the law, in the terms stipulated in Principle 20 (1). The Special Rapporteur welcomes steps being taken by the Government of Serbia to decrease the cost related to the process of subsequent birth registration and to simplify legal and administrative procedures. Approval and implementation of the Draft Law on Free Legal Aid, which will allow non-governmental organizations to assist IDPs in need for free, should be accelerated, as should the elaboration and implementation of an action plan for the Strategy for the Prevention and Protection against Discrimination, which was developed by the Serbian Government’s Office for Human and Minority Rights, to address measure 4 of the Refugee, Internally Displaced Persons and Other Vulnerable Migrant Group.¹ The Special Rapporteur encourages the authorities in Kosovo, at the national and municipal levels, to undertake fully the registration of the Roma, Ashkali and Egyptian population.

¹ Measure 4 refers to “simplifying the procedure for issuing of personal documents for internally displaced persons and returnees under the Readmission Agreement, for the purpose of obtaining complete equality of rights with other citizens of the Republic of Serbia and solving numerous cases of “legally invisible” internally displaced persons, the majority of whom are of Roma nationality”. Available from http://www.ljudskaprava.gov.rs/images/pdf/AD_STRATEGY_ENG_UT.pdf.

24. In addition, the Special Rapporteur calls for closer regional collaboration to facilitate the issuance of personal documentation for IDPs who need to regularize their civil status while still in displacement. In this regard, the Special Rapporteur welcomes the support of the European Union Rule of Law Mission in Kosovo (EULEX) in connection with the handover of certified copies of complete civil registry books from Serbia to the Civil Registration Agency of Kosovo. Certified copies of about half of the 12,000 registry books in Serbia have been handed over to the authorities in Kosovo via EULEX.²

25. The Special Rapporteur was informed that the vulnerable population could benefit from mobile teams dealing with registration in Serbia and in Kosovo. The experience of mobile teams of the Organization for Security and Cooperation in Europe, gained during its support for the 2013 election, could be valuable for the purposes of facilitating access to identity documentation. It would be helpful to include qualified staff of Roma origin in social welfare centres and at birth registration contact points to enable communication with the Roma IDP population.

IV. Housing, land and property

26. The process of resolving property issues in Kosovo faces many challenges, hindering returns and the prospects for IDPs to freely choose between returning and other durable solutions. Some of the main challenges are the caseload of unresolved compensation claims (numbering around 22,000), problems with evictions and re-evictions, the lack of an effective response to fraudulent transactions, illegal occupation of agricultural land and other property, and a lack of effective protection for empty reconstructed property. Other issues relate to limited access to courts, including lengthy and expensive proceedings, non-recognition of the Serbian language and non-recognition of Serbian property documentation. In the case of Roma, Ashkali and Egyptian IDPs, there are also challenges regarding the allocation of land for new settlements.

27. A large number of IDPs are unable to exercise their right to use their property, or their ownership over it, due to the illegal occupation of properties in Kosovo. The mechanisms for mass restitution of dispossessed property put in place by the international administration in Kosovo and Metohija have proven ineffective in respect of the return of immovable property, which has also had a significant effect on the process of IDP returns. Authorities are often unable to enforce repossession decisions, particularly in cases of reoccupation of property, frustrating the legitimate aspirations of IDPs to regain their properties. Similarly, Serb IDPs face the challenge of repossession of properties as well as a lack of access to rental and compensatory schemes. The lack of compensation schemes often denies IDPs the opportunity to receive indemnification for the loss of their property and, consequently, deprives them of the possibility of securing alternative housing solutions for themselves with their own means.

28. It was brought to the attention of the Special Rapporteur that two of the main challenges in terms of housing rights for Roma, Ashkali and Egyptian returnees are the insufficient allocation of land by municipalities and the lack of recognition of occupancy rights in informal settlements prior to the conflict. Although most Roma, Ashkali and Egyptian IDPs had a private house, their land occupancy rights were never registered and they lack personal documentation and title records for their homes. The vast majority of propertyless returnees belong to the Roma, Ashkali and Egyptian communities, and they find it increasingly difficult to be included in house reconstruction projects. About 30 per cent of Roma, Ashkali and Egyptian returnees end up in secondary displacement.

² See <http://www.eulex-kosovo.eu/en/pressreleases/0471.php>.

29. IDPs are not exempt from the property taxes that were introduced in 2011 and they are asked to pay them retroactively, even for properties that they do not occupy. There are no mechanisms for challenging the levying of these taxes. Potentially, if the taxes are not paid, IDPs are denied access to copies of their property documents and are prevented from regaining their property.

30. Property issues should be high on the political agenda, including that of the dialogue between Belgrade and Prishtinë/Priština, because of their critical importance to putting in place durable solutions.

V. Legal framework for IDPs, and its implementation

31. The Special Rapporteur appreciates the progress made by the Government of Serbia as well as by the authorities in Kosovo regarding the legal framework for protecting IDPs.

32. In Serbia, the Law on Permanent and Temporary Residence of Citizens and the amendment to the Law on Non-Contentious Procedures are aimed at regulating the procedures for obtaining personal documentation. The Law on Permanent and Temporary Residence of Citizens governs the granting of permanent and temporary residence in respect of the whole population of Serbia. Changes have been made to article 11 in order to facilitate access to temporary residence for Roma living in informal settlements. The Special Rapporteur welcomes these changes, as they are relevant for the issuance of documentation to members of the Roma, Ashkali and Egyptian IDP population who do not have documents and are living in informal settlements. He encourages the full and prompt implementation of these two pieces of legislation.

33. As part of its systematic and strategic approach for the resolution of issues connected with IDPs, Serbia has adopted or amended numerous laws and strategies, such as the National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons, the Strategy for Sustainable Return, and the Strategy for the Prevention and Protection against Discrimination developed by the Serbian Government's Office for Human and Minority Rights. Nevertheless, an action plan for the Strategy for the Prevention and Protection against Discrimination should be elaborated and published.

34. The Special Rapporteur appreciates the reference to IDPs in certain legal frameworks in Kosovo. He believes that this is a valuable starting point for the protection of IDPs and that it could be further enhanced in accordance with the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2).

35. Kosovo has incorporated many international human rights instruments into its legal system. Nevertheless, it still lacks a domestic legal framework on internal displacement as well as a comprehensive policy or strategy focused on protecting IDPs' rights and supporting durable solutions. The Special Rapporteur appreciates the development by the Ministry of Communities and Return — the main body for coordinating voluntary returns and supporting protection of minority communities — of a durable solutions strategy for 2014 and beyond. The Special Rapporteur suggests that the strategy should focus strongly on all durable solutions for all IDPs, including return, local integration, or settlement in another part of the country, regardless of their ethnic background, and that an action plan should be elaborated shortly after the adoption of such a strategy.

36. There are procedural difficulties in the legal systems of Kosovo and Serbia that impede access to justice by IDPs. For example, courts do not recognize powers of attorney verified by the authorities in Serbia. For this reason, IDPs are forced to travel to Kosovo in order to get their powers of attorneys verified.

37. The 1999 conflict forced a large number of IDPs to abandon their jobs in socially owned companies. Those employment relations were never officially terminated and no compensation was paid. Those companies are now entering the liquidation procedure, which includes the payment of outstanding salaries. IDPs are regularly excluded from this procedure by the Privatization Agency of Kosovo. One project funded by the European Union³ is insisting on their inclusion, relying on the notorious fact, verified by the Supreme Court of Kosovo, that IDPs were massively affected by discrimination after the 1999 conflict.

38. Another aspect that drew the attention of the Special Rapporteur is the pension issue of IDPs and the connection of IDPs with former employers. The Government of Serbia and the authorities in Kosovo need to work together in order to resolve the issue of pensions for IDPs in a dignified way. IDPs should also benefit from the privatization schemes of the companies that they had to stop working for on account of their displacement.

VI. Durable solutions for internally displaced persons

39. Primary responsibility for establishing the conditions and providing the means for the achievement of durable solutions lies with States and with the competent authorities. Durable solutions are achieved when IDPs no longer have specific assistance and protection needs linked to their displacement and can enjoy their human rights without suffering discrimination on account of their displacement.⁴

40. In line with the Guiding Principles on Internal Displacement and the Framework on Durable Solutions for Internally Displaced Persons, the solutions include sustainable reintegration at the place of origin (return), sustainable local integration in areas where IDPs have settled (local integration) or sustainable integration in another part of the country (settlement elsewhere in the country). For these solutions to be considered “durable”, a number of conditions must be met, such as enjoyment of the protection of the State of nationality (for citizens), the voluntariness of the decision to return or settle elsewhere, real prospects for restitution of or compensation for lost property, no discrimination in the enjoyment of their rights, and equal access to public services and economic opportunities.⁵

41. Circumstances are now conducive for seeking to attain durable solutions for IDPs as a matter of priority, after 14 years of protracted displacement. The Special Rapporteur welcomes all steps taken towards this end and commends both the Government of Serbia and the authorities in Kosovo for their flexible approach to all durable solutions as pragmatic and viable options, which has come about on the basis of consultation, informed participation and IDPs’ choices. However, the key to these solutions lies principally in the Regional Housing Project for IDPs in Serbia and Kosovo.

42. With regard to Serbia, the Special Rapporteur welcomes the steps taken towards durable solutions, including the Law on Migration Management which regulates the issue of programmes for support of the entire IDP population.

43. The Special Rapporteur notes that the European Union has supported the regional durable housing project for refugees. He strongly urges that similar support be provided for

³ Project entitled “Support to the implementation of strategies for IDPs, refugees and returnees – Legal Aid.”

⁴ Brookings Institution–University of Bern Project on Internal Displacement. *IASC Framework on Durable Solutions for Internally Displaced Persons* (Inter-Agency Standing Committee, 2010).

⁵ Global Protection Cluster Working Group. *Handbook for the Protection of Internally Displaced Persons* (2007).

the durable housing project for IDPs, for the purpose of facilitating local integration as a matter of priority. The efforts to find durable housing solutions with support from UNHCR are notable. Among the good housing solutions found are social housing in supportive environment buildings, local integration housing projects in rural areas, and local integration housing projects where assistance with building materials is given.

44. The Special Rapporteur welcomes all the efforts to bring about durable housing solutions and strongly urges that there be more initiatives supporting the social and economic inclusion of IDPs, so as to address directly the vulnerability of the displaced population. Durable solutions also require guarantees so that IDPs do not face obstacles to earning a livelihood or accessing employment on account of their displacement.

45. The Instrument for Pre-Accession Assistance remains a major facility for supporting durable solutions, along with assistance provided by other international actors. The European Union is committed to closing down all collective centres for IDPs by the end of 2015, and the Government of Serbia is fully cooperating with it in this, and with local authorities and UNHCR. According to UNHCR, there are 16 collective centres in Serbia at present, accommodating about 1,500 IDPs. Residents of collective centres are reported to be among the most vulnerable IDPs, as they have few opportunities to earn a livelihood and are fully dependent upon the assistance they receive. Extreme vulnerability is found in informal settlements, which usually house minority groups, such as Roma. On the other hand, IDPs living in private accommodation also need assistance. The Special Rapporteur strongly believes that there is an urgent need for special protection for Roma, Ashkali and Egyptians, as these IDPs have a high degree of vulnerability and require tailor-made protection, including in finding durable solutions. At this stage, it is crucial to have accurate data on their social and economic needs, in order to be able to determine what assistance to them would entail. The Special Rapporteur was informed that Serbia is committed to the closure of all collective centres by the end of 2015 and that, in this regard, the Government is strategically planning and utilizing Instrument for Pre-Accession Assistance funds alongside those derived from State and local budgets. He is also aware that Serbia has already conducted a study on the social and economic needs of IDPs and has developed a system for local action planning (entailing local action plans being carried out in every municipality in Serbia for refugees and IDPs) that serves as a programming tool in the provision of assistance.

46. In Kosovo, the Special Rapporteur notes the efforts of the Ministry of Communities and Return, and the existence of the Strategy for the Integration of the Roma, Ashkali and Egyptian Communities in Kosovo and the associated action plan. This strategy was developed in 2008, and although it dedicates an introductory section to IDPs, it does not differentiate between the specific needs of the IDPs. The Ministry of Communities and Return has been particularly committed, with housing programmes for Serb IDPs, and is also working to establish a new strategy for IDPs. The Special Rapporteur encourages completion and implementation of the new strategy as soon as possible.

47. The Special Rapporteur recognizes that the recommendation that his predecessor made in 2005 is still largely true and needs to be urgently addressed once and for all. That recommendation states: “Thousands of IDPs continue to live in very difficult conditions in collective centres and irregular settlements, among them elderly, ill, disabled, severely traumatized individuals, witnesses in war crime investigations and trials, female-headed households and families of missing persons, i.e. the most vulnerable among the IDPs whose situations have not been satisfactorily resolved”.⁶

⁶ E/CN.4/2006/71/Add.5, para. 69.

VII. Profiling for durable solutions

48. In order to plan durable solutions well, it is necessary to be well informed about the characteristics and needs of the IDP population that is to be served and protected. In Serbia, the Special Rapporteur noted with satisfaction the Assessment of the Needs of Internally Displaced Persons, carried out jointly by the Government, UNHCR and the Joint IDP Profiling Service in 2010. In Kosovo, however, there is still a lack of reliable data on the number, location and needs of IDPs, 14 years after the conflict. The available data and figures are based on estimates made by UNHCR and the local authorities.

49. The Special Rapporteur welcomes the joint initiative of UNHCR, the Danish Refugee Council and the Ministry for Communities and Return, supported by the Joint IDP Profiling Service, to carry out the first IDP profiling for Kosovo, which is scheduled for 2014. This is intended to be a comprehensive profiling of internal displacement in Kosovo; it aims to reach consensus on the population figures and to assess the extent to which those who had been displaced have achieved durable solutions. The conclusions from this assessment will be an excellent starting point for designing durable solutions that will address the needs of IDPs in Kosovo. The Special Rapporteur invites the authorities in Kosovo to extend their full collaboration to the Joint IDP Profiling Service, so as to facilitate this crucial exercise which entails the development of a governmental durable solutions strategy and of regulations concerning IDPs.

50. Once the profiling is completed, it will be important to document all IDPs in Kosovo, who will be the specific target group of the future strategy that the Ministry of Communities and Return is willing to elaborate. On that note, the Special Rapporteur reiterates the need for a technical agency in charge of the implementation of durable solutions for IDPs. At present, lessons may be learned from the experiences of the Commissariat for Refugees and Migration of the Republic of Serbia.

51. With regard to Serbia, the Special Rapporteur calls upon the Government of Serbia to undertake a needs assessment of Roma IDPs, in order for the Government to be able to propose creative durable solutions that are specially tailored to the needs of this most vulnerable segment of the population. Other stakeholders will certainly also benefit from a thorough understanding of the needs of internally displaced Roma and of how to support them better.

VIII. Political will and leadership for durable solutions

52. The Special Rapporteur notes with satisfaction the steps already taken towards durable solutions for IDPs. This includes the formation of the Task Force on Durable Solutions, under the United Nations Strategic Framework for Kosovo, which is aimed at reinforcing governmental and international efforts towards achieving durable solutions. He is concerned, however, that durable solutions require a higher degree of effective political will, and he believes that effective political leadership based on dialogue and cooperation between the Government of Serbia and the authorities in Kosovo will pave the way for achieving durable solutions.

53. The Special Rapporteur visited several places in Serbia where durable solutions had been implemented and local integration had been facilitated. Full local integration has been achieved, for example, in the rural area of Sopot and in Smederevo.

IX. Governmental coordination for durable solutions and protection of IDPs

54. The Special Rapporteur deems necessary the establishment of clear governmental mechanisms, including protection working groups, to work on durable solutions consistently. Durable solutions and protection working groups can be highly effective, but their composition should include representatives of different groups of IDPs, of line ministries and of relevant governmental technical agencies, and representatives of the international community as well as of local municipalities.

55. While in Serbia this mechanism would have its focus at the Commissariat for Refugees and Migration of the Republic of Serbia together with the Office for Human and Minority Rights, in Kosovo the Ministry of Communities and Return and the Kosovo Property Agency would be involved, as well as municipal authorities and representatives of communities.

56. The Commissariat for Refugees and Migration of the Republic of Serbia is the governmental body officially established in 1999 to be in charge of providing assistance to IDPs, and it has the necessary technical expertise. As such, a clear mechanism has been established which, in turn, coordinates with relevant ministries and State offices that address specific problems of IDPs. The Commissariat coordinates with the Office for Human and Minority Rights on issues pertaining to Roma IDPs because the focus of the mandate given to the Office for Human and Minority Rights includes issues relating to the Roma population. Importantly, Serbia established, in 2012, its Office for Kosovo and Metohija, which provides assistance to IDPs.

57. In Kosovo, in addition to having the Ministry of Communities and Return at the centre of arrangements for coordinating durable solutions, the Special Rapporteur suggests that the mandate of the Ministry urgently be expanded to include protection of the rights of IDPs within Kosovo. Moreover, the Special Rapporteur encourages the authorities in Kosovo to establish a technical agency for IDPs to be responsible for implementing IDP protection and assistance strategies, including durable solutions.

58. The Government of Serbia retains several institutions operating in Kosovo. There are 17 collective centres accommodating Serb IDPs under the supervision and management of the Commissariat for Refugees and Migration of the Republic of Serbia. Therefore, any initiative related to the collective centres and the Serb IDPs residing in collective centres needs to be coordinated with the representatives/trustees of the Commissariat.

59. It would be beneficial to improve dialogue between the Commissariat, the Kosovo Property Agency and the Human Rights Advisory Panel.

X. Conclusions and recommendations

60. **With a particular emphasis on durable solutions, the Special Rapporteur makes the following conclusions and recommendations to the Government of Serbia and the authorities in Kosovo, respectively.**

61. **The Special Rapporteur recommends to the competent authorities of Serbia to:**

- (a) Continue to provide political will and leadership to attain durable solutions for all IDPs in Serbia;**
- (b) Emphasize the humanitarian character of durable solutions and the need for protection after displacement;**

- (c) Carry out a profiling and registration exercise in respect of IDPs, in the context of durable solutions based on a needs assessment that the Government has prepared;
- (d) Implement local integration pragmatically, while having regard for return and settlement elsewhere, where possible, in accordance with the participation and choices of IDPs;
- (e) Obtain support for the durable housing project to facilitate the implementation of durable solutions;
- (f) Effectively implement the Law on Permanent and Temporary Residence on a holistic basis;
- (g) Continue to effectively coordinate relevant government line ministries, in line with the objective of implementing durable solutions;
- (h) Promote special protection for the Roma, Ashkali and Egyptian IDP communities over a sustained period of time to enable them to participate in public affairs, improve their living conditions and livelihoods, and achieve durable solutions;
- (i) Continue to pay special attention to the protection of Roma to address their acute vulnerability related to documentation, which involves birth registration, residence, housing, social services, child education, employment, and political, social and economic inclusion, among other matters;
- (j) Take special measures for the protection of internally displaced women generally and for the implementation of durable solutions for them;
- (k) Establish an effective governmental protection working group mechanism to implement durable solutions, which would include the Commissariat for Refugees and Migration, the Office for Human and Minority Rights, relevant government line ministries, bilateral and multilateral partners, and representatives of IDPs.

62. The Special Rapporteur recommends to the competent authorities in Kosovo to:

- (a) Provide special protection, security and safety for returning IDPs in their places of origin as well as in places of integration or resettlement, as the case may be;
- (b) Address effectively the issue of property in the context of resolving disputes involving the properties of IDPs, providing effective remedies in relation to such properties, and preventing illegal occupation of the properties of IDPs;
- (c) Continue to provide political will and leadership to attain durable solutions for all IDPs in Kosovo;
- (d) Emphasize the humanitarian character of durable solutions and the need for protection after displacement;
- (e) Implement constitutional provisions on IDPs by passing legislation and policy for protecting and assisting IDPs;
- (f) Include IDPs in the Government Strategy for 2014–2019 as well as in chapters 23 and 24 of the European Union–Kosovo framework discussion;
- (g) Obtain support for the durable housing project to facilitate the implementation of durable solutions;

(h) Create a mechanism for coordinating central government and municipal authorities and for the effective implementation of government policy by relevant line ministries, in order to improve the protection of all IDPs and in the context of durable solutions for the protection of all IDPs;

(i) Conduct a needs assessment and profiling/documentation exercise for all IDPs;

(j) Promote special protection for Roma, Ashkali and Egyptian IDPs over a sustained period of time in order to enable them to participate in public affairs, improve their living conditions and livelihoods, and achieve durable solutions;

(k) Pay special attention to the protection of Roma, Ashkali and Egyptian IDPs to address their acute vulnerability related to documentation, which involves birth registration, residence, housing, social services, child education, employment, and political, social and economic inclusion, among other matters;

(l) Take special measures for the protection of internally displaced women generally and for the implementation of durable solutions for them;

(m) Implement legislation, policies and decisions made by the government authorities, the courts, adjudicative panels and other relevant bodies generally and in relation to IDPs.

63. The Special Rapporteur recommends to the international community to:

(a) Effectively coordinate with UNHCR — the lead agency for the protection of IDPs in Serbia — and other relevant United Nations agencies that play an effective role in supporting solutions for IDPs as part of the United Nations strategy aimed at addressing the situation of IDPs;

(b) Make continuous efforts to strengthen the judicial system of Kosovo, including the implementation of decisions;

(c) Support the durable housing project aimed at facilitating durable solutions for IDPs in Serbia and Kosovo;

(d) Support the Government of Serbia and the authorities in Kosovo in implementing all of the recommendations of the present report.