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ÉXODOS EN MASA Y PERSONAS DESPLAZADAS

**Informe del Representante del Secretario General sobre los
derechos humanos de los desplazados internos,
Sr. Walter Kälin**

Adición

MISIÓN A SERBIA Y MONTENEGRO*

* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo del resumen, se distribuye únicamente en el idioma en que se presentó.

Resumen

Por invitación del Gobierno de Serbia y Montenegro, el Representante del Secretario General sobre los derechos humanos de los desplazados internos (el Representante) realizó una misión a ese país, comprendido Kosovo, los días 16 a 24 de junio de 2005. Los objetivos principales de la misión eran evaluar la situación del desplazamiento en Serbia y Montenegro, incluido Kosovo; ayudar a las autoridades nacionales a cumplir con su responsabilidad para con los desplazados de conformidad con sus obligaciones en materia de derechos humanos; asesorar a los organismos de las Naciones Unidas, la Misión de Administración Provisional de las Naciones Unidas en Kosovo (UNMIK) y otras partes interesadas sobre la mejor forma de atender las necesidades de protección de los desplazados internos y determinar las oportunidades y los riesgos que plantean para los desplazados la evolución que podría seguir el país en el futuro.

Miles de desplazados internos siguen viviendo en condiciones muy difíciles en centros colectivos y asentamientos ilícitos, entre ellos ancianos, enfermos, discapacitados, personas gravemente traumatizadas, testigos en investigaciones y juicios de crímenes de guerra, familias encabezadas por mujeres y familias de desaparecidos, es decir, los más vulnerables de los desplazados internos cuya situación no se ha resuelto satisfactoriamente. Romaníes, ashkalíes y gitanos viven en asentamientos ilícitos en condiciones miserables. Ha llegado el momento de encontrar una solución digna para estas poblaciones vulnerables, con carácter prioritario. Es improbable que regresen a sus lugares de origen, aunque se produzca algún cambio radical o que sean capaces de vivir independientemente. Las autoridades competentes a todos los niveles, en coordinación con los organismos internacionales y los donantes, deben buscar urgentemente soluciones duraderas para esas personas, en particular alojamientos alternativos y disposiciones institucionales adecuadas, como el ofrecimiento de viviendas sociales o la colocación en familias de guarda o en instituciones que respeten su derecho a la dignidad humana, y elaborar, con el apoyo de la comunidad internacional, un plan de acción global a este respecto.

El Representante quisiera destacar los problemas concretos con los que tropiezan los desplazados internos para obtener documentos en la República de Serbia. Si bien reconoce que el sistema administrativo serbio resulta oneroso para cualquier ciudadano, para muchos de los desplazados internos de Kosovo los obstáculos se hacen insuperables. Muchos carecen de medios para desplazarse a los centros administrativos para renovar sus papeles o solicitar que se les expidan otros nuevos, y desconocen sus derechos tanto con arreglo al derecho interno como al derecho internacional. Otros no pueden acceder, por razones prácticas, a las prestaciones y los recursos que ofrecen las oficinas gubernamentales. El Representante celebra la voluntad declarada de las autoridades serbias para revisar y simplificar los procedimientos en materia de documentación, y les pide que procedan sin demora.

En el Kosovo administrado internacionalmente, los esfuerzos de la comunidad internacional y de las autoridades nacionales se han centrado casi exclusivamente en el retorno. Si bien es cierto que se ha logrado mucho en lo que se refiere a la recuperación de las propiedades de los desplazados internos para que éstos tuvieran un lugar al que volver, el Representante se ve obligado a concluir que el retorno no ha sido tan satisfactorio como inicialmente se había esperado. Aunque en la mayoría de los casos se han establecido o mantenido los derechos a la propiedad, muchos desplazados internos no se sienten lo suficientemente seguros como para regresar, o temen que no tendrían acceso a sus medios de vida en caso de que lo hicieran. Los inmuebles destruidos sólo se han restaurado en parte, y en

muchos casos se sigue careciendo de infraestructura básica. A menudo, la propiedad comercial permanece inaccesible. El Representante recomienda que la Administración Provisional de Kosovo y la UNMIK hagan cuanto esté en su mano para garantizar que los desplazados internos se sientan a salvo y seguros, especialmente los pertenecientes a minorías. La clara condena de los actos de hostigamiento y violencia contra los objetos de valor simbólico es un primer paso. Se insta a los donantes a apoyar la ejecución de los proyectos aceptados por los desplazados internos y los municipios interesados.

Por lo que respecta a la República de Montenegro, el Representante encomia los esfuerzos realizados para elaborar una amplia Estrategia nacional para resolver los problemas de los refugiados y los desplazados internos, si bien insta a las autoridades a ponerla en práctica y a ofrecer la opción prevista de la integración local y el reasentamiento a los desplazados internos además de los refugiados. No deja de preocuparle que se siga discriminando sistemáticamente a los desplazados internos que no son ciudadanos de la República de Montenegro en los servicios fuera de la atención básica de la salud y la educación.

El actual Estado federado de Serbia y Montenegro podría ser pronto objeto de debate, como lo es ya la situación a largo plazo de Kosovo. Estos acontecimientos podrían causar nuevos problemas para los desplazados y vulnerar sus derechos, en particular a la ciudadanía. El Representante pide a los Gobiernos interesados y a la comunidad internacional que velen por que las nuevas disposiciones no creen nuevos desplazados internos o los conviertan en refugiados; salvaguarden los derechos de los desplazados, en particular al retorno, a la protección de sus bienes y a su restitución o indemnización, así como al cobro de una pensión; y adopten medidas para garantizar que ningún desplazado interno, inclusive los que aún no se hayan registrado, se convierta en apátrida.

Annex

**REPORT OF THE REPRESENTATIVE OF THE SECRETARY-GENERAL
ON THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS,
WALTER KÁLIN, ON HIS MISSION TO SERBIA AND MONTENEGRO
(16-24 June 2005)**

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Introduction

1. Pursuant to an invitation by the Government of Serbia and Montenegro, confirmed by its Permanent Mission to the United Nations Office at Geneva by letter on 25 May 2005, the Representative of the Secretary-General on the human rights of internally displaced persons (the Representative) conducted a mission to Serbia and Montenegro including Kosovo from 16 to 24 June 2005 according to his mandate to engage in coordinated international advocacy and action for improving protection and respect of the human rights of internally displaced persons (IDPs) through dialogues with Governments, as well as non-governmental organizations (NGOs) and other relevant actors (Resolution 2004/55, para. 24).
2. The mission was undertaken as part of a visit to the region which also included missions to Croatia and Bosnia and Herzegovina.¹ While he presented his regional findings to the General Assembly in his report of 7 September 2005 (A/60/338), the present report focuses on the situation in the State Union of Serbia and Montenegro alone.
3. The main objectives of the mission were to: assess the situation of displacement in Serbia and Montenegro including Kosovo; assist the national authorities to fulfil their responsibility to protect and assist the displaced in accordance with their human rights obligations; give advice to the United Nations agencies, the United Nations Interim Administration Mission in Kosovo (UNMIK), donors and other relevant actors on how best to address the protection needs of IDPs. Furthermore the Representative undertook the identification of opportunities and risks that possible developments, concerning the future of the country's different regions, could bring to IDPs, as well as the elements that would need to figure in the potential arrangements made in the light of these decisions.
4. In Belgrade, the Representative met with the Minister for Human and Minority Rights and the Deputy Minister for Foreign Affairs of Serbia and Montenegro, the Prime Minister and the Commissioner for Refugees of the Republic of Serbia, the President of the Coordination Centre of Serbia and Montenegro and the Republic of Serbia for Kosovo and Metohija, the Deputy Mayor of Belgrade as well as international agencies and NGOs. He also met with persons displaced from Kosovo at collective centres and informal settlements in the vicinities of Belgrade and Kraljevo. Meetings and visits in Kosovo from 20 to 22 June included talks with the President and Prime Minister, senior officials of UNMIK and United Nations agencies, municipal authorities, and displaced persons in camps and returnees in rebuilt houses in Mitrovica and Obilic/q as well as with international and national NGOs. Finally, in a short visit to Montenegro on 23 June he met with the Minister for Labour and Social Welfare of Montenegro, the Commissioner for Displaced Persons, the Ombudsperson and other officials, as well as international agencies and persons displaced in camps in Konik and representatives of IDPs. The Representative consistently expressed his appreciation for the huge efforts of the population and the authorities to welcome and host the more than 200,000 persons displaced from Kosovo.
5. The Representative would like to express his gratitude for and recognition of the full cooperation of the authorities in all regions of Serbia and Montenegro in ensuring that all meetings requested were held and that all discussions took place in an open and constructive manner. He is also grateful to the offices of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Belgrade and Prishtine/Pristina, the Office of the

United Nations High Commissioner for Refugees (UNHCR) as well as the Inter-Agency Standing Committee (IASC) Country Teams for the excellent logistical and organizational support provided to his mission. He also expresses his thanks to the members of the aid community and NGOs with whom he met. Finally, he would like to thank IDPs who were ready to share their experiences with the Representative.

6. The Representative's conclusions and recommendations in this report are informed by the Guiding Principles on Internal Displacement ("the Guiding Principles") (E.CN.4/1998/53/Add.2, annex). The Representative observes that IDPs in Serbia and Montenegro remain entitled, as citizens of their country, to enjoy the protection of all guarantees of international human rights and humanitarian law subscribed to by the State or applicable on the basis of international customary law. They do not lose, as a consequence of their being displaced, the rights of the population at large. At the same time, they have specific needs distinct from those of the non-displaced population which have to be addressed by specific protection and assistance measures. These rights are reflected and detailed in the Guiding Principles which provide the basic international framework for the protection of IDPs. The primary duty and responsibility to provide such protection lies with the national authorities, and IDPs have the right to request and receive such protection and assistance from their Governments (Guiding Principle 3). Protection must not be limited to securing the survival and physical security of IDPs but relates to all relevant guarantees, including civil and political as well as economic, social and cultural rights, attributed to them by international human rights and humanitarian law.² In this regard, Serbia and Montenegro has an obligation to prevent any violations of these rights from occurring or from reoccurring, to stop them while they are being committed and to ensure reparation to and full rehabilitation of the victims.

I. CONTEXT OF INTERNAL DISPLACEMENT IN SERBIA AND MONTENEGRO

A. General observations

7. The State Union of Serbia and Montenegro with its population of approximately 10 million consists of the relatively large Republic of Serbia and the smaller Republic of Montenegro. Kosovo, a province of the Republic of Serbia, is presently under international administration. The majority of the population of Serbia and Montenegro are Serbs (63 per cent), with a significant percentage of Hungarians in the Province of Vojvodina. Albanians make up the second largest ethnic group - officially 17 per cent of the country, and nearly 90 per cent in Kosovo. Montenegrins represent 5 per cent of the total population but 62 per cent of the population in Montenegro.

8. In spring 1999, North Atlantic Treaty Organization (NATO) troops intervened in Kosovo with the stated aim of stopping massive alleged human rights violations, including summary executions, displacement, disappearances, abductions and other abuses. On 10 June 1999, Security Council Resolution 1244 (1999) was adopted which, while recognizing "the sovereignty and territorial integrity of the Federal Republic of Yugoslavia and Montenegro", established an international administration of Kosovo by UNMIK. In 2002, the State Union of Serbia and Montenegro was established, thus ending the Federal Republic of Yugoslavia.

9. The events in Kosovo lead 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.

10. In addition to the persons displaced from Kosovo, Serbia and Montenegro is still taking care of refugees from Croatia and Bosnia and Herzegovina who arrived during the conflicts of 1991-1995. In April 2005 there were 47,052 refugees from Bosnia and Herzegovina and 102,863 from Croatia.

B. Human rights situation

11. Serbia and Montenegro as the successor State of the former Socialist Federal Republic of Yugoslavia is party to the core United Nations human rights treaties and their optional protocols. It is also party to other international conventions, including the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention relating to the Status of Refugees and its Protocol relating to the Status of Refugees, the Rome Statute of the International Criminal Court, and the four Geneva Conventions of 1949 and their Additional Protocols thereto of 1977, as well as the human rights conventions of the Council of Europe.

12. The Human Rights Committee examined the initial report of Serbia and Montenegro in July 2004. In its concluding observations³ which do not cover Kosovo, it expressed, inter alia, its concerns “about the lack of full protection of [their] rights [...], particularly with regard to access to social services in their places of actual residence, including education facilities for their children, and access to personal documents” as well as at the particular vulnerability of Roma displaced from Kosovo (para. 18). The Committee on Economic, Social and Cultural Rights, in its concluding observations of May 2005,⁴ highlighted the difficulties of IDPs, including internally displaced Roma, to obtain “personal identification documents which are a requirement for numerous entitlements, such as eligibility to work, to apply for unemployment and other social security benefits, or to register for school” (para. 14), difficulties in the labour market (paras. 16 and 17), non-access to pension benefits (para. 22), the eviction of IDPs “from illegal collective centres and informal settlements which are being closed down without sufficient

provision of adequate alternative housing” (para. 31) and difficulties faced by internally displaced children to access or continue schools (para. 38).

13. According to the Constitutional Charter of the State Union of Serbia and Montenegro of 4 February 2003 “provisions of international treaties on human and minority rights and civil liberties applicable on the territory of Serbia and Montenegro shall apply directly” (art. 10), and they “shall have precedence over the law of Serbia and Montenegro and over the law of the member States” (art. 17). The Charter on Human and Minority Rights and Civil Liberties of 28 February 2003 is an integral part of the Constitutional Charter. Its article 38 provides that “Any person who has been forcibly displaced in the territory of Serbia and Montenegro shall have the right to an effective protection and assistance in accordance with laws and international obligations of Serbia and Montenegro.”

14. The protection and promotion of human rights is one of the main responsibilities of the international civil presence there (paragraph 11(j) of Security Council resolution 1244 (1999)). The provisional institutions of self-government in Kosovo are obliged by virtue of article 3.2 of UNMIK Regulation No. 2001/9 on a Constitutional Framework for Provisional Self-Government in Kosovo to “ensure internationally recognized human rights and fundamental freedoms” as set out in the major universal and regional human rights instruments.

II. RESPONSES TO THE DISPLACEMENT SITUATION

A. State Union of Serbia and Montenegro

15. At the level of the State Union of Serbia and Montenegro, the Law on Protection of Rights and Freedoms of National Minorities was adopted in 2002, assigning special rights to the Roma and requiring authorities of the State republics to adopt laws and other measures to protect their rights. A National Draft Strategy for the Integration and Empowerment of Roma was issued in 2002, however its present status is unclear. A small Roma national strategy secretariat was established in April 2003, and in May 2003, the Roma National Council with 35 members was set up in accordance with the above-mentioned Law.

16. The State Union has no comprehensive strategy on IDPs. Institutionally, the Ministry of Human and Minority Rights is the State Union entity primarily responsible for ensuring that the rights of refugees, IDPs and Roma are adequately addressed. A United Nations Inter-Agency report concluded in 2004 that the Ministry of Human and Minority Rights is severely understaffed and has not been very involved in IDP issues.⁵ The Coordination Centre of Serbia and Montenegro and the Republic of Serbia for Kosovo and Metohija has a mandate for returns to Kosovo.

B. Republic of Serbia

17. In the Republic of Serbia, a Law on Refugees as well as a National Strategy for Resolving the Problems of Refugees and IDPS were adopted in 2002. The Implementation Programme for the National Strategy deals with refugees only, while the Strategy focuses primarily on return to Kosovo as the preferred solution for IDPs. Both the Law and the Strategy fail to address the

rights of IDPs during displacement, such as housing, employment, regularization of status or access to pensions and health insurance for the displaced.

18. Institutionally, the Serbian Commissariat for Refugees, established by the 1992 Law on Refugees, is responsible for refugees. It has no general mandate to address the situation of IDPs in a comprehensive manner, even if it assists the most vulnerable IDPs to a limited extent, administers some of the collective centres and issues IDP cards.

19. Among the various international actors, UNHCR, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) (until its office closed in 2003) and OHCHR have been active in addressing issues of protection. A major study on the analysis of the legal gaps in the protection of IDPs was undertaken and published in 2004 by the IDP Working Group composed of the United Nations agencies, UNHCR, OCHA and OHCHR and other non-United Nations agencies, such as the International Federation of Red Cross (IFRC), Norwegian Refugee Council (NRC), Danish Refugee Council (DRC) and Group 484.⁶

20. In the past, UNHCR and other United Nations agencies were involved in providing assistance to IDPs, particularly those staying in collective centres. However, with the progressive return of the refugees to their countries of origin and the concomitant drop in donor funding for the region, United Nations assistance activities have had to be strongly curtailed, most international NGOs reducing their activities as well.

21. An ICRC Cash Assistance Programme aimed at the most vulnerable IDPs who live below the Minimum Social Security Level and a series of micro-economic initiatives (grants, micro-credits, vocational training) assisting the same target population, have ceased as well.

C. Internationally-administered Kosovo

22. Security Council Resolution 1244 (1999) reaffirms the right of all refugees and displaced persons to return to their homes in safety, entrusts the international security presence (now KFOR) with the responsibility of establishing a secure environment in which refugees and displaced persons can return home in safety, and assigns it the task of ensuring the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo. Article 3.4 of the “Constitutional Framework for Provisional Self-Government” of 15 May 2001 provides that “All refugees and displaced persons from Kosovo shall have the right to return to their homes, and to recover their property and personal possessions” and obliges the competent institutions and organs in Kosovo to “take all measures necessary to facilitate the safe return of refugees and displaced persons to Kosovo”.

23. UNHCR is mandated to supervise the safe and free return of all refugees and displaced persons to their homes and has during the last five years supported the creation of conditions aimed at permitting sustainable return.

24. UNMIK Office of Return and Communities also deals primarily with return issues. The Provisional Institutions of Self-Government in Kosovo created a Ministry for Communities and Returns in 2005. The gradual transfer of the UNMIK Office of Return and Communities’ responsibilities is foreseen by the end of 2005. However, at the time of the Representative’s visit, this process was marred with difficulties. The Ombudsman Institution in Kosovo has

intervened with UNMIK on behalf of IDPs, mainly for questions relating to the functioning of the administration.

25. The Representative concludes that there is no comprehensive strategy or policy document on how to address the needs of persons who are in displacement inside Kosovo. Neither UNMIK nor the Provisional Institutions of Self-Government in Kosovo have an office with the overall responsibility of dealing with the problems of those still displaced inside of Kosovo.

D. Republic of Montenegro

26. In Montenegro, the 1992 Decree on Providing Care to Displaced Persons addresses the situation of refugees from Croatia and from Bosnia and Herzegovina. There is no specific law on IDPs. The authorities hold that most IDPs are citizens of the Republic of Serbia. Therefore, they are not granted permanent residency. A Strategy for Resolving the Issues of Refugees and IDPs in Montenegro was adopted in April 2005. The strategy surveys the present conditions of IDPs and sets out options for durable solutions, namely return, local integration and resettlement to third countries.

27. In Montenegro, the Montenegrin Commissariat for Displaced Persons is responsible for organizing assistance, housing and return efforts for refugees and IDPs. The Ministry of Labour and Social Welfare provides children's allowance and family financial support.

28. UNHCR has a field presence there and assists mainly IDPs who are in the collective centres.

III. PROTECTION NEEDS OF INTERNALLY DISPLACED PERSONS DURING THEIR DISPLACEMENT

A. Republic of Serbia

29. According to UNHCR estimates, in February 2005, there were 208,135 IDPs from Kosovo in the Republic of Serbia. The Office of the Commissioner for Refugees of the Republic of Serbia estimates that among the approximately 60,000 IDPs of non-Serb origin most are Roma, Ashkali or Egyptians.

30. The Republic of Serbia and its people have undertaken very considerable efforts to welcome, assist and protect persons displaced from Kosovo. In particular, Serbia has recognized, in accordance with the Guiding Principles, that as citizens remaining within their own country IDPs have, in principle, the same rights as anyone else.

31. Despite this positive approach, the overall situation of many IDPs in Serbia remains difficult, in particular as regards the enjoyment of their economic, social and cultural rights. Some of these difficulties are caused by the overall difficult economic situation in Serbia characterized by high employment rates and difficulties, linked to the slow and complex process of privatizing State-owned companies, as well as to weaknesses of governance, particularly at the local levels. Thus, to a certain extent, IDPs are suffering from the same economic and administrative difficulties being experienced by the rest of the resident population. However, IDPs face additional problems and hurdles, some of which are due to the fact that special needs

stemming from their being displaced are not sufficiently acknowledged, while others are caused by a lack of adequate policies and structures to address their plight. The Representative found instances of discrimination, especially in the case of non-Serbian IDPs.

32. Problems in obtaining documents (Guiding Principle 20, para. 2) are a major issue for IDPs and the key to many other problems, in particular access to health care and to other State services to which they are entitled. The documentation and registration requirements for all Serbians are complicated and cumbersome. For people who are already at a disadvantage due to their displacement, these hurdles can become insurmountable. Seven “dislocated registry offices” or “registry offices in exile” have been set up in central and southern Serbia to facilitate replacement or issuing of documentation for IDPs from Kosovo. Nevertheless many still have to travel far distances (e.g. from Belgrade to registry offices in southern Serbia), office staff are overburdened, and many of the documents issued are temporary. As a result, many IDPs lack critical documents for services such as social welfare.

33. The problem is particularly acute for the Roma. According to some sources, an estimated 30-35 per cent of them were never registered as IDPs after the conflict.⁷ The process of first-time registration (known as “subsequent registration”) was complicated and demanded documentation that many did not have, added to the fact that many Roma are illiterate, uninformed and very poor. Many Roma, Ashkali and other minorities have had problems providing proof of their origins. Furthermore they have often been thwarted in having a legal address by not receiving adequate information on the housing options available to them. This leaves them in situations of particular marginalization and vulnerability and exposes them to the risk of discriminatory treatment by local authorities or parts of the society.

34. IDPs face many problems in the area of work (Guiding Principle 22, para. 1, subpara. (b)). Unemployment is generally high in Serbia but particularly high among the displaced. Among those IDPs who do work, more than half are employed in the “grey market” (e.g., unregulated jobs with no benefits).⁸ IDPs have had particular trouble obtaining “working booklets” which are necessary to obtain regular jobs or unemployment benefits and pensions if their former employer is no longer in business or has moved, or if they have lost these documents.

35. In the area of housing (Guiding Principle 18, para. 2), most IDPs have found private accommodation. A minority of approximately 6,800 IDPs still live in collective centres that originally were used for the refugees from Croatia and Bosnia and Herzegovina. Efforts have been undertaken to close the various collective centres, due to the withdrawal of support by the international community and lack of funding, or the departure and integration of these refugees. As witnessed by the Representative himself, some centres provide an adequate environment while many others are in desperate need of infrastructural repairs. Others are being closed down by the Government as they are considered sub-standard housing. The Government has undertaken some efforts to build social housing for IDPs, but they are not sufficient to provide all residents of collective centres with alternative housing. In many cases, moreover, “closure” has consisted only of the Government withdrawing service support and the people continue to live in “unofficial collective centers”. They can do so frequently without paying rent but are unable to register their residences.⁹

36. Of particular concern are the living conditions of many internally displaced Roma, Ashkali and Egyptians who, as the Representative witnessed himself, live in irregular settlements which

lack infrastructure and even the most basic conditions of hygiene. They are made up of makeshift huts, corrugated metal containers and other sub-standard shelters. Because these IDPs have no legal address, they are not fully recognized as persons before the law and therefore lack eligibility to receive government support.

37. The Representative was pleased to learn that IDPs are granted free health care (Guiding Principle 19, paras. 1, 2 and 3), provided they have an IDP registration card and their residence is registered in the municipality where they currently live. This creates substantial problems for unregistered IDPs. More disturbingly, the Government has been unable to provide regions having IDP populations with additional financial means to address the increased health-care needs.

38. In the area of education (Guiding Principle 23, para. 2), the authorities have succeeded in securing a very high percentage of IDP children enrolled in primary schools. Enrolment rates for children in collective centres were 92 per cent, only 5 per cent lower than the national average. However, the Representative was informed that the majority of displaced Roma children do not attend school.

39. IDPs who applied for their pensions prior to 1999 are reportedly receiving them, but those who became eligible and/or applied after that time are eligible only for “provisional pensions” pending collection of all required documents. The amounts of the provisional pensions are much lower than the amounts beneficiaries of pensions would normally expect.

40. Despite many efforts by governmental and non-governmental actors many IDPs, in particular those living outside camps or in irregular settlements, often do not know what their rights are, how to access them and what their future options could be. This lack of information reinforces their sense of helplessness, disorientation and disempowerment.

41. The problems encountered by IDPs are compounded by the fact that despite their high number, there is no institution within the Serbian administration with the explicit mandate of protection and assistance to IDPs, or of coordination within the governmental services. The few IDPs that are in collective centres are within the remit of the Commissioner for Refugees *ratione locis*. However, the Commissioner has no clear mandate for IDPs *ratione personae*, leaving major gaps when it comes to harmonizing a comprehensive response to address their needs and to protect their right.

B. Internationally-administered Kosovo

42. In Kosovo there is no clear responsibility assigned to UNMIK or the Provisional Institutions of Self-Government in Kosovo for those who remain in displacement inside Kosovo, and many are largely neglected. The focus of the international community has been on return, thus neglecting those who are still displaced within Kosovo. This is especially true for Roma, Ashkali and Egyptian IDPs who, together with the other non-Serb minorities, feel caught between the two main ethnic communities in Kosovo. There is need to assign clear responsibility for displaced persons to the authorities concerned, notably for those still living in collective shelters.

43. Within Kosovo, the estimated 22,000 IDPs have either moved to family members in neighbouring villages, or to unoccupied houses of other IDPs who have left Kosovo or moved elsewhere, or to collective centres. Most of them are reluctant to move back to their places of original residence, mainly due to fears for their security in case of return. Several reports circulate on alleged harassments of returnees or even open hostility. The violence of March 2004 is still foremost in many peoples' minds and the situation remains volatile. Real or perceived lack of security for returnees thus entails limited freedom of movement for IDPs, many of whom are trapped in small ethnic enclaves, making the return process less sustainable.

44. The Representative visited collective centres which had originally been established to house Croatian and Bosnian refugees. The return and integration of the refugees has caused a drop in external funding; the collective centres are being subsequently closed. The IDPs in collective centres face inadequate and overcrowded housing situations, lack of access to medical and appropriate educational facilities, as well as a lack of work. IDP spokespersons pointed out to the Representative that even if the security situation were to allow them to return to their places of residence, they had nothing to return to, especially in terms of economic livelihoods.

45. While travelling through Kosovo, the Representative became aware of the lack of public support, especially from local authorities, for the non-Albanian minorities in the province, albeit through public condemnation of acts of hostility against IDPs and minorities or through open and frank consultations with the people concerned.

46. The situation of approximately 120 displaced Roma families living in camps in the northern part of Mitrovica/Mitrovicë (Cesmin Lug and Kablare camps) and in Zvečan/Zveçan (Zitkovac Romani camp) since 1999 is a very serious problem that needs to be addressed immediately. These camps are in close vicinity to the tailings dams of a former lead mining and smelting complex which was closed in 2000. Then it was known that, like the population in the region in general, these IDPs were affected by high levels of lead in their blood. Over the course of the years, it became clear that lead poisoning, especially of the children in these camps, reached levels that are much higher than those of the non-displaced population. Recently, the World Health Organization found that many children in the camps are currently suffering from unprecedented levels of lead poisoning constituting an acute medical emergency. They were not receiving appropriate medical treatment and the health or the level of life of those affected was very seriously affected. During his visit, the Representative appealed to the international community responsible to immediately evacuate the IDPs concerned to non-contaminated areas and to provide the necessary resources for this without delay. He stressed that failure to act immediately was tantamount to a violation of the right of the affected children to have their health and physical integrity protected, and underlined the need to find - in consultation with the affected Roma population - alternative sites where the affected families could feel safe and have access to basic services as well as the possibility to make a living. After his visit, UNMIK decided that the camps would be evacuated and the affected IDPs relocated to a site where they would no longer be exposed to lead poisoning. A United Nations Inter-Agency Group was established to guide this process. However, at the time of writing of the present report, the decision had still not been implemented. While acknowledging the complexity of the problem, the Representative remains concerned about the slow pace of the process in the face of the very serious health threats for the affected children.

C. Republic of Montenegro

47. According to UNHCR there are a little over 18,000 IDPs in Montenegro, of which more than 2,000¹⁰ live in collective accommodation. Of the total number of IDPs, 32.3 per cent are of Montenegrin origin, 26.5 per cent are Roma, Ashkali and Egyptians and 25 per cent Serbs.¹¹ As in the Republic of Serbia, many of the IDPs who originally would have wanted to return to Kosovo, have now decided to wait to see how the situation in Kosovo will further evolve. The incidents of March 2004 in Kosovo have reinforced their fears for their safety and the uncertainty of the future status of Kosovo has prompted many to stay in Montenegro.

48. The Representative was impressed by the efforts undertaken by the authorities of the Republic of Montenegro, considering that for a population of barely 700,000 they had fairly successfully attended to the humanitarian needs of the almost 30,000 IDPs when they first arrived. He also commended the new Refugee and IDP Strategy, which not only foresees return as a solution, but also integration in Montenegro or resettlement in third countries. It is, however, not clear to what extent integration and resettlement are options for IDPs as well as the refugees.

49. While IDPs have free access to primary health care and to primary and secondary education, they suffer from the duality of laws between the Republics of Serbia and of Montenegro in other areas. Although the Constitutional Charter of Serbia and Montenegro foresees equality between the citizens of Serbia and of Montenegro, in practice the Montenegrin authorities would seem to consider citizens of Serbia differently than the Montenegrins. IDPs in Montenegro are therefore caught between two different administrative logics: that of the Montenegrin authorities who consider them as Serbian nationals, and therefore treat them as such, and that of the Serbian authorities, who do not consider them as their particular responsibility since they are not resident in the Republic of Serbia. This is particularly worrying since the laws for citizenship in Montenegro changed in 2001 after IDPs had fled there from Kosovo with the result that they are almost ineligible for citizenship.

50. On the labour market, the discrimination against non-Montenegrin citizens makes it doubly difficult for IDPs to integrate in the formal economy. In line with the Decree on Employment of Non-Resident Physical Persons and the Law on Employment, employers have to pay €2.50 per day for employing persons who are not permanent residents. According to several interlocutors, the authorities of the Republic of Montenegro do not give permanent resident status to IDPs from Kosovo. IDPs receive temporary residency cards only and would have to live for 10 years in Montenegro to qualify for citizenship according to the 1999 Montenegrin Citizenship Law. While certain measures to protect the local population on the labour market may be justifiable, the combination of these measures put IDPs at an enormous disadvantage in terms of work. It is a form of discrimination that is incompatible with Guiding Principle 22, paragraph 2 (b). Furthermore, as many IDPs left their work booklets behind in Kosovo, employment is extremely difficult even for those who qualify as Montenegrin citizens.

51. Furthermore, as temporary residents IDPs are subjected to higher tax obligations and do not have access to services other than basic health and basic education. They are not assisted in receiving care in Serbia for conditions that cannot be treated in Montenegro, whereas Montenegrin citizens do. They are not eligible for social welfare and cannot acquire real estate.

52. All non-residents and non-Montenegrins are subject to these laws and not IDPs in particular. However, the Representative would like to point out that, unlike migrant workers, IDPs often have not had the choice of where they flee to. Furthermore the relevant laws seem to have changed after the IDPs had reached their current places of residence, without taking into account their particular situation, difficulties they were facing and the consequences these legislative changes would have for them. Thus, the combined effect of these measures on IDPs is discriminatory.

53. Roma, Ashkali and Egyptian IDPs are subjected to the same administrative obstacles as other IDPs from Kosovo, but with even less support and help to overcome these obstacles. They suffer, for instance, from appalling living conditions in the unofficial collective centres, Konik I and Konik II near Podgorica. The State Union Law on Protection of Rights and Freedoms of National Minorities of February 2003 and the Draft Strategy on Roma are not applicable in Montenegro due to the “Non-recognition of Federal Decisions” resolution of the Montenegro Parliament (2000), which rejects the application of state union law made “without the participation of lawful and legal representatives of Montenegro”. Montenegro is reportedly working on its own minorities policy, but it is regrettable that its National Strategy for Refugees and IDPs of April 2005 does not contain specific measures to address the situation of these minorities.

IV. PROTECTION NEEDS OF INTERNALLY DISPLACED PERSONS REGARDING RETURN AND OTHER DURABLE SOLUTIONS

A. Return

54. As mentioned above, the goal of the international community in Kosovo, in accordance with Security Council Resolution 1244 (1999), is to create conditions allowing IDPs to return to their homes. The fact is that this goal has not yet been achieved. The overall number of returns by members of minorities has remained low and had almost come to a halt during the Representative’s mission. According to figures provided by UNHCR, a total of approximately 12,400 persons have returned to Kosovo (5,782 Serbs, 1,318 Roma, 3,133 Ashkali and Egyptians, 1,056 Bosniak, 355 Gorani and 574 Albanians living in minority-controlled areas). Of these, some were former refugees while others returned from internal displacement in Serbia and Montenegro. The number of returnees was 1,906 in the year 2000, 1,453 in 2001 and 2,756 in 2002. Return movements reached a peak of 3,756 in 2003 and dropped to 2,411 in 2004. As of 30 November 2005, a mere 1,925 persons had returned during 2005 for a total of 14,300 since 2000.¹² These figures indicate that just over 6 per cent of the more than 230,000 IDPs in Serbia and Montenegro were able to return. Among those displaced inside Kosovo less than 2 per cent have returned to their homes during the first four months of the year.

55. Successful return of IDPs is based on three elements: (a) ensuring safety for the life and limb of returnees; (b) returning property to the displaced and reconstruction of their houses and (c) creating an environment that sustains return, that is, which allows life under normal conditions in the area of return. The reasons for slow return to and inside Kosovo are linked to all three elements, albeit to different extents.

56. As regards safety, instances of inter-ethnic violence persisted after 1999. The situation improved considerably in 2002 and 2003 leading to an increase in returns. This positive trend changed dramatically when a series of severe security incidents starting on 15 March 2004 led to violent protests and inter-ethnic strife culminating in the displacement of 4,100 mainly Kosovo Serbs in the Mitrovicë/a and Prishtine/Pristina regions with UNMIK and KFOR being unable to protect minority communities attacked by Kosovo Albanian mobs. These events shattered trust among minority and IDP communities. The Representative was informed during his visit that the number of violent inter-ethnic incidents had significantly dropped during the first half of 2005. However, many displaced persons and returnees expressed their fear that such incidents might reoccur at any time, especially in the context of tensions that could be triggered by the process of clarifying the future status of Kosovo. Currently, the volatile situation leads to real or perceived limitations on the freedom of movement for many minority returnees who are trapped in enclaves and often not able to access their lands or markets. In addition, many displaced persons are unwilling to return before the status of Kosovo has become clear. Efforts to improve the security for returnees therefore must be continued.

57. Concerning property, UNMIK established a Housing and Property Directorate (HPD) and a Housing and Property Claims Commission in 1999 with the mandate to decide property claims of individuals who: (a) lost occupancy rights as a result of discriminatory laws and practices after 23 March 1989; (b) entered into voluntary, but informal transactions of residential property between 23 March 1989 and 13 October 1999 or (c) lost physical possession of their properties after 24 March 1999. HPD received 29,000 claims by July 2003 (deadline for applications), 27,000 of which belonged to category (c). Almost all claims are decided, however, repossession of claimed property took place in less than 2,000 cases, mainly because houses are destroyed or their owners have not yet returned to Kosovo. In the latter case, owners may opt for temporary administration of the property through HPD until they have made up their mind about what to do with it. One obstacle to return is the fact that there are not enough financial resources available to reconstruct damaged properties. Furthermore, to date no mechanism has been established that could process and decide on claims concerning commercial or agricultural properties.

58. Returns, especially if they are not spontaneous but organized, are often not sustainable, meaning that although IDPs can return to their (reconstructed) properties, they often lack the means for their subsistence in the short- and long-term because there are no employment and other economic opportunities available in the place of return. In addition, the limitations on the freedom of movement described above creates serious obstacles in accessing basic services, employment and income-generating activities and thus affects the sustainability of returns. Programmes and projects such as microcredits and loans with low interest rates, involvement of returnees in reconstruction programmes that allow returnees to earn at least part of their livelihood exist but are not sufficient. The Representative visited one of the villages near Mitrovicë/a that was destroyed during the March 2004 events. Despite the reconstruction of houses, returns are very difficult because returnees not only lack the financial means to restart agricultural activities but also fear that they could become the target of violence by their Albanian neighbours if they would start to plant their fields again.

59. Considerable numbers of IDPs are forced to continue their dismal lives in camps and collective settlements because, as in the example of Plementin/a camp, there is not enough donor

money available to implement their return, although both IDPs and the receiving municipalities have agreed to it.

B. Other solutions

60. Besides return, local integration or resettlement to another part of the country are also options. According to Guiding Principle 28, IDPs have the right to return voluntarily, after having been able to make a free and informed choice. This can only be done if measures have been taken to ensure safety for the life and limb of returnees, their property has been restituted and their houses reconstructed, and they are able to return to an environment that sustains return, including infrastructure such as roads, basic services, and access to schools and medical facilities. At the same time, they cannot be obliged to return if they take an informed decision to refrain from doing so. The obstacles to return described above, as well as a climate of fear and insecurity regarding the future status of Kosovo and the lack of clarity about the kind of guarantees that would be given to them upon return, makes it difficult for IDPs to decide what to do. Certain statements by politicians have not helped reduce the level of fear felt by many IDPs.

61. To date, Government policy in the Republic of Serbia has focused very strongly on the return of the IDPs to Kosovo, thereby discouraging local integration or resettlement. While the Representative acknowledges the importance of highlighting return in the region, he would like to stress that allowing IDPs to live a normal life and their return are not mutually exclusive, but actually reinforce one another. Well-integrated people are more likely to lead productive lives. This is likely to give them the strength and the impetus necessary to return to their places of origin, once the time is right. The Representative regrets that options allowing IDPs to integrate into the local economy and to gain access to housing outside collective shelters have been neglected or even discouraged, even though it has occurred in numerous cases without any governmental support.

62. In Montenegro, the 2005 Strategy for Resolving the Issues of Refugees and IDPs provides as its major goals: repatriation of refugees and return of IDPs; local integration and resettlement of refugees in third countries. The Strategy highlights security/protection, property restitution, and the realization of basic rights at the place of return as the basic conditions that must be in place before return can take place, and notes, in this context, the uncertainty in Kosovo. Regarding local integration, the Strategy foresees measures to provide housing and continued access to health care. While it is unclear to what extent IDPs can profit from such measures, the Representative is of the opinion that those IDPs who wish to do so should be allowed to integrate and be supported in this regard.

63. In all parts of Serbia and Montenegro, the Representative was struck by the very high percentage of IDPs belonging to particularly vulnerable groups whose situation has still not been satisfactorily resolved. These groups include the elderly, the ill, the disabled, severely traumatized individuals, witnesses in war crimes investigations and trials, female-headed households, families of missing persons and members of minorities. Many IDPs, including especially vulnerable persons among the Roma, Ashkali and Egyptian communities, belong to several of these categories at the same time. Typically, these extremely vulnerable persons remain in collective centres, informal settlements or in other arrangements which were never conceived as providing long-term solutions. These persons are often not able to live

autonomously. Even in the event of dramatic changes, they are unlikely to return to their places of origin on their own. The Representative therefore calls on national and local authorities to urgently seek, in coordination with international agencies and donors, durable solutions for these persons, including appropriate institutional arrangements such as social housing, foster families or homes.

64. After his mission, the Representative brought this matter to the attention of OCHA, UNICEF, the World Bank and bilateral donors.

65. Specific problems are encountered by some rejected asylum-seekers, persons whose temporary protection status in host States has ceased and other persons returned from countries of asylum in Western and Northern Europe. The Representative is concerned that those who, upon return to Serbia and Montenegro, do not have the means to sustain themselves and do not have access to durable solutions are at an increased risk of becoming displaced themselves. A rising number of asylum countries, mostly in Western Europe, have started applying the “internal flight alternative” to asylum-seekers from Serbia and Montenegro, arguing that the latter are not in need of international protection as they could find refuge elsewhere in their country of origin. These rejected asylum-seekers are thus returned into secondary displacement and often to conditions of undue hardship. In view of the conditions described above, however, this apparent alternative may not be a viable option for many individuals. Risks may also exist for certain members of minorities if returned to Kosovo. Many interlocutors expressed concern that the country’s reintegration and absorption capacities would be overburdened by mass returns from abroad.

66. The long-term status of Kosovo is under discussion and the continuation of the current federated State of Serbia and Montenegro may soon be. Depending on their outcome, these developments may affect the rights of IDPs in the region, in particular their citizenship rights, or may even turn them into refugees because of the emergence of new international borders. Therefore it is of paramount importance to ensure that any possible arrangements made by and between States do not create new IDPs; fully safeguard the rights of the displaced, including to return, to protection of their property and its restitution or compensation, and to pension benefits and take measures to make sure that no IDPs become stateless. Furthermore, such changes should be used as an opportunity to reduce the number of remaining IDPs by achieving durable solutions, once the final status of the relevant regions and States is decided.

V. CONCLUSIONS AND RECOMMENDATIONS

67. The efforts of the international community and national authorities have been almost exclusively focused on return as the only solution. Consequently, local integration has been discouraged: integration of persons displaced since many years should not be ruled out, and in fact many internally displaced persons (IDPs) have already done so. To allow IDPs to live a normal life and return are not mutually exclusive but reinforce each other. People leading productive lives are more likely to have the strength and the impetus to return to their places of origin, once the time is right. While welcoming steps taken by the Republic of Montenegro towards local integration, the Representative strongly recommends removing obstacles hindering IDPs from starting a normal life while in displacement and supporting those who wish to do so in their efforts to become economically productive and

to acquire property. This should not prejudice their possibilities to return to Kosovo, once it becomes feasible in their eyes.

68. Another consequence of the focus on return is a lack of institutional responsibility for IDPs during displacement, particularly for those living outside of collective shelters in Serbia and in Kosovo, and to a lesser extent, also in Montenegro. The Representative recommends to clearly mandate appropriate offices and organs for the assistance and protection of the human rights of the IDPs and to provide them with the appropriate powers and budgets.

69. 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 trial, female-headed households and families of missing persons, i.e. the most vulnerable among the IDPs whose situations have not been satisfactorily resolved. The international community is in the process of withdrawing its support from many of these centres and many buildings are ramshackle and no longer offer acceptable living conditions. Irregular settlements have sprung up where displaced Roma, Ashkali and Egyptians are living in misery. Many of them are especially vulnerable. No durable solutions are available to these IDPs. The time has come to find a dignified solution for these extremely vulnerable populations as a matter of priority, since they are unlikely to return to their places of origin even in the event of dramatic changes or to become able to live on their own.

70. The Representative recommends that national and local authorities, in coordination with international agencies and donors, urgently seek durable solutions for these persons, including alternative housing and appropriate institutional arrangements such as social housing, foster families or homes respecting their right to human dignity and develop a comprehensive plan of action in this regard.

71. The Representative encountered practices that discriminated against Roma and other minorities. Members of these groups frequently have had problems providing proof of their origin. They often have been thwarted in trying to establish a legal address, or otherwise denied access to adequate information on legal and practical options available to them and ways of exercising these possibilities. As a result, these minorities are marginalized and vulnerable and are exposed to the further risk of discriminatory treatment by local authorities and other parts of society. The Representative calls upon the national and local authorities to ensure that the members of these minorities can meaningfully exercise practical and legal access, on an equal basis to the entitlements to which they have a right as citizens. In doing so, it is important to sensitize authorities to the particular needs of these groups, as well as inform such groups, in a culturally appropriate fashion, of their rights and entitlements, and how these may be realized.

72. Many IDPs are marginally aware of the rights to which they are entitled, both under domestic and international law. Others are unable for practical reasons to access entitlements and remedies provided in Government offices. These disadvantages are coupled with local administrative systems which too often have cumbersome and complex requirements, particularly in the area of documentation and registration. This frequently results in aggravated helplessness, disorientation and disempowerment suffered by IDPs,

who become even more firmly locked into their existing situations. Obstacles to access to health care, education, social security benefits and other State services or to the labour market can easily become insurmountable. Since there seems to be no social safety net for those who fall outside the system, those who have not managed to get into the system, owing to the burdensome administrative practices, are further marginalized and pushed into the informal economy. The Representative recommends accelerating administrative reforms with a view to simplifying the administrative registration requirements and processes for all people. He emphasizes that particular attention should be paid to the additional difficulties IDPs have to face when trying to regularize their situation.

73. One among several reasons why returns have been so low is the fact that many IDPs lack appropriate information and feel disempowered; they also receive an overwhelming negative message about their region of origin, reinforcing their subjective feelings of insecurity. The Representative recommends that all concerned authorities discourage systematic negative images of the IDPs' places of origin in the media and in their official speeches. He also encourages organized or spontaneous "go and see" visits and welcomes the fact that such visits have been organized on several occasions.

74. Many interlocutors expressed their concerns that the massive return of former refugees or rejected asylum-seekers from certain Western European countries who could not return to their homes in Kosovo would add to the burden caused by internal displacement in the different parts of Serbia and Montenegro. The Representative calls upon Governments concerned to implement returns cautiously and to refrain from returning members of threatened communities and particularly vulnerable persons to situations where they risk becoming IDPs without assistance and protection of their rights.

75. The continuation of the current federated State of Serbia and Montenegro may soon require a definitive resolution, and the long-term status of Kosovo is currently under discussion. These developments could cause new problems for the displaced, in particular regarding their citizenship rights and infringe upon their rights. The Representative calls upon the Governments concerned to ensure that the new arrangements do not create new IDPs or turn them into refugees, to safeguard the rights of the displaced, including to return, to protection of their property and its restitution or compensation and to pension benefits; and to take measures to make sure that no IDPs, including those who are not yet registered, become stateless. Furthermore, the number of remaining IDPs should be reduced by achieving durable solutions, once the final status of the relevant regions and States is decided.

Specific conclusions and recommendations for the Republic of Serbia

76. In the light of the concerns highlighted in this report, the Representative recommends to the competent authorities of the Republic of Serbia that they:

(a) Simplify, in line with the Guiding Principles on Internal Displacement, the registration requirements and processes for issuing or reissuing documents for IDPs, including "working booklets", in order to give them full access to services, in particular health services, and the labour market, and speed up the promised administrative reforms in this regard. Particular attention should be paid to the particular difficulties that

unregistered members of displaced minorities, amongst them the Roma, have to face when trying to regularize their situation;

(b) Give the Commissioner for Refugees the mandate to assist and protect all IDPs, as well as the adequate funds. The creation of an oversight mechanism, such as an Ombudsperson would not only strengthen the protection of the human rights of the population in general, but also those of IDPs;

(c) Provide particular support in the areas of housing, access to livelihoods, and education to Roma, Ashkali and Egyptian IDPs, in particular those living in irregular settlements, by taking into consideration the size of their families and their particular cultural needs;

(d) Facilitate and proactively support IDPs who want to participate in the society and its economic life to do so. Far from stopping people from returning, leading a normal life empowers them and gives them the energy to envisage a new life, as well as the capital to invest upon return. This message needs to come from the highest authorities.

Specific conclusions and recommendations for Internationally-administered Kosovo

77. The Representative recommends that UNMIK and the Provisional Institutions of Self-Government in Kosovo:

(a) Proceed with a humanitarian evacuation of IDPs in Northern Mitrovica as fast as possible, taking into due consideration Guiding Principle 7;

(b) Assign responsibility for IDPs still in displacement in Kosovo to an appropriate office of the Provisional Institutions of Self-Government in Kosovo;

(c) Take seriously the fears expressed by the minorities left in Kosovo and to publicly condemn harassment and acts of hostility undertaken against them, as well as undertake appropriate action to stop the perpetrators;

(d) Protect public buildings and places of worship belonging to the minorities, given their symbolic value for minorities;

(e) Encourage the Housing and Property Directorate to administer the residential properties of IDPs currently unwilling or unable to return and to reclaim them; and the Housing and Property Claims Commission to settle the claims concerning non-residential titles, such as commercial and agricultural properties;

(f) Continue efforts to improve the security for the returnees and to put in place adequate infrastructures to enable them to live and to ensure their own livelihoods.

Specific conclusions and recommendations for the Republic of Montenegro

78. The Representative, while commending the Republic of Montenegro for its new Refugee and IDP Strategy that explicitly acknowledges integration as one form of durable solution besides return and resettlements to third countries, recommends:

- (a) **The provision of this possibility not only to refugees but also IDPs;**
- (b) **The provision of access to secondary health care and social welfare also to IDPs without permanent residency;**
- (c) **The abolition of higher tax obligations for such IDPs as well as the requirement for employers to pay a special fee for employing them;**
- (d) **The adoption of a national strategy that would reach out to Roma, Ashkali and Egyptian IDPs and other minorities, and to provide particular support in the areas of housing, access to livelihoods, and education to, in particular, those living in irregular settlements, by taking into consideration the size of their families and their particular cultural needs.**

Specific conclusions and recommendations for the international community and donors

79. The Representative recommends that the international community and donors:

- **Undertake a coordinated effort to assist and support endeavours to find durable solutions for the most vulnerable among the IDPs, many of whom live in collective centres and irregular settlements;**
- **Provide the necessary means to implement the return of IDPs to their places of origin or former habitual settlement in Kosovo, where projects for such return are ready and could be implemented with the agreement of the IDPs and the municipalities concerned;**
- **Ensure that new arrangements regarding the future status of Kosovo would safeguard the rights of the displaced, including to return, to protection of their property and its restitution or compensation, and to pension benefits and take measures to make sure that no IDPs, including those who are not yet registered become stateless.**

Notes

¹ See the mission reports: E/CN.4/2006/71/Add.3 (Croatia) and E/CN.4/2006/71/Add.4 (Bosnia and Herzegovina).

² See the Representative's report to the Commission on Human Rights E/CN.4/2005/84.

³ CCPR/CO/81/SEMO.

⁴ E/C.12/1/Add.108.

⁵ Analysis of the situation of internally displaced persons from Kosovo in Serbia and Montenegro: law and practice, Interagency IDP Working Group (Belgrade 2004) ("IDP Gap Analysis"), p. 7.

⁶ Idem.

⁷ See ICRC, Issues Paper - The situation of internally displaced persons in Serbia and Montenegro, May 2005, p. 16.

⁸ ICRC, The vulnerability assessment of internally displaced persons in Serbia and Montenegro, Belgrade, July 2003, p. 23.

⁹ ICRC, Household Economy Assessment - The situation of internally displaced persons in Serbia and Montenegro, April 2005, p. 23.

¹⁰ IDP Gap Analysis, annex 2, figures as of 1 April 2003.

¹¹ UNHCR, IDPs from Kosovo in Montenegro as at 31 December 2004. The rest belongs to other categories, including Muslims, Albanians and Bosniacs.

¹² UNHCR "Update", December 2005.
