

Direct Dialogue Working Group on Returns

PROTOCOL

ON

VOLUNTARY AND SUSTAINABLE RETURN

between

United Nations Interim Administration Mission in Kosovo

and

Provisional Institutions of Self-Government in Kosovo

and

Government of Serbia

Taking into consideration the United Nations Charter (hereinafter “UN”), the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the ensuing Protocols, the International Covenant on Economic, Social and Cultural Rights, the International Convention on Elimination of all Forms of Racial Discrimination, the UN Convention on the Rights of the Child, the European Convention on Protection of Human Rights and Fundamental Freedoms, UN Security Council Resolution 1244 (1999), the UN Guiding Principles on Internal Displacement, and other relevant principles contained in internationally recognized legal instruments,

In observance of the Chapter 3 - Human Rights, and particularly item 3.4 of the Constitutional Framework for Provisional Self-Government in Kosovo,

Recognizing the right of each individual to make a decision on their place of residence,

Confirming the obligation of all parties to ensure a safe and unimpeded return of internally displaced persons to their places of origin in safety and dignity, return of their property rights and the obligation to create conditions for free movement of all persons,

Considering that the number of internally displaced persons who returned has so far remained low and that to achieve real progress substantial additional efforts need to be undertaken,

Recognizing the importance to establish active technical cooperation between the parties and to identify respective responsibilities, duly taking into account that UNMIK has the main responsibility for assuring the safe and unimpeded return of all refugees and displaced persons in accordance with UN Security Council resolution 1244 (1999).

With a view to intensifying the process of return, the United Nations Interim Administration Mission in Kosovo (UNMIK), the Government of Kosovo - PISG and the Government of the Republic of Serbia (hereinafter: the Parties) adopt the following:

Article 1

The Parties shall, within their respective competencies, ensure the following basic preconditions for the voluntary and sustainable return of internally displaced persons irrespective of their ethnic background in safety and dignity:

- Physical and material security and freedom of movement,
- Vacation of occupied real estate, protection of such property and repossession thereof by the rightful owners,
- Reconstruction of the damaged and destroyed buildings,
- Access to social, economic and communal infrastructure and services,
- Equal employment opportunities for returnees and practice positive discrimination wherever possible;
- Humanitarian assistance as necessary,
- Better overall climate for returns and decrease of distrust and negative propaganda;
- Up-to-date and correct information about the conditions of return, to allow for informed decisions on the part of the internally displaced;
- Other, flowing from the specificities of individual places of return.

Article 2

The primary focus of the return process is to reverse the effect of the conflict-related population movements and to end the situation of displacement while duly respecting the right of the internally displaced to return to their homes as well as their right to freely choose their places of residence.

The Parties are committed to undertake all efforts to remove existing obstacles with regard to the voluntary return to the places of origin and the repossession of real estate and personal property.

The Parties are also committed to enable the internally displaced to settle or locally integrate in freely chosen alternative places within Kosovo.

In pursuing alternative solutions to return, Parties are committed to ensure that the decision by internally displaced persons who avail themselves of such an alternative to return home are taken truly voluntarily, on an individual basis and without any pressure.

The Parties will jointly ensure that the internally displaced will have access to full and objective information on local return so that they ultimately can take an informed choice

with regard to their preferred durable solution, if they are unwilling or unable to return to their place of origin or habitual residence.

During the identification and implementation of such alternative durable solutions to the return home, the Parties will ensure that they will not impact negatively on the efforts to create conditions for allowing those internally displaced who continue to wish to return voluntarily to their homes to do so.

The Parties will also ensure during the identification and implementation of such alternative durable solutions in places other than home that the property rights of internally displaced persons and refugees at the place of origin or the property rights of other persons in the chosen alternative area of settlement and local integration are not affected.

Article 3

In an effort to overcome the unsatisfactory results and delays in the return of internally displaced persons, and in order to enhance the procedures of the return process, the Parties agree to pursue the following complementary procedures and activities:

A registration to return procedure shall be established whereby returnees can register in the municipality to which they intend to return. They may also submit an application via relevant institutions of the Republic of Serbia and Montenegro who will forward the application to the relevant UNMIK and municipality structures.

The information provided will comprise all essential data required on persons and families who have opted for voluntary return to enable the PISG and UNMIK to clearly identify the potential returnee and his relatives, his place of origin and to make the agreed on necessary preparations for the return. Therefore, such information includes, but it is not limited to:

- Full names and composition of returning family;
- Date of birth or age, place of birth, copies of birth certificates or other valid and legitimate identification;
- Place and address of origin or habitual residence in Kosovo or choice of alternative place of residence in accordance to Article 2;
- Data on relevant land and property records including cadastral records relevant to this specific case (if available copies of the same), and HPD/KPA/court decisions (if available copies of the same);
- Indication of particular vulnerabilities and related particular assistance requirements;
- Date and authority/agency of registration of application for voluntary return to home.

Recognizing that internally displaced persons have the right to spontaneous return at any stage, voluntary organized returns may start 60 days from the date of submission of such information to the above-mentioned competent authorities.

Within those 60 days, starting with the date of receipt of the request municipalities, within their competencies, shall finalize preparations and activities with a view to ensuring administrative, material, safety, communal, infrastructure and other conditions for return, including in particular:

- Provision of temporary accommodation in the place of return where available;
- Provision of the necessary administrative, technical and other conditions and permits for reconstruction of damaged and destroyed buildings;
- Equitable access to transport, health, education, police and other social and public services;
- Other necessary conditions, depending on the specificities of the place of return will be identified and follow-up determined jointly.

In municipalities, areas or cases where despite best efforts unavoidable delays arise, a special mechanism involving each of the parties to the protocol will be established to identify and address the problems,

The capacity of municipal administrations will be enhanced to enable municipal administrations to respond effectively to the provisions outlined above. Standard operating procedures will be developed and implemented at the municipal level to ensure consistent and rapid assistance to returnees in all aspects of their reintegration needs.

UNMIK and the PISG shall take all the necessary measures, within their competences, in order to ensure that the property rights of internally displaced persons are expeditiously restored, protected and preserved.

The Parties shall have access to cadastre registries and the related data on a case by case basis, whenever these are related to returns, and copies of the records will be made available to the potential returnee in the place of origin and the authorities of the municipality to which a displaced person wishes to return;

Article 4

The competent authorities involving the municipal agencies shall, in cooperation with UNMIK and within 60 days from the date of receipt of information about the planned voluntary return, provide the necessary administrative permits and approvals for beginning of reconstruction of damaged and destroyed buildings.

The Parties shall facilitate reconstruction and its completion within the shortest possible time.

The Parties intend to jointly examine the possibility of joint efforts, after prior consensus, to mobilize additional funds from potential donors required to address uncovered reconstruction needs with regard to specific return and local settlement projects to ensure early completion.

Article 5

Internally displaced persons, crossing the administrative line to Kosovo, will be granted exemptions from all taxes.

The goods and equipment required for return projects in Kosovo will be certified by the relevant UNMIK Department as humanitarian aid and therefore exempted from UNMIK duties and taxes. UNMIK Certificates must accompany the goods and equipment when crossing the administrative line. None of the foregoing will prevent UNMIK Customs from carrying out the necessary checks to ensure that the goods and equipment being brought into Kosovo conform to those authorized by UNMIK.

All parties to this agreement will endeavor to facilitate the speedy movement of all goods and equipment and the accompanying personnel so that the boundary line can be crossed without delay.

Article 6

The Parties agree within their capacities to facilitate humanitarian assistance to returnees until the conditions are met for them to reach a minimum Kosovo living standard.

Article 7

The Parties agree that should the process of reconstruction, repossession and return be conditioned by completion of administrative or judicial proceedings, these proceedings shall be considered as priority cases.

Article 8

The Parties agree that, should it be deemed necessary and following the consensus thereon, *ad hoc* task forces may and should be established to facilitate execution of specific projects in given locations.

Article 9

This Protocol shall come into effect on the date of signature. The Protocol should be kept under regular review and may be modified at anytime by mutual agreement of all parties.

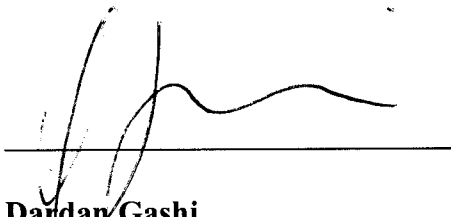
Signed in Pristina, on the 6th of June 2006.

For UNMIK



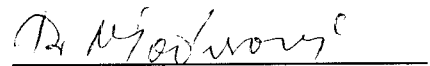
Søren Jessen-Petersen
Special Representative of Secretary-General

For Kosovo Government, PISG



Dardan Gashi
Acting Head of Pristina Delegation of the
Direct Dialogue Working Group

For Government of Serbia



Milorad Todorovic
Head of Belgrade Delegation of the
Direct Dialogue Working Group