



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY
STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT**

Further information received from the United Nations Interim Administration Mission in Kosovo (UNMIK) on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/UNK/CO/1)*

[10 December 2008]

1.

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

The following information, compiled from inputs by relevant UNMIK sections, pertain to (a) access by relatives to information about the fate of victims, and measures taken to secure adequate resources for victim compensation schemes; and (b) measures taken to implement the strategies and policies to ensure safe and sustainable returns, in particular for minority returnees, as well as to ensure that minority returnees benefit from the special rental scheme of the Kosovo Property Agency.

Missing persons

2. The Office of Missing Persons and Forensic (OPMF) has included the families of missing persons and family associations in the search for missing persons, bringing increased transparency, public scrutiny and accountability to the process. Families have access to the morgue and can ask any type of information. Regular meetings with family associations are organised to keep them informed of the process and progress.
3. As soon as a body is identified, OMPF informs the family without delay. Family members are provided with information pertaining to exhumation place, identification and cause of death (and injuries). OMPF issues for the families an identification certificate and medical Death Certificate (stating the cause of death if known).
4. However, there is still no information regarding the fate of 1940 missing persons.
5. Generally, if a missing person incident has been reported or classified as a criminal offence and criminal proceedings (investigation or trial) are ongoing, article 143 of the Provisional Criminal Procedure Code of Kosovo (PCPCK) applies. It states that the injured party shall be entitled to access case files including records or physical evidence under certain circumstances and within certain limitations¹.
6. To date there is no "victim's compensation fund" established in Kosovo for families or relatives of missing persons. Although claims for compensation by family members of victims can be addressed to the Kosovo courts, as a practical matter the judges handling criminal cases usually do

¹ Article 143 of the PCPCK states:

(1) The injured party and his or her legal representative . . . shall be entitled to inspect, copy or photograph records and physical evidence available to the court or to the public prosecutor if he or she has a legitimate interest.

(2) The court or public prosecutor may refuse to permit the inspection, copying or photocopying of records or physical evidence if the legitimate interests of the defendant or other persons override the interest of the injured party or if there is a sound probability that the inspection, copying or photocopying may endanger the purpose of the investigation or the lives or health of people or would considerably delay the proceedings or if the injured party has not yet been examined as a witness.

(3) If the public prosecutor refuses the inspection of the files, the injured party can file an appeal with the pre-trial judge. The decision of the pre-trial judge is final.

(4) If the pre-trial judge refuses the inspection of the files available to the court, an appeal can be filed with the three-judge panel.

(5) The provisions of the present article are subject to the measures protecting injured parties and witnesses and their privacy and the protection of confidential information as provided for by law.

not resolve compensation issues on the basis that doing so would "considerably prolong criminal proceedings (PCPCK art. 107, para. 1 and art. 111). Generally the criminal courts state in criminal judgments that injured parties can pursue property claims in civil litigation. However, many families of missing persons do not have the financial resources to hire private attorneys to represent them in compensation claims. These shortcomings are expected to be addressed in the Draft Law on Missing Persons with the Ministry of Justice. As it stands, it proposes a framework that includes the creation of missing person status and a fund for victim compensation. For the time being there is only the law on martyrs, war victims, etc which allows to provide compensation, however this law is highly discriminatory (minorities are excluded).

Safe and sustainable returns

7. More voluntary minority returns to Kosovo occurred in 2007 than in 2006, thus reversing the continuously declining trend of returns since 2003. As per UNHCR statistics, 1,802 minority community members returned in 2007, as against 1,669 persons in 2006. This increase in returns was achieved in spite of the lowest ever Kosovo Consolidated Budget funding of €5.2 million for returns in 2007.
8. The increase in minority returns in 2007 can be attributed to the new returns protocols introduced by UNMIK in 2006, which simplified the steps for return and delivery of assistance to returnees ('Revised Manual for Sustainable Returns'), and improved the conditions for voluntary return of minority IDPs and refugees to Kosovo. Importantly, organized returns projects in 2007 were completed in more or less six to seven months, as compared to the past when it used to take more than one year to fully complete projects. It may be stressed that the overall number of returns continues to be abysmally low, and much more efforts – including increased funding – shall be required of both Kosovo institutions and the international community if all of Kosovo's displaced minority community members, who are willing to return, are able to do so.
9. As per the provisions for the humanitarian reallocation of properties contained in 2006's Revised Manual for Sustainable Return, the Kosovo Property Agency (KPA) has agreed in principle to temporarily administer presently vacant reconstructed living units at Mitrovica/e's Roma Mahala RAE returns site for the temporary relocation of willing and eligible RAE IDPs currently residing in northern Mitrovica/e's Cesmin Lug camp. KPA has announced the following criteria for such temporary reallocation to move ahead: (a) written consent of the property owners of these vacant units for KPA to temporarily administer these units on their behalf; (b) a determinate period of time for such a temporary reallocation of these properties, and a guaranteed 'exit strategy' by which those IDPs temporarily relocated to these vacant living units shall be provided permanent housing of their own; and (c) a source of funding for rental subsidies for these temporarily reallocated units for the period of relocation determined.
10. Implementing partner for Roma Mahala reconstruction, Danish Refugee Council (DRC), has contacted property owners to secure the written consent of those property owners willing to participate in such a scheme. Consultations are under way with the Municipality to determine if those willing IDPs eligible for temporary relocation to currently vacant Roma Mahala units might be afforded priority in the beneficiary selection process for 24 new units presently under construction at Roma Mahala (anticipated completion Spring 2009), thus providing an 'exit strategy', or permanent

housing solution for these IDPs. At this time, this beneficiary selection process for future permanent housing, as well as the absence of a clear source of funding to cover rental costs for these units, remain the key obstacles to KPA moving ahead with the proposed temporary re-allocation of these vacant properties.