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UNHCR Position on international protection needs of individuals from Kosovo in light of recent inter-ethnic confrontations

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I. Introduction

Prior to the civil unrest in mid-March 2004 UNHCR's position had been that despite general improvements in Kosovo in the field of security, freedom of movement and access to services, members of minority groups, in particular Kosovo Serbs, Roma, Ashkaelia, Egyptians, but also Bosniaks and Goranis, continued to face varying degrees of security threats which placed their lives and fundamental freedoms at risk. UNHCR thus advocated that they should not be forcibly returned to Kosovo and should continue to benefit from international protection in countries of asylum.

UNHCR's most recent survey on the situation of minorities, issued in March 2003 emphasized the deteriorating security situation of Kosovo Serbs, the lack of follow-up by the judiciary and police to acts of aggression directed against them and the impunity of perpetrators. Severe security incidents in mid-March 2004 led to an escalation of inter-ethnic violence all over Kosovo and brought the province to the brink of a full-fledged armed conflict. As a result, 20 people were killed, more than 1.000 were wounded, private and public property including churches and monasteries were systematically destroyed, and more than 4.000 Kosovo Serbs, Ashkaelia, Roma and other minorities were driven from their homes. These incidents are the worst inter-ethnic clashes since 1999. Though the situation has now been brought under control, thanks in large part to the prompt deployment of additional NATO forces, the speed and severity of the incidents underlined the highly volatile situation and the potential for further escalation. The sudden outbreak of violence on such a large scale has shaken the confidence of minority communities and represents a huge set-back in terms of the slow but steady improvements that had been attained over the course of the past five years.

Against this background it is necessary to review and reaffirm UNHCR's position regarding the international protection needs of individuals from Kosovo. The current paper briefly describes the impact of the inter-ethnic clashes which occurred between 15 to 21 March 2004 and the potential for further inter-ethnic conflict. It then outlines how this dramatic deterioration in security conditions, compounded the pre-existing protection problems faced by all minorities and by certain segments of the Kosovo Albanian population. Individuals from Kosovo who applied for voluntary repatriation prior to 15 March 2004 should be informed about the substantial deterioration of conditions as a result of recent security incidents and be given the possibility to reassess their application. Pending asylum-applications should be adjudicated based on updated country of origin information which takes into account the recent deterioration of the security conditions and the adverse impact this has had on minority rights.

II. Generalized violence between 15 and 21 March 2004

A series of severe security incidents commencing in mid-March 2004 sparked a downward spiral towards inter-ethnic violence and civil unrest on a scale not witnessed since 1999. The first identifiable incident in this recent cycle of violence involved the serious wounding of a 19 year old Kosovo Serb, in a drive-by shooting, on 15 March in

the village of Caglavica, just outside the provincial capital Pristina. This shooting coupled with the fact that just a few weeks before two Kosovo Serbs were killed in similar circumstances in the same municipality sparked off violent protests by ethnic Serbs, who threw stones at KFOR troops and UN police and blocked the main road connecting Pristina to Macedonia on 16 March 2004, demanding action from the UN administration in the province.

On 16 March 2004 Kosovo media carried the story of three ethnic Albanian boys aged 9-12 who had drowned in a fast-moving river running through Mitrovica. According to a surviving boy, the children had been driven into the river while trying to escape from Serb children who were chasing them with dogs.

Reacting to this incident Kosovo Albanians took to the streets in protest, starting in Mitrovica but quickly spanning out to mass demonstrations and violent clashes all over Kosovo. The violence was directed against other ethnic groups and the UN administration. Makeshift roadblocks were set up in all regions by Kosovo Albanians and Serbs, gunfire was exchanged and hand-grenades thrown, churches, houses, schools and other infrastructure were systematically set on fire; larger groups of Albanians marched on minority enclaves and residential buildings in urban areas provoking panic and large scale displacement of minority groups within Kosovo.

Although Kosovo Serbs were the primary target, in many locations other minorities also came under attack, including Roma and Ashkaelia, as well as Albanians in a minority situation. A case in point is the village of Vushtrii where an entire Ashkaelia neighborhood was looted and burnt down, with KFOR evacuating the Ashkaelia community at the last moment to prevent serious injury or loss of life. Vushtrii/Vucitrn had been the focus of a small scale return effort in recent years which had benefited a number of Ashkaelia families previously displaced in Serbia. The damage to inter-community confidence as a result of the recent attacks is immeasurable.

As far as violence against UN infrastructure and personnel is concerned, protesters stoned several UNMIK buildings, systematically destroyed UN vehicles and burned the UN flag. Concern for the safety of staff was such that evacuation was necessitated in various locations. The killing of two police officers (an UNMIK and a KPS officer) during an attack on a patrol in Podujevo on the night of 23 March 2004 has served to underline the continuing threat to UNMIK personnel.

The widespread and systematic nature of the violence took Kosovo's civil (UNMIK, PISG) and military authorities (KFOR) by surprise. As a result during the first waves of attack KFOR, UNMIK Police and KPS struggled to maintain control and failed to protect minorities, their property and municipal infrastructure. They were unable to prevent the large scale displacement of minority communities fearful for their lives. In fact in some locations, KFOR, UNMIK Police and KPS, intervened to assist in the emergency evacuation of minority groups, where after houses, churches and schools were looted and burnt down by violent Albanian mobs. NATO troops were unable to stem the violence until the 20 March 2004 when some 2,000 reinforcements were rushed to the province. Investigations have been slow, though in some regions KFOR efforts to identify the perpetrators of the violence have reportedly resulted in some arrests.

The civil unrest resulted in more than 20 persons killed, 888 civilians, 63 KFOR, 117 UNMIK-Police officers and KPS officers injured, 561 houses burnt down, 218 houses damaged, 22 churches burnt down, 11 churches and monasteries damaged, 77 UN vehicles burnt and destroyed, 61 UN vehicles vandalized or overturned, 11 KPS vehicles damaged and 32 civilian vehicles damaged. More than 4,000 individuals from various ethnic minorities, but primarily Kosovo Serbs, were forcibly displaced within Kosovo. Others reportedly left for Serbia/Montenegro and other destinations. Among the IDPs in Kosovo, more than 1,000 found temporary refuge in various KFOR bases, while the remainder has been accommodated in public premises or private host families.

III. The human rights situation of minorities in the aftermath of the clashes

In the aftermath of the violent clashes inter-ethnic relations in Kosovo are extremely tense. The current fragile security situation is heavily reliant upon KFOR. Temporarily deployed reinforcements were a crucial factor in bringing the situation under control at the height of the violence. KFOR has stepped up its presence in particularly vulnerable areas and is patrolling important religious sites. This represents a major setback in terms of overall security arrangements as KFOR had previously been gradually scaling back patrolling arrangements in response to tentative improvements in the overall security situation. Permanent patrols at numerous religious sites had been reduced to a minimum leaving them extremely vulnerable to attack during the recent spate of violence. The confidence of minority communities in the ability of KFOR to protect them and their property has suffered a serious blow and the widespread perception is that in the event of a recurrence of such violence KFOR's capacity would be limited once again to evacuating minority populations.

The sudden escalation of violence and the coordinated choice of targets have left all minority communities with a heightened sense of fear and isolation. Freedom of movement and access to essential services, not guaranteed before the current outbreak of violence, have deteriorated even further. Humanitarian organizations have started delivering humanitarian assistance to the IDP camps/centers and minority enclaves. The level of destruction of private accommodation and key infrastructure within minority areas has prevented many IDPs from returning to their home communities and represents a serious longer term obstacle to attaining such return.

Minorities' trust in KPS and UNMIK Police has reached an all time low amidst accusations over the police forces' passive and ineffective attitude during the clashes and the inconsistent investigations thereafter. UNMIK has been slow in evaluating the institutions' emergency preparedness and response during the turmoil and this has only added to the distrust, considerably undermining UNMIK's overall authority among minorities.

Equally, the inter-ethnic clashes have seriously challenged the "Standards before Status" process, including benchmarks relating to the return and reintegration of minority communities. Local authorities, including leading local politicians failed to take a firm prompt and firm stance against the violence, further diminishing the limited trust that minority communities had in them in the first instance. In some locations local

authorities have been accused of participation in the looting and burning of houses and religious sites.

IV. UNHCR's position on international protection needs of individuals from Kosovo

The UN system and OSCE have only just started to evaluate the impact and consequences of recent events and what this will mean for Kosovo's ethnic minorities in particular. Detailed reports are likely to be published as of April 2004. In the meantime it is of utmost importance that pending and new asylum-claims of individuals from Kosovo are adjudicated in light of the substantial deterioration of the security conditions and minority rights in Kosovo. To that end, UNHCR calls upon decision-makers to utilize up-dated country of origin information which takes into account the mid-March events.

UNHCR's position remains that members of all minority groups, particularly Serbs, Roma, Ashkaelia, Egyptians as well as Bosniaks and Goranis should continue to benefit from international protection in countries of asylum. Induced or forced return movements jeopardize the highly delicate ethnic balance and may contribute to increasing the potential for new inter-ethnic clashes.

When assessing refugee claims of Kosovo Albanians, it should be taken into consideration that there are certain categories of Kosovo Albanians who may face serious protection related problems, including physical danger, were they to return home at this time. These categories include Kosovo Albanians originating from areas where they constitute an ethnic minority, Kosovo Albanians in ethnically mixed marriages and persons of mixed ethnicity, and Kosovo Albanians perceived to have been associated with the Serbian regime after 1990.

As far as individuals from Kosovo are concerned who have applied for voluntary repatriation, it is very important that refugees' decisions are taken in full knowledge of the recent deterioration of the security conditions in general and of minorities in particular. To that end, UNHCR calls upon asylum-countries to provide accurate and objective information to individuals signing up for voluntary repatriation. Likewise, those individuals who applied for voluntary repatriation prior to mid-March 2004 should be given the possibility to reassess their application.

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