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UNHCR Position Paper on the Treatment of Asylum-seekers from Kosovo in Countries of Asylum: Belgrade Considerations

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Introduction

1. The present note has been prepared by the Office of the United Nations High Commissioner for Refugees (UNHCR) in order to provide information and guidance for those dealing with applications for refugee status lodged by asylum-seekers fleeing the conflict in the Kosovo province of the Federal Republic of Yugoslavia. It also makes recommendations regarding the treatment of new arrivals. The note is primarily directed for use with the authorities in asylum countries, particularly officials charged with establishing refugee policy and with the determination of refugee status. Its overall thrust is to encourage asylum countries to receive Kosovo asylum-seekers, ensure that their protection needs are properly and fairly assessed through appropriate procedures, and host them for as long as their needs require.

2. To assist States in this regard, the note provides up to date information on the security situation inside Kosovo and addresses the prospects for protection internally and in the neighbouring countries, and the vulnerabilities of particular groups. The Annex contains a summary of the evolution of the conflict in Kosovo from the end of February 1998 to late August 1998, describing its development and the reaction of the international community. This is intended as an informational tool to assist decision-makers in assessing claims for refugee status by Kosovo Albanians. The body of the paper addresses a number of questions which are pertinent to the analysis of asylum applications and provides advice on the treatment of claims. The paper must be read with the caveat that the situation on the ground is at present very fluid, therefore the present discussion of the issues, while it may be useful, cannot be considered definitive and should be read always in conjunction with updated country of origin information.

Handling of Kosovo Albanian claims by governments

3. Persons fleeing the conflict in Kosovo who make asylum claims should, like all other asylum-seekers, be afforded access to regular refugee status determination procedures, for consideration of their claims on a case-by-case basis. In considering such claims, it should be borne in mind that the current displacement appears in large measure to be driven by the threat of serious harm which is often meted out on the basis of ethnicity and implied political opinion. In such circumstances, it may reasonably be assumed that important numbers of those displaced by the current conflict could have a well-founded fear of persecution for 1951 Convention reasons.

Groups at Risk

4. Well before the escalation of the violence in early 1998 there was documented repression of Kosovo Albanians and documented serious human rights abuses affecting Kosovo Albanians, on political and ethnic grounds.¹ The escalation of the violence in the province into a situation which some have characterized as a state of civil war does not negate the Convention reasons which individuals may have for fleeing the area. In fact, for some claimants, the conflict may strengthen their refugee reasons for flight. These causes are not mutually exclusive. Persons displaced by war or conflict can legitimately fear persecution. War may well be the very instrument of persecution, the method chosen by the persecutors - whether part of the State apparatus or not - to repress or eliminate entire groups of people because of their ethnicity or other affiliations.

5. A number of groups are at particular risk of persecution:

- Able-bodied ethnic Albanian men of military age are generally regarded by the authorities as being at least supporters of the Kosovo Liberation Army (KLA), if not active fighters. This is particularly so if they hail from areas of the province which have been affected by the conflict. Such persons have been subject to questioning, detention, beatings and other ill-treatment, up to and including death;
- The ethnic Albanian civilian population in areas of activity by the KLA are presumed by the authorities to be supporters of the KLA and therefore their homes and other property are targeted for destruction in order to preclude their use in aid of the KLA. This results in displacement at the very least, and sometimes injury and even death for civilians;
- Relatives of known or suspected KLA fighters, who have been directly targeted by Serbian security forces;
- Former KLA fighters (who may nevertheless not be refugees, if they fall under the exclusion clauses contained in Article 1 F of the 1951 Convention);
- Employees of the parallel Kosovo Albanian health and medical services. Many have been harassed and, in some cases, detained under suspicion of providing supplies, medical training or medical aid to the KLA;
- Members of community-level emergency groups organized to assist the internally displaced have also been targeted, on the same basis as the health workers;
- Members of the Albanian intelligentsia (including journalists, human rights activists, attorneys or politicians), who are perceived to side with the KLA or with the Albanian cause. The editor-in-chief of the Albanian-language daily Bujaku was recently arrested and remains under detention.

6. This listing does not preclude other individuals or groups from being recognised as at particular risk as well. These are merely the groups which to date have come to UNHCR's attention.

¹ See various UN reports by the Special Representative of the Commissioner on Human Rights, Mr. T. Mambereski, Mr. E. Klein and Mr. J. Ditzelschler.

Draft Evaders and Deserters

7. While it is well-acknowledged that draft evasion or desertion generally is not, without more, grounds for refugee status, draft evaders and deserters from the Yugoslav Army (VA) may indeed be able to demonstrate a well-founded fear of persecution because of their refusal to perform military service. The basis of such recognition in these particular circumstances would most likely be valid reasons of conscience, either i) because participation in the military is contrary to genuine political, religious or moral convictions, and there is no alternative service available, or ii) because of an unwillingness to be associated with military action which has been condemned by the international community as contrary to the basic rules of human conduct.² Important considerations in such analyses might include the reasons for the refusal, the genuineness of the claimant's convictions, and the penalty to be suffered (both legal and extra-judicial). With respect to the second ground, given the evidence of the way the present conflict is being conducted (see the background information and reports by human rights organizations), and the reaction of the international community, serious consideration would need to be given to a refusal based on unwillingness to participate in action contrary to the basic rules of human conduct.

Other Persecuted Groups at Risk

8. While the purpose of this paper is to provide assistance with claims by Kosovo Albanians, it must be acknowledged that members of other communities may also be singled out for persecution, sometimes at the hands of non-State agents. The KLA, for its part, is also involved in abduction, hostage-taking and even murder of persons of Serb and Roma origin, as well as ethnic Albanians suspected of sympathising with the Serbian authorities in areas under their control. There have been abductions and disappearances both from the Serb and Albanian communities, as well as from the Roma community and other national groups considered to sympathetic with the Serbian authorities.

Return of Rejected Cases

9. On 9 March 1998, UNHCR urged European Governments to stop sending rejected asylum-seekers from Kosovo back to the Federal Republic of Yugoslavia on humanitarian grounds, until the situation in the province had stabilised. In late April, UNHCR reiterated its request, stating that in "the present explosive climate, UNHCR (was) convinced that the return of rejected asylum-seekers from European States entails security risks for those being returned and could well expose them to treatment proscribed in international human rights instruments." The Office therefore recommended a temporary ban on deportation, until there was "clear and marked progress towards dialogue and tensions have subsided."

² See para. 167-174 of the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status.

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10. Since the time of its renewed appeal, the situation in Kosovo has markedly worsened. In his latest report to the Security Council, the United Nations Secretary-General noted that, "The sharp escalation of violence and the reported use of excessive force by security forces against civilians as part of the Government's operations against the KLA are cause for both distress and alarm."³ UNHCR is therefore compelled to reiterate its appeal to States to ban temporarily the deportations to Kosovo of rejected asylum-seekers on humanitarian grounds. The request is motivated by the marked escalation of the conflict, the security risks for deportees which this entails and the further risk that returns could further destabilise the situation.

Humanitarian Status

11. Given the situation of violence that prevails in the region, persons fleeing Kosovo who are not judged, against a strict interpretation, to meet the refugee criteria of the 1951 Convention may, nevertheless, have genuine protection concerns as victims of conflict and violence. For this reason, they ought not be returned to the area. In the interest of avoiding undue social and economic hardship, the Office requests States who do not already do so as a matter of course to consider providing some form of humanitarian residence status in such cases for as long as necessary to ensure their protection.

Safety within the Federal Republic of Yugoslavia

12. This is essentially a practical, factual question, relating to the effectiveness and reasonableness of a move to another location in order to find safety within the country. The circumstances of the specific case being considered will be of paramount importance. For the larger number of Kosovo Albanian claims, which involve fear of persecution by State agents who are able to act throughout the Federal Republic of Yugoslavia (be they police, security forces or the Yugoslav military), safety within FRY is not judged possible. In addition, the fluid and escalating nature of the conflict in Kosovo (see background information) has led to successive displacements of people within and outside Kosovo, and indicates a clearly unstable and rapidly changing situation in the region. Violence and persecution are increasingly affecting a wider and wider geographical area, erupting unpredictably and even crossing the border into neighbouring Albania. This continuing escalation, its widening geographical spread and fluidity, and most particularly its unpredictability, means that, in the present circumstances, finding safety on any durable basis within the Federal Republic of Yugoslavia cannot be considered an option.

13. With respect to claims that may not involve a fear of the State authorities, but a fear, for instance, of the KLA or its sympathisers, the first reason given above will not bar consideration of relocation alternatives. The second consideration, however, does continue to apply. It must be remembered as well that the analysis

³ *Report of the Secretary-General's proposed appointment to Monitor the Situation in Kosovo*, 2/1998/12, para. 17.

of the reasonableness of such a move relates also to the circumstances in the proposed site of relocation. With respect to Serbia and the Republic of Montenegro, for claims not involving State agents, an analysis of the reasonableness of moving to those locations would have to take into account not only the circumstances of the individuals concerned, but also all the circumstances found there. These would include factors such as limited reception facilities and absorption capacity considerations of ethnic make-up and balance, concerns about political stability and the attitude of the local population.

14. For Montenegro, which is already hosting an estimated displaced Kosovo population over 31,000 in addition to some 30,000 refugees from Bosnia and Herzegovina and whose total population is 644,000, reception facilities and absorption capacity are already overstretched. Problems of finding shelter and providing food for the displaced have been raised by Montenegrin authorities to the international community in recent weeks, highlighting the lack of residual capacity to absorb further displaced persons, although the authorities have generously tried to maintain an "open-door" policy with respect to arrivals.

15. The Secretary-General has noted that the growing number of internally displaced persons and refugees in the region "in turn causes further instability," and has described "the move in certain quarters away from a willingness to search for compromise on a basis of multi-ethnic communities" as "a particularly dangerous element" in the Kosovo situation.⁴ Montenegro has a permanent population of 40,000 ethnic Albanians, and the numbers of displaced now hosted nearly double that. Hosting even greater numbers could upset the balance and lead to political instability in Montenegro, further destabilising the region. UNHCR believes that in this situation, the principles of international solidarity and burden-sharing require that asylum countries analyse the "reasonableness" of internal relocation to or refuge within Montenegro, taking into account these and other such considerations. To impose undue displacement burdens on Montenegro which risk further regional instability is, in UNHCR's view, neither a reasonable nor an appropriate course of action.

Return of asylum-seekers to Albania

16. Current experience is that ethnic Albanian asylum-seekers from Kosovo will not be refused to Kosovo or elsewhere in the Federal Republic of Yugoslavia by the Albanian authorities, nor will their human rights be deliberately violated by the State. Indeed, UNHCR is convinced that the authorities in Albania are using their very best efforts to welcome and protect those who have entered the country. However, for a number of reasons set out in the following paragraphs, asylum-seekers should not be returned to Albania for the purposes of determination of their claims or in the belief that they can find adequate protection there.

17. It cannot be said, despite the sincere efforts of the authorities, that the refugee and human rights legal infrastructure is adequate. Albania is party to both

⁴ Ibid., para. 10.

the 1951 Convention relating to the Status of Refugees and the 1950 European Convention on Human Rights and Fundamental Freedoms. Nevertheless the 1951 Convention has not been implemented by the passing of legislation or by administrative or other practice or procedure. The Migration Law does contain several articles related to refugees, but it is far from a comprehensive determination system. A newly drafted asylum law exists, but it has not been passed by the Parliament and no concrete plans for its implementation exist. There is therefore no procedure for refugee status determination and no legal status currently can be provided by law to refugees from Kosovo. In fact their presence is tolerated in Albania, they are without any precise status, and their situation is therefore precarious. In the presently volatile and insecure circumstances of the country the lack of legal status takes on even greater significance.

18. Albania is one of the poorest nations in Europe. Little more than a year ago the country was convulsed by an upheaval which saw the collapse of the government and the reign of chaos, evidenced by, among other activities, the destruction of significant elements of its infrastructure, the looting of military arms depots and the desertion of the bulk of its military. At present the country is re-emerging from this catastrophe and attempting to rebuild its infrastructure, physically, economically and socially. The conflict in neighbouring Kosovo, however, is preoccupying authorities to a significant degree, and the recent reports of incursions into Albanian territory and airspace by FRY forces risk engulfing Albania itself in the conflict. The capacity of the authorities to provide shelter, food, jobs and security to the native Albanian population, let alone to the population of newly arriving Kosovo Albanians, is therefore extremely limited, and is acknowledged to be so by the authorities themselves.

19. In particular, the situation in the northern districts of Albania, where Kosovo Albanians enter and have primarily stayed, is notoriously insecure and becoming increasingly militarised. In such an environment, basic human rights cannot, despite the best efforts of the Albanian government, be adequately protected for citizens or others, including the Kosovo Albanians and the humanitarian aid workers attempting to protect and assist them. In fact, shelter in the north, inadequate as it may be, is empty and available precisely because citizens who previously resided there have left the area on account of its insecurity and lack of infrastructure. The situation is particularly precarious for certain groups, such as the elderly and women and children without an accompanying male family member, who are vulnerable to physical and sexual exploitation and abuse. For men of military age, the risk of coercion and forced recruitment into the KLA fighting forces is taking on greater significance as the conflict continues. Even in other regions of Albania where UNHCR is currently attempting to relocate some especially vulnerable refugees from their present locations in the north, the lack of adequate physical infrastructure to absorb this population, and the lack of sufficient numbers of trained police, military and other governmental authorities means that the capacity to provide protection and assistance to the refugee population in the country is seriously compromised.

Return of asylum-seekers to Bosnia and Herzegovina

20. Bosnia and Herzegovina (BiH) is a country emerging from conflict and struggling to find the capacity to absorb the returns of those former residents who were displaced by the conflict of the early 1990s and who wish to return. Though there is a draft asylum law currently being processed, it has not been implemented and no procedure exists for determining refugee status. While UNHCR has been active in persuading authorities there to receive directly arriving Kosovo Albanian asylum-seekers and provide assistance and protection to them, UNHCR does not believe that the absorption capacity or legal structure in BiH are sufficient for the purposes of returning asylum-seekers to the country from other potential asylum states.

21. UNHCR acknowledges that there is some limited ability in BiH to ensure human rights protection to refugees and asylum-seekers, but notes that the country has been asked by the international community to devote its resources first and foremost to implementing the provisions of Annex 7 of the Dayton Peace Agreement, relating to the return of refugees and displaced persons. To expect the authorities to divert their attention from that goal in order to host even minimal numbers of asylum-seekers who might be returned from other asylum states would risk setting back significantly progress on returns, which is a goal not only of the BiH authorities, but also of the international community as a whole, and one which is of particular importance to Western European states who host the majority of those who are expected to return.

UNHCR's Position

22. On the basis of the foregoing analysis and the background information in this note, UNHCR concludes that the situation throughout Kosovo is unsafe and volatile, that ethnically based persecution is a feature of the situation, indeed a growing one, that safety within the borders of Federal Republic of Yugoslavia is not possible for the majority of those displaced, that the prognosis is for further deterioration and that Albania is rapidly reaching its limits as a host country in terms of absorption capacity, tolerance and security concerns. As a result, asylum countries are faced with a group of asylum-seekers, as yet in manageable proportions, whose situation is precarious and who cannot and/or should not be sent back. Amongst them will be those with clear refugee claims. UNHCR appeals for a response from the asylum states which respects their responsibilities to refugees and which is principled, humanitarian and protection sensitive.

ANNEX:

Background Information on the Current Kosovo Situation
(as at 13 August 1998)

The present conflict situation in Kosovo was preceded by a period of mounting tensions within the province over a number of years. The spiral of violence pitting national police/security forces against the majority Albanian community, can be clearly traced to the early months of 1998.

1. International focus on Kosovo was galvanized by two major security operations mounted by Serbian security forces on 28 February and 5 March 1998. On 28 February, Serbian special police carried out an armed security sweep in the villages of *Likouhane* and *Cirez*, near *Gilgover* in the Dranica region, prompted by an attack on a regular police patrol by "Albanian separatists." On 5 March, a second police operation took place in the villages of *Gornji Prekaz* and *Dosji Prekaz* in Striba municipality, also in the Dranica region. These actions followed a similar police action carried out on 26 November 1997, wherein Serbian police units, supported by armoured vehicles and helicopters, surrounded a number of villages near Striba, culminating in an exchange of fire around the villages of *Dosji Prekaz*. A simultaneous police action was also carried out in the village of *Lauzha*. On 24 March, Serbian authorities carried out a similar security operation in *Gilgorni* and *Dubovo*, near Decani, opening attempts to stem the flow of weapons and KLA fighters entering from Albania.

2. The security operations of February and March 1998 in Dranica, intended to wipe out KLA strongholds, reportedly left 80 people dead. Amnesty International and other human rights organizations have alleged that the two security sweeps involved human rights abuses including extra-judicial executions, as well as the excessive use of force, which was disproportionate to that required under the circumstances.⁶ In addition to those who had taken action against the police, "(un)named people, unconnected with any of these attacks on the police, were killed or injured; some appeared to have been extra-judicially executed in summary executions subsequent to the main police offensive operations."⁷ Such allegations are being investigated by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Special Rapporteur of the Commission of Human Rights, Mr. Jiri Dienstbier. In a report submitted to the Commission on Human Rights in 8 April, Mr. Dienstbier already informed the Commission that, "The human rights situation in Kosovo is grave," and referred to earlier reports of previous Special Rapporteurs which highlighted arbitrary arrests and detention.

⁶ Comprising the municipalities of Gilgover, Klina and Striba.

⁷ See "Dranica, February-April 1998. *Unlawful Killings, extrajudicial executions and armed opposition abuses*", Amnesty International, June 1998, AI Index: 70/33/98.

⁸ See "A Human Rights Crisis in Kosovo Province: *Unlawful and Political - A Pattern Repeated*", Amnesty International, July 1998, AI Index: 70/46/98.

political trials, violations of due process, as well as torture and physical abuse or
detention by police and security officials.

3. In Security Council resolution 1160 of 31 March, the Council condemned
"the use of excessive force by Serbian special police forces against civilians and
peaceful demonstrators in Kosovo, as well as all acts of terrorism by the Kosovo
Liberation Army or any other group or individual and all external support for
terrorist activity in Kosovo." The Contact Group, meeting on 9 March and 25
March, began action at the political level to encourage the Yugoslav leadership to
seek a negotiated settlement and halt the violence.

4. By 24 March 1998, UNHCR estimated that there were 20,000 internally
displaced persons (primarily Kosovo Albanians, but also Serbs and others), of
whom some 4,000 to 4,500 in Montenegro. UNHCR noted that cautious return
movements began occurring to certain localities (such as Liboshtine in Glogovac)
and predicted that they might intensify were police forces to withdraw their
presence.

5. The period from April through June 1998 saw a series of trends, which
worked to increase the number of displaced persons, while triggering refugee flows
into Albania, FYROM and Bosnia and Herzegovina, as well as other States in the
immediate region and outside the region.

- Geographic spread of incidents. Security incidents spread beyond Srtica and
Glogovac to Klina in the Drenica region, and to the west and south into Decani
and Djakovica municipalities, bordering on Albania.
- Consolidation of KLA control over certain areas. The KLA consolidated its
control over significant portions of central regions of Kosovo west of Pristina,
connecting Drenica to the area immediately south, centred on the town of
Malishevo. They also achieved control over a large segment of the Pec-Prishtina
highway and a number of other roads, as well as portions of the area west of the
Djakovica-Pec road. Overall, more areas came under effective control, as
demonstrated by the growing number of attacks on police and others associated
with or sympathising with the Serbian authorities, as well as reported
kidnappings, hostage-takings and summary executions. For example, in the first
week of April 1998, the municipality of Oranovac was the scene of the brutal
murder of six Albanians considered to be "Serbian sympathisers."
- Increase in arms and firepower. The presence of Serbian special police armed
checkpoints and number of patrols in and around the Drenica triangle as well as
in municipalities near the Albanian border increased. At the same time, the
number of armed and uniformed persons identifying themselves as KLA
members grew sharply, as did the amount and firepower of their weapons and
the openness of their presence.
- Escalation on the border with Albania. As from early April, there were a series of
border incursions of armed men entering from Albania and the Yugoslav military
presence increased along the border. Incidents multiplied inside municipalities

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within Kosovo along the Albanian border, particularly Decani and Djakovica. On 29 May, Serbian police forces, supported by the Yugoslav Army, launched an offensive in the border municipalities of Djakovica and Decani in an apparent attempt to stop the movement of arms smugglers and KLA fighters. This massive operation caused a large refugee movement into northern Albania, as towns and villages were being heavily shelled, as well as significant movements of internally displaced persons within Kosovo and into Montenegro and, to a lesser extent, into other areas of Serbia.

- * *Violence began affecting all segments of the population.* Security incidents began to affect not only Kosovo Albanians, but also Serbs, Montenegrins, Roma and Muslim Slavs. Amongst displaced persons arriving in Montenegro were Roma, who alleged attacks on members of their community by Kosovo Albanians who consider them to be sympathisers of the Serbian authorities. A rise in the number of incidents involving civilians attacking other civilians for ethnically motivated reasons was noted. The ranks of the KLA also swelled with support from the local population, as well as the return via Albania of Kosovars previously living abroad. As KLA support grew, efforts began to bring the KLA to the negotiating table, in hopes of reaching a negotiated settlement. At the time of writing, there is no indication of progress to that end.

6. The following weeks saw growing international concern over developments and condemnation of the spiralling violence. On 14 May, the European Parliament characterised the conflict in Kosovo as a "low-level war" and expressed concern at the "continuing violence in that region, the systematic violation of human rights, ethnic discrimination, arbitrary police action and torture by the Serb authorities." In a Joint Statement issued in London on 12 June, the Contact Group reported that, "security forces have again intervened indiscriminately causing many civilian casualties and forcing tens of thousands of inhabitants to flee their homes." The Ministers also "condemned Belgrade's massive and disproportionate use of force which has resulted in wide-scale destruction and the deliberate displacement of large numbers of people." They requested the authorities to "cease all action by the security forces affecting the civilian population and order the withdrawal of security units used for civilian repression (as well as to) ... facilitate ... the full return to their homes of refugees and displaced persons." Yet the Serbian forces did not withdraw, as the KLA continued to operate from amongst the civilian population, although the offensive was halted temporarily. On 25 June 1998, the Council of Europe Parliamentary Assembly adopted a resolution requesting Member States "to act generously in granting asylum to refugees and asylum-seekers, having special regard to the needs of women and children; and not to send back to the Federal Republic of Yugoslavia Kosovo Albanians asylum-seekers whose applications have been rejected until such time as they can return in safety and dignity."

7. By 4 June 1998 -- some three months after the Drenica operation -- UNHCR estimated that 55,700 people had been displaced (45,000 internally displaced persons (IDPs) in Kosovo, 4,000 in Montenegro, 6,500 refugees in Albania and some 200 in FYROM). By 30 June 1998, UNHCR estimated that a total of 76,300 had been displaced: 52,900 within Kosovo alone, 13,400 IDPs in Montenegro, and 10,000 refugees in Albania.

8. As of the end of June until the time of writing -- the KLA attempted to expand its control to include urban areas in Kosovo and an all-out Serbian offensive to regain control over all main roads and road areas under KLA control. In the process, civilian populations have been particularly hard hit, despite the undertaking contained in the 1 July 1998 "Non-Paper of the Yugoslav Government on Kosovo and Metohija," that "the State guarantees that no repressive measures will be undertaken affecting civilian populations."⁹

9. The KLA apparently used the lull in fighting which had ensued after the 16 June meeting in Moscow to consolidate positions and even make substantial territorial advances. The main road between Pristina and Pec remained closed by the fighting, as the KLA appeared intent on forging a link between areas held in Western Kosovo and Dranica. On 28 June, KLA forces surrounded the village of Kijevu laying siege to its 200 inhabitants. In one of the more daring attacks, it also took the mining village of Belacevac, only 10 kilometers west of Pristina. On 1 July, after three days of fierce fighting, Serbian police forces announced that they had regained control of the mining village. Fighting also continued further west, along the Albanian border. On 3 July, the Serbian authorities also reportedly lifted the KLA siege of the Serb village of Kijevu, where 200 Serb civilians had been under attack for a week.

10. Meeting on 8 July in Bonn, the Contact Group noted with concern that "the prospects of a peaceful settlement" had "deteriorated", since its meeting in London on 12 June 1998. On 11 July, a KLA spokesperson, Isakop Kraniqi, was quoted in the Kosovo daily *Kohë Ditore*, as announcing that the KLA "would be in Pristina very soon." The KLA offensive to take the town of Oranovac, just 50 kilometres south-west of Pristina on 17, 18 and 19 July marked a qualitative and quantitative change in the nature of the Kosovo conflict. First, Oranovac was the largest town to be affected by the fighting, second, it marked the first effort by the KLA to capture a major town, and finally, it was the first time where the KLA announced that it had used heavy artillery. The civilian population was obliged to flee the town to Malisevo, a nearby town overflowing with IDPs, which later fell to a major Serb offensive at the end of July. July 18 and 19 also saw clashes on the Albanian border west of Decan, as the Serbian forces attempted to repel an incursion of KLA fighters from Albanian territory and later sustained pressure on border municipalities. In mid-July, the conflict also spread to the Pec area, with heavy fighting in Lodja, on the outskirts of the city.

11. In response to the change in KLA tactics, the Serbian authorities began an all out offensive on 25 July to retake areas under KLA control, designed initially to secure the Pristina-Pec and Pristina-Prizren roads. Following the retaking of Oranovac after a five-day battle, a major offensive was launched on a number of fronts in Malisevo and its surroundings, the Albanian border area and finally in Dranica itself. From 24 to 26 July major clashes erupted in the vicinity of Kijevu, Kijevu, Komorane, Lapurrit, Rudnik and Srbica. Sporadic fighting continued in

⁹ *Non-Paper of the Yugoslav Government on Kosovo and Metohija*, 1 July 1998, para. 5

the area of Pec and, on 25 and 26 July, in the vicinity of *Jenik*. On 22 July Yugoslav authorities also announced that they would widen the restricted security strip along its border with Albania to five kilometers. Finally, the first week of August saw substantial Serbian advances, particularly in the Drenica region and in Junik and its environs along the Albanian border, as well as a dramatic rise in the number of displaced.

12. By 11 August, UNHCR estimated the Kosovo displaced population in the region as follows: Kosovo, over 167,000; other parts of Serbia, 20,000; Albania, 13,000 (subject to verification); Montenegro, over 28,000; FYR Macedonia, over 600; and Bosnia and Herzegovina, 2,600. There are no indications that the displacement will cease in the immediate future and that substantial return movements are likely to begin.

13. The authorities have repeatedly offered to guarantee the unimpeded return of all displaced persons and refugees, most notably in the "Framework Programme for the Resolution of Humanitarian Problems within the Province of Kosovo and Metohija."¹⁰ During the month of July, an undetermined number of displaced Serbs and Roman were returned by the authorities to their homes near conflict areas, and were being provided with police protection. UNHCR also accompanied some return movements of Kosovo Albanians, such as to the locality of Ađe near Obilić, or has confirmed the return of some 2,000 people to the city of Orskovac. But while encouraging return, the authorities are doing many things to prevent it. Leaflets have been dropped urging displaced persons to return to their homes, but couched in terms unlikely to win the confidence of the population. Many Kosovo Albanians are fearful to return due to their homes owing to perceived risk of reprisal or persecution at the hands of police or security forces. Hence returns have largely involved women and the elderly, with men folk refusing to stay overnight. While the Serb authorities encourage the displaced to return home, they immediately summon men for "informative talks" which work to discourage return for fear of human rights violations. The destruction of homes has also led many to abandon hopes of immediate return, despite concern for the loss of crops, farm animals and other belongings. Substantial return movements have therefore failed to materialise, owing to persistent fears regarding security and the widespread destruction and pillaging of property by police and security forces.

¹⁰ 17 July 1998. "The Government has invited all persons who have temporarily left their place of residence to return, guaranteeing them full security. All important elements for the organized return of all persons who have temporarily left their homes have been established." Para. 3.