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PRAXIS

Analysis of the Situation of Internally Displaced Persons from Kosovo in Serbia

Law and Practice

Belgrade, March 2007

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Executive Summary
(including Findings & Recommendations)

Executive Summary

This report updates the "Analysis of the Situation of Internally Displaced Persons from Kosovo in Serbia and Montenegro: Law and Practice" produced by the Inter-agency IDP Working Group in October 2005[1]. It has been prepared through a joint effort of UNHCR and Praxis[2] and has been endorsed by a number of international organizations and international and local NGO's involved on a daily basis in IDP work.

The report is addressed to the Government of Serbia, as well as to the municipal authorities and other actors that have the capacity to create for IDPs dignified and humane living conditions while in displacement. It no longer addresses the situation of displaced persons from Kosovo residing in Montenegro, given the dissolution of Serbia and Montenegro in May 2006[3].

As in the previous reports of the Working Group, this updated document reviews and analyses the legislative and institutional framework concerning the situation of internally displaced persons (IDPs) in Serbia. Taking the rights and needs of IDPs as a starting point, the aim of the Analysis is twofold: to identify gaps in the system and to recommend solutions.

Despite the numerous recommendations of the WG in 2004 and 2005, most of the problems faced by IDPs in Serbia and Montenegro remain unresolved. The WG continues its work today with the participation of more than fifty organizations. The analysis and findings of this update report are based on the research and experience of its members and those of other stakeholders dealing with IDPs.

The past fifteen years have been tainted by conflict, post-conflict instability, strife and change for the peoples of the former Socialist Federal Republic of Yugoslavia. Serbia, like other former Republics, faces the dual challenge of facing new political, social and economic realities whilst resolving the difficult legacy of the past. Serbia still hosts some 300,000 persons displaced from the various conflicts in the former Yugoslavia (refugees and IDPs). Of this number, 206,879 are IDPs from Kosovo. The violence triggered by the 17 March 2004 events in Kosovo reversed the return momentum that had been slowly building up in previous years, and deepened the separation of its communities and lack of confidence in Kosovo structures.

IDPs are not the only vulnerable group in Serbia. Thus policy and institutional responses to the plight of IDPs often form part of broader strategies, such as with Serbia's *Poverty Reduction Strategy Paper*. Nevertheless, unlike other citizens of Serbia, IDPs often face barriers and obstacles in the realization of basic rights, including difficulties such as:

- Securing basic documents required to access social and humanitarian assistance;
- Registering residence;
- Finding suitable and stable basic accommodation; and,
- Accessing employment and collecting pensions.

[1] First published by the IDP Working Group in October 2004 and revised in October 2005.
[2] Local legal NGO which succeeded the office of the Norwegian Refugee Council in Serbia.
[3] The situation of displaced persons from Kosovo in Montenegro remains of concern to UNHCR, but will no longer be addressed alongside concerns relating to Serbia.

Seven years after their displacement from Kosovo, many IDPs continue to face difficulties satisfying basic needs on a daily basis. Many IDP families have missing family members; a situation that compounds their economic, social and emotional vulnerability.

The IDP population is composed of a number of communities. This study examines the additional concerns of two particular IDP communities: the Roma, Ashkaeli and Egyptian community (RAE) and persons who have been returned from Western European countries where they previously sought asylum.

During the last seven years, the Government has undertaken efforts to address the needs of vulnerable citizens, including IDPs. Many important human rights principles are entrenched in the Constitution. Despite these efforts, IDPs remain one of the most vulnerable groups in Serbia. The political stances taken by the Serbian Government in respect to Kosovo and its IDP citizens have meant that displaced individuals remain without prospects for a durable solution. Whereas the authorities pursue a policy of return to Kosovo, conditions on the ground dictate that most IDPs are unwilling or unable to go home. Integration has not been recognised as a solution for IDPs and the authorities have been reluctant to open avenues for projects that would enable displaced households to permanently settle in Serbia. The position of the Serbian authorities vis-à-vis IDPs remains largely political and does not adequately address the most existential rights and needs of the IDPs.

This analysis, like the previous ones, is divided into five chapters. The first chapter provides background information on the study, displacement and the present day problems of IDPs from Kosovo. An overview of the relevant international and domestic legal framework follows in the second chapter. Chapter three is divided thematically into sections addressing the key concerns of IDPs. Chapter four examines the challenges of particular IDP communities and chapter five sets out conclusions.

IDPs are victims of the armed conflict and are in a continued need of assistance. It is the firm belief of all stakeholders dealing with IDPs that it is in the interest of the Government of Serbia and its society to improve the standard of living for its IDP citizens. This study aims to assist the Government of Serbia and all other relevant institutions to help alleviate the situation that IDPs are facing and assist the IDPs in their search for a durable solution.

The recommendations of this updated analysis are as follows:

Recommendation 1:
The Government of Serbia should ensure the implementation of the existing strategies targeting IDPs. It should provide the Commissioner for Refugees with the mandate and adequate funds to assist and protect all IDPs with the aim of achieving a comprehensive and harmonized institutional response to their situation.

Recommendation 2:
The competent authorities in Serbia and Kosovo should negotiate the exchange of all existing registers/archives/files from administrative offices in Serbia and Kosovo, and should reciprocally recognize the validity of documents in order to alleviate difficulties faced by IDPs in accessing their documentation and basic rights.

Recommendation 3:
The competent authorities in Serbia should review the procedures for obtaining personal documentation at the municipal level and introduce simplified, flexible and transparent procedures for IDPs by removing all unnecessary bureaucratic and administrative obstacles.

Recommendation 4:
The competent authorities in Serbia should amend the existing laws on administrative proceedings and/or establish a new non-contentious procedure for determining the fact of birth.

Recommendation 5:
The competent republican and municipal authorities should enhance the material and human resource capacities of the dislocated registry offices, and use all available means to digitalize data contained in the dislocated registry books and harmonize the systems with the digitalized local registry books.

Recommendation 6:
The competent authorities in Serbia should continue to demonstrate flexibility in reviewing the policy and procedure for registering permanent residence for IDPs, taking into consideration their precarious economic and property situation.

Recommendation 7:
The Government and local authorities should, in coordination with international agencies and donors, urgently seek alternative housing arrangements for IDPs without adequate housing, as well as appropriate institutional arrangements for vulnerable individuals including social housing, foster care or care homes. It should develop a comprehensive plan and take measures to provide IDPs with an adequate standard of living.

Recommendation 8:
The Serbian authorities should undertake measures to enable full access to health services for IDPs who face problems with documentation and should pay special attention to vulnerable groups within the IDP population.

Recommendation 9:
The courts in Serbia should apply relevant laws without unnecessary delay, and the competent authorities in Serbia should recognize, without undue expense, duplicates of school certificates issued by the competent authorities in Kosovo in order to enable the continuation of schooling of IDPs.

Recommendation 10:
The competent authorities in Serbia should amend the existing Rulebook on Work Booklets and establish clear and unified procedures for obtaining work booklets for IDPs to enable their access to the labour market and existing unemployment benefits. They should recognise work-related documents issued by the competent authorities in Kosovo in order to facilitate the issuance and reconstruction of destroyed/missing work booklets.

Recommendation 11:
The Serbian Fund for Pension and Disability Insurance should recognize documents issued by the competent authorities in Kosovo, including M4 Forms until a sustainable solution to pension rights is found and institutional cooperation between pension funds in Kosovo and in Serbia is established.

Recommendations specific to the protection and assistance of Vulnerable IDP groups:

Recommendation 12:
The competent authorities in Serbia should undertake urgent measures to address the problems of registration and lack of personal documents of Roma, Ashkaeli and Egyptian IDPs thereby ensuring their recognition before the law and removing obstacles for them to access their basic socio-economic rights.

Recommendation 13:
The competent authorities in Serbia should take every measure to prevent and resolve possible cases of statelessness among RAE IDPs lacking documentation.

Recommendation 14:
The competent authorities in Serbia should enact legislation on evictions, harmonized with relevant European and international standards, in order to prevent the forced eviction of IDPs who live in illegal/informal settlements without the provision of adequate alternative solutions. The authorities should ensure that evictions do not result in individuals being rendered homeless or vulnerable to human rights abuses.

Recommendation 15:
The competent authorities in Serbia should ensure the full application of Article 11 of the Law on Health Care and Article 22 of the Law on Health Insurance providing health care for Roma who do not have permanent or temporary residence in the Republic.

Recommendation 16:
The competent authorities in Serbia should ensure that RAE IDP children fully enjoy the right to education and should create conditions for educational opportunities in the respective languages of national minorities. They should take all necessary measures to prevent the segregation of RAE children in schools.

Recommendation 17:
The competent authorities in Serbia should implement the recommendations of the four adopted thematic Roma National Action Plans. They should adopt and ensure the implementation of the outstanding thematic Roma National Action Plans without delay, especially the National Action Plan focusing on Roma IDPs.

Recommendation 18:
The competent authorities in Serbia should enable the full participation of Roma and RAE IDPs in processes related to the improvement of their living conditions and their integration into Serbian society, as well as establish dialogue and reliable partnerships at all levels of the society.

Recommendation 19:
The Serbian Commissariat for Refugees should issue IDP cards to all persons who have been returned into secondary displacement in Serbia (not including Kosovo) from countries where they have sought asylum following the Kosovo conflict, as they are internally displaced within their own country.

Chapter I

Background

Purpose of the Analysis

This Report updates the "Analysis on the Situation of Internally Displaced Persons from Kosovo in Serbia and Montenegro" produced by the Inter-agency IDP Working Group in October 2005.[1] The Working Group brings together international, regional and local organizations providing assistance and protection to IDPs from Kosovo.[2] It provides a forum for sharing experiences and coordinating strategies and programs for beneficiaries.

The original Report examined the needs of IDPs in Serbia and Montenegro except for those displaced in the United Nations administered province of Kosovo. Using the most pressing needs of IDPs as a starting point, the aim of the study was twofold: to identify gaps in the legal system and to recommend solutions. The study also examined the extent to which domestic laws conform to international norms on the treatment of IDPs. The objective was to provide authorities with a comprehensive document that can act as a tool to better assess the strengths and weaknesses of their laws and policies in tackling the important issue of IDPs.

The original document consisted of 19 Recommendations. It was widely distributed to the authorities at all levels: the State Union, the member states and the local level. It was also distributed to other stakeholders involved in the process of advocating for the rights of IDPs, i.e. to international and local NGO's, international organizations, IDP representatives and other interested parties.

One year after the publishing of the initial study the results were disappointing. Only two Recommendations were fully implemented by the authorities in Serbia, while the other problems and obstacles, especially of IDPs in Montenegro remained unresolved. As a result, a minor revision of the study was conducted by UNHCR and the revised document published in October 2005.

In May 2006 the State Union of Serbia and Montenegro was dissolved and the two member states became independent countries. The development had a major effect on the position of the displaced persons from Kosovo residing in Montenegro, as their status remains unclear and unresolved, leaving them in a situation of renewed uncertainty and with new problems and obstacles.

Consequently UNHCR and its legal implementing partner "Praxis" prepared a new document, which represents an update and continuation of the original study, but focuses only on the needs and problems of IDPs in Serbia.

[1] The Working Group was established in 2002 by the joint leadership of the United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA) and the United Nations High Commissioner for Refugees (UNHCR). Initial members include the United Nations Development Program (UNDP) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), as well as the non-UN organizations of, the International Federation of the Red Cross and Red Crescent Societies (IFRC), Organization for Security and Co-operation in Europe Mission to Serbia and Montenegro (OSCE), the Norwegian Refugee Council (NRC), the Danish Refugee Council (DRC) and Group 484.

[2] For more information on the structure, mandate and activities of each organisation, consult websites at *http://ochaonline.un.org, www.undp.org, www.ohchr.org, www.ifrc.org, www.nrc.no and www.grupa484.org.yu, www.osce.org/sim, www.drc.dk*

Overview of History and Problems Encountered by IDPs

The armed conflicts of the 1990s in the former Socialist Federal Republic of Yugoslavia (SFRY) caused hundreds of thousands of persons to flee for their lives to other parts of their country and to other parts of the world. Many fled between 1991 and 1995 at a time of great instability in the region. The signing of the Dayton Agreement at the end of 1995 brought peace; however, a few years later, the violence in Kosovo intensified. The conflict between Serbian security forces and Kosovo-Albanian forces started towards the end of 1998 and reached its culmination with the North Atlantic Treaty Organization (NATO) bombing campaign against the former FRY, which lasted from 24 March 1999 to 11 June 1999.

The fighting ended with the signing of the Kumanovo Military Technical Agreement and, on 10 June 1999, United Nations Security Council Resolution 1244[3] was adopted, establishing Kosovo as an international protectorate. On 12 June 1999, the NATO-led international force "Kosovo Force" (KFOR) entered Kosovo as a peace-enforcement force under the United Nations mandate. KFOR was entrusted with establishing and maintaining security in Kosovo and, as a part of its duties, creating a secure environment that would allow refugees and displaced persons to return home in safety[4]. As Serbian security forces withdrew from the Province and international peacekeepers moved in, Kosovo Albanians that fled the conflict returned to Kosovo *en masse* while large parts of the non-ethnic Albanian population were forced to flee to escape violence. The majority of IDPs in Serbia today are ethnic Serbs (75%) and RAE (10%) who fled Kosovo in 1999 after the United Nations assumed responsibility for the Province under the mandate of the United Nations Interim Mission in Kosovo (UNMIK)[5].

In May 2006 the State Union of Serbia and Montenegro dissolved and the two member states became independent countries. Today, seven years after the conflict in Kosovo ended, the number of IDPs from Kosovo in Serbia still remains high: 206,879 persons. At the same time 16,202 Displaced persons from Kosovo remain in Montenegro, where their situation and status remain unresolved. Approximately 22,000 RAE are registered as IDPs[6], though there are estimates that the number of RAE IDPs is much higher, ranging from 40,000 to 50,000 persons[7]. In Serbia, a large majority of IDPs is concentrated in the central and southern parts of the Republic[8].

According to UNHCR sources, since 1999 15,859 persons have returned to Kosovo. These include both returns from internal displacement within Kosovo and other parts of both Serbia and Montenegro, as well as from external displacement within the region and other countries. According to these sources, 7,052 are Kosovo Serbs, 4,324 are Ashkaeli and Egyptian, 1,858 are Roma, 1,403 are Bosniaks, 585 are Goranis and 637 are ethnic Albanians[9]. It is estimated that 277 persons (93 families) fled Kosovo to Serbia following the events of 17 March 2004.

[3] See S/RES/1244 (1999), 10 June 1999.

[4] UN Security Council Resolution 1244, S/RES/1244 at paras. 9(c) and 11(k). Also, KFOR sets out its history and mandate at *www.nato.int/kfor*

[5] Global IDP Project (Norwegian Refugee Council), *Profile of Internal Displacement: Yugoslavia (Federal Republic of) – Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council*, December 2002 at pp. 10 and 11 citing UNHCR 2001.

[6] Figures taken from registration in spring 2000 and in 2001 during the IDP census in Serbia.

[7] As large numbers of Roma tend to avoid any contact with state authorities, it is difficult to come up with a solid number. Estimates are based on the number of Roma who used to live in Kosovo and on numbers provided by Roma NGOs. According to the 1991 census, 44,307 persons declared themselves to be Roma in Kosovo. However, as it was difficult to have access to all parts of Kosovo, the estimates were that there were about 46,000 Roma in Kosovo. In the 2002 research study conducted by the Ministry for Human and Minority Rights together with the Centre for Ethnicity Research, *Roma Settlement, Living Conditions and Possibilities for the Integration of Roma in Serbia*, 2002, it was estimated that there were 46,238 Roma IDPs in Serbia (at p. 14).

[8] Annex 4 "IDPs in Serbia (breakdown by Municipality of Origin)", UNHCR.

[9] UNHCR OCM Pristina, Minority Voluntary Return to Kosovo, October 2006.

Much has been written over the years about the plight of refugees and IDPs in Serbia[10]. As Kosovo IDPs now enter their seventh year in displacement, their lives are still characterized by the daily struggle to survive and a lack of real choice concerning the future. Given the continuing political fragility of Kosovo, the divergent expectations surrounding political negotiations on its future status and the continuing unstable security situation in Kosovo, return has been a realistic option for only a very few. The fact remains that today more members of ethnic communities are leaving Kosovo than returning there.

In addition to basic survival needs, major problems faced in displacement include lack of adequate accommodation, lack of documentation and problems with registering residence. Many IDPs temporarily residing in different parts of Serbia are in need of basic identity documents (such as birth certificates or citizenship certificates) that can only be issued from registry books that were transferred from Kosovo to seven southern municipalities of Serbia in 1999 (henceforth referred to as "dislocated registry books")[11]. Many IDPs, especially RAE, have never been registered in these records. They urgently need to be registered in order to be able to exercise their rights as citizens, yet there is no mechanism in place to assist them. In Serbia, addressing these problems has been made more difficult due to the lack of a clear government policy on the protection of IDPs, as well as to numerous administrative and bureaucratic obstacles.

Throughout the seven years since the IDPs from Kosovo arrived in Serbia, their legal rights related to accommodation, employment, pension, freedom of movement, health care, and education have at times been unclear, neglected and unresolved. This study will examine each of these topics along with a discussion of two particularly vulnerable communities within the IDP population – the Roma and persons returned from Western Europe under readmission agreements. These issues overlap and intertwine and sometimes spring from the same root problem. For this reason, the classifications are used here as only an aid to understanding the nature and scope of the difficulties and thus to facilitate the identification of appropriate solutions. What is needed is a coordinated, multifaceted approach to resolving *all* of these issues. This will permit this part of the citizenry to find greater stability in their daily lives and begin again to contribute to and partake in broader society.

[10] Though much of the literature addresses refugees primarily, treating the situation of IDPs analogously by applying the same strategies applied to the refugee community.

[11] These registry books were removed from Kosovo in June 1999 and brought to numerous locations in central and south Serbia where Kosovo municipalities "in exile" were established. See discussion in Documentation section for listing to dislocated registry offices.

Chapter II

Legal Framework

International Law

The international legal framework for protection of Internally Displaced Persons (IDPs) includes International Human Rights Law and International Humanitarian Law. Refugee Law is not directly applicable but, because IDPs suffer similar experiences, this body of law is often useful by way of analogy[1]. The UN has produced the UN Guiding Principles on Internal Displacement, a document that presents a major contribution to protection of IDPs. This document was drafted by Mr. Francis Deng, the Representative of the Secretary General on Internally Displaced Persons, as an instrument to guide states and state actors in their relation to IDPs as well as inter-state and non-governmental organizations dealing with IDPs. Although this document is not legally binding as such, it restates existing principles of international law which are applicable to IDPs and seeks to fill in and clarify grey areas and gaps. It identifies human rights relevant for protection of IDPs in all phases of displacement. The General Assembly's 2005 World Summit reiterated the Guiding Principles as "an important international framework for the protection of human rights" through its resolution. Similarly, a number of national legislative bodies, executives and courts have used this document in the developing of the domestic law and policies concerning IDPs[2].

Serbia is party to all major international treaties of human rights and humanitarian law which form the UN Guiding Principles and the protection of IDPs[3]. These obligations bind the authorities in their interpretation and application of domestic and constitutional laws. According to Article 16 of the Serbian Constitution, international customary law and ratified international conventions are part of the legal system and are directly applicable in the territory of the Republic of Serbia. Article 18 of the Constitution establishes the direct applicability of human and minority rights provided for in international instruments as ratified by the State.

Constitutional and Legislative Framework

The newly-adopted Serbian Constitution[4] ("Constitution") guarantees human and minority rights provided by international law and international treaties. As stated in the Constitution, provisions related to human and minority rights are to be interpreted in favour of enhancement of a democratic society, in accordance with international human and minority rights standards, as well as practices of international institutions that monitor their implementation[5].

As a novelty, the Constitution introduces "collective rights" for members of minorities, such as: prohibition of discrimination, affirmative action, equality in participation in public affairs, prohibition of forcible assimilation, right to preservation of identity, etc. At the same time, in Article 81 the Republic of Serbia undertakes the responsibility of developing a society based on tolerance.

[1] Deng, Francis M., *Compilation and Analysis of Legal Norms*, Report of the Representative of the Secretary-General submitted pursuant to United Nations Commission on Human Rights Resolution 1995/57, Doc. No. E/CN.4/1996/52/Add.2 at paras. 24-26.
[2] Guide on International Human Rights Mechanisms for Internally Displaces Persons and their Advocates.
[3] Annex 2 "List of Relevant International Instruments to which Serbia is a Party".
[4] Adopted on 10 November 2006.
[5] Serbian Constitution, Article 18.

The *Law on Protection of Rights and Freedoms of National Minorities* protects individual and collective rights of persons belonging to minorities. This law was adopted by the State Union of Serbia and Montenegro in 2002 and remains in effect in the Republic of Serbia after the dissolution of the State Union. This law specifically mentions RAE, an ethnic community particularly affected by internal displacement. The Law obliges authorities to adopt laws and other measures to improve the situation of RAE and prohibits all forms of discrimination towards national minorities.

The *Law on Local Self Government* adopted in 2002 may also be considered as an important law in the general discussion on IDPs, as it delegates authority to local communities and provides opportunities for the financing and organization of minority communities in various fields such as education and culture. The local authorities and residents can play a crucial role in the acceptance, integration or reintegration of an IDP community.

Institutional Framework

There is no institution within the Serbian administration that has an explicit mandate for the protection and assistance of IDPs. However, two Government institutions cover a limited scope of activities and responsibilities related to IDPs in Serbia: the Serbian Commissariat for Refugees and the Kosovo Coordination Centre.

The **Serbian Commissariat for Refugees (SCR**) is a body established by the 1992 *Law on Refugees*. Since 1999, its responsibilities have been expanded to provide assistance to the most vulnerable IDPs that reside in collective centres. The SCR administers collective centres and issues IDPs cards. The Refugee law has not been amended to provide the Commissioner for a specific mandate in relation to IDPs. Indeed, there is no legally binding document that defines the status of IDPs and their protection and assistance in Serbia.

The Government of the Republic of Serbia established the **Kosovo Coordination Centre (CCK)** in 2001 as a focal point for resolving issues related to Kosovo and to coordinate activities concerning IDPs with respect to both humanitarian assistance and return. The main task of CCK includes the coordination of state actors and agencies in resolving issues relating to Kosovo with full observance of UN SC Resolution 1244, and monitoring implementation of UNMIK-FRY Document, signed in 2001[6].

Social benefits are an important aspect of IDP protection due to the economic vulnerability of IDPs. The **Ministry for Labour, Employment and Social Policy** is a key institution, as it provides social assistance benefits in four areas: 1) pensions, 2) disability allowance, 3) children's allowance, and 4) family financial support. IDPs as citizens should be in a position to access these benefits without any discrimination.

With the dissolution of the State Union, the Ministry for Human and Minority Rights was replaced by the **Office for Human and Minority Rights** with the lower administrative status of a Government Office. The Office is responsible for the protection of human and minority rights. An important part of this Office is the Roma Secretariat, tasked with initiating, coordinating and following the implementation of the Roma National Action Plans. It should also deal with the rights of RAE IDPs[7].

[6] *Op. cit.* the Government of Serbia, *National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons*, Belgrade May 2002 at p.10. In November 2001, the head of the CCK, Mr. Nebojsa Covic and UNMIK signed the "Common Document" outlining their future co-operation.

[7] See Chapter IV.

As IDPs are citizens of Serbia, all relevant ministries share fundamental responsibilities towards them however, there is little administrative coordination on IDP issues. The absence of a comprehensive approach towards IDPs in Serbia, has resulted in major gaps in the enjoyment of their rights and in the provision of social assistance.

Policy Framework

In May 2002, the Government of the Republic of Serbia, in cooperation with International Agencies (UNHCR, UNOCHA and UNDP), developed and adopted the *National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons*. This document represents an effort to resolve outstanding humanitarian issues relating to displacement but focuses more on refugees than on IDPs. It does, however, advocate for the regular provision of information to IDPs on all relevant issues related to the exercise of their rights by the establishment of separate information points throughout Serbia and greater engagement of the media, following initiatives and proposals of the Coordination Centre[8].

The *Poverty Reduction Strategy Paper for Serbia (PRSP)* is a strategic document aimed at minimizing poverty and enhancing employment opportunities for vulnerable groups in the society. IDPs are mentioned in this document as one of the vulnerable categories. The PRSP was prepared with input from civil society and other actors.

With the support and assistance of international community, the State Union Ministry of Human and Minority Rights finalized a *Draft National Strategy for the Integration and Empowerment of Roma* in 2002 as a tool in the implementation of the *Law on Protection of Rights and Freedoms of Minorities*. This document has not been adopted by the Government of Serbia to date. However, the Government has taken account of the recommendations stated in the Strategy by the adoption of Action Plans based on these recommendations. Four major areas were defined as priorities: education, housing, employment and health. The Government adopted these four Roma National Action Plans in 2005 and initiated their implementation. However, the additional eight action plans (Documentation, Specific Position of Women, Media and Information, Culture, Internally Displaced Persons from Kosovo, Returnees from Western Europe, Social Policy, and Anti-discrimination) still remain in the draft phase and have not been adopted by the Government.

Policy commitments outlined in the Strategies and Action Plans adopted by the Serbian Government provide a good basis for the resolution of many problems faced by IDPs in Serbia. However, the implementation of these strategies leaves much to be desired.

Recommendation 1:

The Government of Serbia should ensure the implementation of the existing strategies targeting IDPs. It should provide the Commissioner for Refugees with the mandate and adequate funds to assist and protect all IDPs with the aim of achieving a comprehensive and harmonized institutional response to their situation.

[8] See the *National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons, at pp. 26* and 27.

Chapter III

Problems Facing Internally Displaced Persons

"National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to IDPs within their jurisdiction."

Principle 3, Paragraph 1, UN Guiding Principles on Internal Displacement

Nothing much has changed for IDPs in Serbia during the last seven years. They remain voiceless for the most part. Their presence is hidden in statistics on refugees, the homeless, the sick and the impoverished. Most of the problems they face daily are documented only in testimonials from IDPs themselves given to aid agencies and set out in the field reports from international, regional and local organisations working with them. The picture of obstacles often confronted by IDPs emerges quite clearly from their many stories with recurring themes. However, the various responses to these problems do not come through quite so clearly, and are not so transparent. On what basis was the request for a document denied? Why does one ministry deal with IDPs and another not? Why are IDPs excluded from some assistance programmes? Why are IDPs subjected to more procedural requirements in accessing health services than other citizens? Does the problem lie in the implementation of the law or in the way officials interpret that law? The questions go on. The diverse answers are: everything has to be in accordance with the law, IDPs are citizens and must undergo equal treatment, the laws are not being implemented well, this will be solved, a new strategy/action plan will be drafted and adopted, etc. Yet, IDPs remain frustrated and continuously have to surpass numerous obstacles that cost money, time and nerves.

Thus, the objective of this chapter is to draw attention to the real and most pressing problems of IDPs, advocate for due examination of these problems, and to point out ways to assist in tailoring appropriate solutions.

Most IDP problems are intertwined. For lack of a birth certificate, the IDP could not obtain an identity card and for lack of an identity card, the IDP could not access housing and employment without which she/he became homeless. The problems are also linked partially at their root: as the target of discrimination, an IDP finds many doors to the basics of life closed to him. IDPs in Serbia are exposed to discrimination – direct and indirect – regarding, above all, registering their residence and obtaining personal documents, without which they have difficulties accessing other rights.

ONE: Documentation[1]

> *"Every human being has the right to recognition everywhere as a person before the law."*
> Principle 20, Paragraph 1, UN Guiding Principles on Internal Displacement

> "*[...] the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates..."*
> Principle 20, Paragraph 2, UN Guiding Principles on Internal Displacement.

IDPs are citizens of Serbia with all the same rights as other citizens. As other citizens, IDPs are required to present adequate documentation which demonstrates their legal identity in order to exercise their rights and fulfil civic obligations, Many IDPs lack the basic documents essential for accessing core civil, political, economic and social rights. Without adequate documentation, they face significant obstacles in re-establishing a normal life in displacement and in their search for a durable solution.

(A) Essential Documents

The most important documents to citizens of the Republic of Serbia are the ones serving as direct proof of their legal identity before domestic and international authorities. They are the following documents:

IDP Card

IDP Cards were issued during the 2000 registration of IDPs conducted by the Serbian Commissioner for Refugees (SCR). The IDP Card enables IDPs to access collective accommodation, humanitarian aid and health protection. While the SCR asserts that the process of issuing IDP cards is an on-going process, the criteria for the issuance of IDP cards are not always self-evident. For example, IDP Cards are not issued to persons originating from Kosovo, who are returned to Serbia from other countries, regardless of the fact that they would be considered as internally displaced persons under international law.

Birth Certificate

This is the most detailed proof of legal identity. A birth certificate is a precondition for obtaining all other relevant documents and accessing a wide range of rights. The Law on Civil Registry Books[2] requires children to be registered within 30 days of birth. In exceptional circumstances, the birth can be registered after the 30-day deadline, under specific conditions.

Marriage Certificate

This document acts as the key proof of marital status and provides access to a diverse range of rights.

Death Certificate

This document is the primary proof of a person's death and enables access to rights related to the deceased person's possessions.

[1] Most of the information on documentation has been taken from the extensive report prepared by Praxis – "Access to Documents for Internally Displaced Persons in Serbia" – February 2007.

[2] Law on Registry Books, *Official Gazette of the Socialist Republic of Serbia*, No. 15/90 and *Official Gazette of the Republic of Serbia*, No. 57/03 and 101/05 – other law.

Citizenship Certificate
Such documentation is the primary and detailed proof of citizenship and allows access to documents and rights related to citizenship.

ID Card
Legislation[3] requires citizens to possess and carry the ID card upon reaching the age of 16, under threat of financial penalty.

Work Booklet
This is a record of employment, providing details on the person's education and work experience. The purpose of the work booklet is to provide access to unemployment benefits and pension rights as well as assisting access to new employment.

Years of Service "M-4 form"
This document provides a record of an employee's years of insurance, income, remuneration, insurance basis and paid taxes/contributions. It contains precise data on personal income and payment of all related taxes/contributions during employment, and serves as the basis for determining the level of pension.

IDPs need various other documents to realise their rights including: property ownership certificates; copies of cadastral plans; educational diplomas and certificates; school files; verified copies of driving licenses; confirmations of successful driving exams; certificates from the Pension Administration of Kosovo/old pension decisions; health cards; medical files; housing purchase contracts; confirmation that they do not own real property; inheritance decisions; court judgments; proof of a clean criminal record; etc.

(B) Dislocated Registry Offices

In June 1999, the Serbian authorities moved registry books (which include proof of birth, marriage, death and citizenship) from Kosovo to a number of municipal registry offices in Central and Southern Serbia, creating so-called "dislocated registry offices"[4]. Police offices were also dislocated from Kosovo to Central and South Serbia. The registry books from Kosovo are administered by the following registry offices:

Municipality/registry office in Serbia	Municipality/registry office in Kosovo
Nis	Pristina, Podujevo, Glogovac, Obilic, Lipljan and Kosovo Polje
Kragujevac	Pec, Istok and Klina
Kraljevo	Kosovska Mitrovica, Srbica, Zubin Potok, Vucitrn, Zvecan and Leposavic
Krusevac	Prizren, Orahovac, Suva Reka and Gora
Jagodina	Djakovica and Decani
Vranje	Gnjilane, Vitina, K. Kamenica and N. Brdo
Leskovac	Urosevac, Kacanik, Stimlje and Strpce

[3] Law on Personal Identity Card, *Official Gazette of the Socialist Republic of Serbia*, No. 15/74, 54/77, 57/80, 45/85 and 40/88 prescribed the obligation of possessing and carrying ID card upon reaching 18. The new law applicable as of January 27, 2007 prescribes the obligation of possessing and carrying an ID card upon reaching 16 years (Law on Personal Identity Card, *Official Gazette of the Republic of Serbia*, No. 62/06).

[4] *See* Article 2 of the amended (in 2003) Law on Registry Books, *Official Gazette of the Socialist Republic of Serbia*, No. 15/90, *Official Gazette of the Republic of Serbia*, No. 57/03. "Dislocated" registry offices merged with the existing registry offices in Serbia, which took over the administration of the books.

The dislocated registry books and archives are often situated far from the IDPs' place of residence[5]. For example, IDPs who do not have ID cards or whose ID cards have expired or been lost, may obtain new ones in the dislocated police stations. Since the request for obtaining ID cards must be submitted and collected in person, IDPs accommodated throughout Serbia are required to travel to various locations in Central and Southern Serbia. Even if IDPs possess all documents necessary to obtain an ID card, limited financial means to pay for travel and administrative fees and the difficulties of travel for older IDPs, often prevent them from doing so. There have been numerous cases where IDPs have had to travel more than once to the same distant offices responsible for providing the necessary data (documents, JMBG[6], etc) or stay overnight.

Moreover, in order to access a range of rights IDPs must present valid documents (birth, marriage, citizenship certificates, etc) which have been issued within the previous six months – a requirement which may necessitate relatively frequent and costly travel. This practice has most seriously affected Roma, Ashkaeli and Egyptian (RAE) IDPs who lack knowledge of procedural requirements and/or are not fully skilled in Serbian language and lack the financial means to frequently go to the dislocated registries. Furthermore, the very limited *ex officio* cooperation between administrative organs places the burden of acquiring documentation on IDPs. Even when such cooperation is possible, often there is a lack of willingness to assist the clients[7].

Until July 2005, the registry offices requested personal presence for obtaining registry book excerpts. IDPs who were unable to travel to distant registry offices could obtain documents only by issuing powers of attorney verified at courts to authorized persons. IDPs were assisted in this regard with free legal aid by several NGOs in Serbia. As a result of advocacy conducted by one such NGO, Praxis, the registry offices have changed their practice and started processing IDP requests submitted by post, as in accordance with the law[8].

Recommendation 2:

The competent authorities in Serbia and Kosovo should negotiate the exchange of all existing registers/archives/files from administrative offices in Serbia and Kosovo, and should reciprocally recognize the validity of documents in order to alleviate difficulties faced by IDPs in accessing their documentation and basic rights.

Recommendation 3:

The competent authorities in Serbia should review the procedures for obtaining personal documentation at the municipal level and introduce simplified, flexible and transparent procedures for IDPs by removing all unnecessary bureaucratic and administrative obstacles.

(C) Administrative Fees

One of the few Recommendations of the previous IDP Gap Analysis taken into consideration by the Serbian authorities was to reduce administrative fees related to access to documentation for IDPs. The 2005 amendments to the Law on Republic Administrative Fees[9] were adopted reducing by 70% the Republic fees for refugees and IDPs who request the issuance of documents from registry books.

[5] See Annex 3.

[6] Citizens Unique Personal Identification Number which every person should receive at birth.

[7] An example of good practice is the Vrsac Social Welfare Centre which assists IDPs in obtaining documents by submitting official requests on behalf of the IDPs from the Dislocated Offices.

[8] See Article 54 (2) of the Law on General Administrative Procedure, *Official Gazette of the Federal Republic of Yugoslavia*, No. 33/97 and 31/01.

[9] The Law on Amendments to the Law on Republic Administrative Fees, *Official Gazette of the Republic of Serbia*, No. 61/05.

However, there are problems in the implementation. IDPs are rarely informed about their right to this fee reduction when filing requests for documents at registry offices. Most registry offices fail to place such information visibly in their premises. Thus, for the most part IDPs remain unaware of their rights.

Sometimes persons submitting a request for the issuance of documents can be fully exempted from paying the republic administrative fee, pursuant to the Law on Republic Administrative Fees[10]. Such is the case when documents are needed for exercising the right to social welfare benefits and to issues related to military service or employment.

Unless they are already aware of these rights, IDPs are not able to exercise them as the registry offices do not as a matter of course provide them with this information.

Besides Republic fees, there are also Municipal administrative fees required for the issuance of certain documents. However, there is no evidence that municipalities reduce such fees for IDPs.

(D) Civil Registration

A significant number of IDPs have never been registered in birth and citizenship registers nor have they ever registered their permanent residence in Kosovo. Among the general IDP population, the lack of residence registration mostly affects RAE IDPs. Consequently, they do not possess relevant personal documents and cannot prove their identity and status before state organs. There are also many IDPs affected by destroyed or missing registry books.

According to existing legal regulations[11], there are two administrative procedures for determining/registering of the aforementioned facts in the registry books:

1. **re-registration** – in cases when the person *had been registered* into registry books, but the records are destroyed or missing;

2. **subsequent registration** – when a person *had never been registered* into registry books.

Re-registration into Registry Books

According to law, when registry books are destroyed or missing, the registry office is obliged to initiate the reconstruction of registry books without delay using all available data collected either *ex officio* or from interested citizens[12]. Registry offices form commissions to monitor the legality, accuracy and speed of reconstruction and collect data relevant to the process. The Decision on Reconstruction of Registry Books is to be publicly announced. Only in cases when data cannot be obtained the registry office may require citizens to provide missing data. If the data is unavailable, citizens should provide information to assist the registry office in pursuit of that data.

[10] Law on Republic Administrative Fees, *Official Gazette of the Republic of Serbia* No. 43/03, 51/03-correction, 61/05, Article 19.

[11] The Law on Civil Registry Books, *Official Gazette of the Socialist Republic of Serbia*, No. 15/90 and *Official Gazette of the Republic of* Serbia, No. 57/03, the Instruction on Administration and Forms of Registry Books, *Official Gazette of the Socialist Republic of Serbia*, No. 48/90 and *Official Gazette of the Republic of Serbia*, No. 22/91 and the Law on General Administrative Procedure, *Official Gazette of the Federal Republic of Yugoslavia*, No. 33/97 and 31/00.

[12] Article 38 of the Law on Registry Books, *Official Gazette of the Socialist Republic of Serbia*, No.15/90 and Official Gazette of the Republic of Serbia, No. 57/03. Article 96 or the Instruction on Administration and Forms of Registry Books, *Official Gazette of the Socialist Republic of Serbia*, No. 48/90 and Official Gazette of the Republic of Serbia, No. 22/91.

The re-registration procedure is initiated by filing a request for re-registration with supporting documents to the competent registry office. Depending on the fact/s that need to be re-registered, some of the following supporting documents (originals or verified copies) must be submitted:

1. birth certificate issued before 1999
2. citizenship certificate issued before 1999
3. marriage certificate issued before 1999
4. death certificate issued before 1999
5. ID card

The complete procedure, following submission of all required documents, lasts 1-6 months. However, each registry office has its own additional/alternative requirements, which may prolong the procedure.

The problem often arises that IDPs are not able to provide all required documentation. In such cases the practice of registry offices varies as follows:

- Some registry offices conduct re-registration only of certain facts on the basis of available documentation. For example, if a person possesses only an old birth certificate, the relevant entry will be re-registered into birth registry books, but not in the citizenship registry books and vice versa; if a person possesses only a copy of an ID, the fact of citizenship will be re-registered into the citizenship registry book, but not the fact of birth into birth registry book.
- Most registry offices refuse to accept requests with incomplete supporting documentation without any written notice. Furthermore, requests sent by post usually do not receive a response. This practice contravenes the law, as the administration is obliged to accept every request and properly process it according to law[13].
- Most registry offices do not conduct the re-registration on the basis of an unverified copy of an old certificate.
- Some registry offices accept as evidence the certificates of close family members.
- If persons do not possess any evidence, they are instructed to initiate a court procedure.

Subsequent Registration

Persons who have never been registered at birth and in citizenship books are usually referred by administrative organs to initiate a court procedure. Depending on the case, the following documents are needed:

1. Medical documentation for children (vaccination card, hospital release list if the child was born in hospital) or verified statements of two childbirth witnesses (if the child was born in some other place);
2. birth certificate for parents (not older than six months);
3. marriage certificate for parents (not older than six months);
4. citizenship certificates for parents (not older than six months);
5. copies of parents' ID cards;
6. certificate documenting non-registration in registry books (according to a parent's place of residence); and,
7. certificate of school enrolment (for a child over the age of seven).

The complete process, following submission of all required documents, lasts 1-5 months.

If a person is not able to provide the required evidence, the Instruction on Administration and Forms of Registry Books envisages that the competent administrative organ should *ex-officio* try to obtain evi-

[13] *See* Article 56 and 58 of the Law on General Administrative Procedure, *Official Gazette of the Federal Republic of Yugoslavia*, No. 33/97 and 31/00.

dence[14]. However, the registry offices refuse to investigate alternative forms of evidence and avenues within the realm of law. They do not take into account other forms of documentary evidence (statements of interested person or affidavits, etc), thereby denying IDPs' right to legal identity. Therefore, they refer the person to initiate a court procedure.

This problem affects mostly RAE IDPs, many of whose birth and citizenship have never been registered in Kosovo or elsewhere, sometimes for generations, and who lack both knowledge and financial means to overcome the obstacles adequately.

Court practices in this area vary, as some interpret that court proceedings are only to establish contentious facts. However, many courts have processed and decided upon birth determination in non-contentious proceedings. The problems in practice arise mainly due to the fact that the judicial determination of the fact of birth has not been explicitly provided for in existing legal regulations[15]. Since there are no precisely defined court procedures for determination of the fact of birth, courts have developed highly differing approaches to the issue. The weakness of non-contentious legal decisions is also evident in the response of the registry offices to the ruling – sometimes the registry offices do not consider court decisions binding.

The lack of adequate legislation and ambiguity of existing regulations in the sphere of birth determination contribute to inaction and/or a constant shifting of jurisdiction or responsibility between administrative and judicial authorities. In the meantime, many IDPs are totally devoid of legal identity – reduced to non-persons without access to basic human rights.

Recommendation 4:
The competent authorities in Serbia should amend the existing laws on administrative proceedings and/or establish a new non-contentious procedure for determining the fact of birth.

(E) Long Processing and Waiting Times

Another administrative barrier IDPs commonly face is the excessively long processing time associated with obtaining documents. Even when IDPs have been registered in the available registry books prior to 1999, the procedure for issuing documents tends to be lengthy.

Registry offices often fail to issue excerpts from existing registry books or to reach decisions on requests for subsequent registration or re-registration into registry books within the existing deadlines (15– and 30/60-day respectively) stipulated by the Law on General Administrative Procedure[16]. An additional concern is the failure of the majority of registry offices to issue certificates to persons whom they determine not to be registered in relevant books[17].

[14] "If a submitter of request cannot produce evidence, and the competent organ is not able to obtain the evidence ex-officio, the person will be instructed to lodge an action with the competent court of general jurisdiction for determination of appropriate facts."

[15] The Law on Non-Contentious Procedure, *Official Gazette of the Republic of Serbia,* No. 46/95, 18/05, prescribes that *death determination* is conducted in *non-contentious procedure* initiated upon a request of an interested person, ending with a decision/ruling, not with a judgment. Also, even though *marriage determination* is carried out in *contentious procedure* where the plaintiff files an action against the spouse (see the Family Law, *Official Gazette the Republic of Serbia*, No. 18/05), if the spouse is deceased, the problem of passive legal capacity in the proceedings arises.

[16] See Articles 161 (3) and 208 of the Law, *Official Gazette Federal Republic of Yugoslavia*, No. 33/97 and 31/01. Article 161 stipulates a 15-day deadline for issuing certificates and other documents from administered records. Article 208 stipulates a 30/60-day deadline (depending on complexity of the case) for issuing decisions.

[17] The duty stems from Article 161 (1) of the Law on General Administrative Procedure on the obligation of an administrative organ to "issue certificates or other documents on the officially administered facts".

In the experience of Praxis, the time needed for the issuing of excerpts from dislocated registry books varies widely amongst registry offices. In Vranje the majority of requests are resolved within 3-5 months of submission. Registry Offices in Jagodina and Krusevac issue documents within 2-3 months, whereas the issuance of documents by Registry Offices in Kragujevac, Kraljevo and Nis takes at least one month. Only the Registry Office in Leskovac responds within 30 days of submitting requests.[18] The key reason for the delays in processing requests is that registry offices lack sufficient human and material capacity to process requests in a timely manner.

Registry Office Administering Dislocated Registry Books	Number of Employed Officers	Number of Submitted Requests per Year[19]
Nis	11	95.000
Kragujevac	9	60.000
Kraljevo	5	90.000
Krusevac	9	80.000
Jagodina	4	85.000
Vranje	11	36.000
Leskovac	4	20.000

The **lack of digitalized** data of the displaced registry books presents tremendous problems to the efficient issuance of essential documentation. Each document must be handwritten, increasing processing times. Modern technology, available at regular local registry offices, is not readily available for administering dislocated registry books. Often, the registry offices administering dislocated registry books are physically separated from local registry offices[20] and are in poor condition[21]. Although IDPs often have more pressing needs for registry office services, the working methods and office conditions have not been modernised.

Recommendation 5:

The competent republican and municipal authorities should enhance the material and human resource capacities of the dislocated registry offices, and use all available means to digitalize data contained in the dislocated registry books and harmonize the systems with the digitalized local registry books.

(F) Inadequate Provision of Information

Registry offices frequently fail to provide necessary information to interested persons. They lack adequate sign-posting and are usually so busy that clients are often unsuccessful in their inquiries. If "ordinary" citizens find it hard to cope with the challenge, it is even more daunting for IDPs. RAE IDPs, who regularly face discrimination, tend to be distrustful of authorities and unaware of the need to possess documents. They may never obtain adequate counselling and information in order to establish their citizenship and realise basic rights.

[18] It should be mentioned that the pace of processing requests by the registry offices depends, amongst other things, on the number of submitted requests.

[19] The annual number of submitted requests is estimated on the basis of information provided by the registry offices.

[20] Except the registry office in Jagodina.

[21] Especially the registry offices in Kragujevac, Kraljevo and Vranje.

(G) Problems with Documents and Property in Kosovo

The precarious security situation – real and perceived – in Kosovo can prevent IDPs from travelling to Kosovo and requesting in person the issuance of various documents from administering institutions and companies in Kosovo. In addition, there are only a handful of NGOs that provide free legal assistance in obtaining documents from Kosovo. When IDPs engage attorneys-at-law in Kosovo, they usually have to pay unreasonably high fees for such services.

Some of the files and archives in Kosovo companies and institutions were destroyed or transferred to currently unknown locations. Other records are available but unclassified. Unclassified archives containing work booklets, M-4 forms[22] and other documents on employment complicate the process of retrieving documents.

Requests from IDPs for the issuance or withdrawal of documents are frequently rejected with the customary explanation that the institution/company does not possess records dated before 1999. Many records are believed to be available to current administrators. Repeated requests occasionally result in successfully obtaining documentation from various institutions/companies. There is an obvious lack of diligence and good faith by employee records staff to process these requests.

Even when work booklets are available, there is a tendency among certain institutions to introduce additional conditions regarding data that must be provided to acquire work booklets. Such conditions often amount to being manifestly unreasonable.

Prior to 2004, persons wishing to obtain an original work booklet from the Kosovo Pension Administration could do so in person or through a proxy, upon submission of the organization's and applicant's name.

In 2006, persons wishing to obtain the original of a work booklet must do so personally, while a proxy can obtain only a copy of it. The interested party must provide his/her 10-digit registration number (written on the work booklet) and a copy of his/her pension check (if the pension was paid before 1 January 1999). If he/she does not know the exact registration number or had not retired before 1999 he/she must contact the former employer in Kosovo to obtain the relevant number. The institutions or companies are often not able to provide such details.

Even if the requested registration number can be obtained most IDPs cannot or fear travel to Kosovo, and are thus unable to obtain their original work booklets. Copies of work booklets are worthless as evidence in Serbia.

There is a similar problem with locating and obtaining student files (certificates, diplomas, etc.) from certain faculties of the University of Pristina. A common explanation for failure to deliver requested documents is that the records have been taken by KFOR and transferred to unknown locations. In October 2001, Deans of the Faculty of Mechanical Engineering, the Faculty of Civil Engineering and Architecture and the Faculty of Electrical Engineering were authorized by UNMIK to give the Representative of the British KFOR contingent and the Representative of the International Administrators Office any university documents they see fit to take into their keeping[23]. However, the documents requested from the faculties' administration have remained inaccessible. The competent authorities have denied knowledge of the whereabouts of such documents, showing minimal or no interest in finding them and meeting the requests of diverse IDPs.

[22] M4 Forms are forms presenting the evidence of monthly contributions to the pension fund which employers are required to pay for their employees.

[23] UNMIK letter to the above-mentioned Deans dated October 3, 2001.

Driving test archives that remain in Kosovo are also inaccessible. IDPs must pass and pay for a second driving test as they cannot obtain verified copies of prior driving licences.

IDPs face numerous problems accessing their land, housing and property rights in Kosovo. Lengthy restitution procedures are complicated by a number of factors including incomplete or lacking documentation and the lack of institutional cooperation between the Kosovo Cadastral Agency and the dislocated property Cadastre in Krusevac.

Municipal offices of the Kosovo Cadastral Agency lack some records of entries registered before 1999[24]. However, in the absence of cooperation between the competent cadastral bodies in Kosovo and Serbia there is no exchange of records or mutual recognition of issued documents. Therefore, ownership certificates taken from real estate registers may not always be authentic and may not contain updated and important information. This is required to initiate court and administrative proceedings before the authorities in Kosovo who do not recognize ownership certificates, cadastral records and other immovable property related evidence (judgments, decisions, contracts, etc) issued or verified by the administrative or judicial bodies dislocated from Kosovo to Serbia. This poses a serious challenge to the realization of the property rights of IDPs.

Land, housing and property rights play an important role in the search for durable solutions for IDPs regardless of whether they opt to return or to integrate in the place of their displacement. IDPs have right to have restored to them any housing land and/or property (including commercial and agricultural) of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land or property that is factually impossible to restore as determined by an independent, impartial tribunal[25]. Obstacles faced by IDPs in documenting rights of use and ownership in Kosovo, prevent the effective realisation of this right.

TWO: Registering Residence

> *"Every IDP has the right to liberty of movement and freedom to choose his or her residence."*
> Principle 14, Paragraph 1, UN Guiding Principles on Internal Displacement

Freedom of movement represents one of the main principles stipulated in the UN Guiding Principles on Internal Displacement. This principle derives from Article 12 of the International Convent on the Civil and Political Rights that has been ratified by Serbia. At the same time, Article 39 of the Constitution of Serbia stipulates that: "Everyone has the right to move freely and settle in the Republic of Serbia..."[26]. The limitation of this right can only be prescribed by law, for reasons of criminal procedure, public order, and prevention of contagious diseases.

In July 2003 an administrative instruction issued by the Deputy Prime Minister and Head of the CCK allowed IDPs to de-register their residence in Kosovo and register as permanent residents in Serbia, abandoning a restrictive policy on de-registration of persons originating from Kosovo. This is an example of good practice enabling IDPs to freely choose their place of residence in Serbia and settle there.

[24] In 1999 all cadastral records were dislocated from Kosovo to Serbia (Krusevac) except the records for the four Kosovo municipalities: Klina, Orahovac, Stimlje and Kacanik. According to the Kosovo Cadastral Agency, they have reconstructed all records by the end of 1997 on the basis of the existing electronic database.

[25] UN Principles on Housing and Property Restitution for refugees and displaced persons, UN Sub-Commission on the Promotion and Protection of Human Rights, 56th Session, E/CN.4/Sub.2/2005/17.

[26] Article 39 of the Constitution of the Republic of Serbia.

However, some IDPs still face difficulties in freely choosing their place of residence. In order to change their place of permanent residence, IDPs must provide proof of their current place of residence in Serbia in addition to a document verifying de-registration in Kosovo. They must present either a title proving ownership of property in the location where they want to register, or if they are renting a property, they must provide a lease agreement with the owner's signature[27]. IDPs that reside in unofficial collective centres and illegal settlements, are unable to provide legal proof of their residence in Serbia and are thus unable to register as permanent residents, with the consequence that they are deprived of access to a range of basic rights. IDPs that rent apartments also face problems providing proof of residence as landlords frequently refuse to formally sign a lease agreements in order to avoid additional taxation.

Recommendation 6:
The competent authorities in Serbia should continue to demonstrate flexibility in reviewing the policy and procedure for registering permanent residence for IDPs, taking into consideration their precarious economic and property situation.

THREE: Accommodation

"All IDPs have the right to an adequate standard of living."
Principle 18, Paragraph 1, UN Guiding Principles on Internal Displacement

Thousands of IDPs continue to live in very difficult conditions in collective centres and informal-illegal settlements without a permanent housing solution, among them many vulnerable individuals and families. 5,142 IDPs[28] are accommodated in government-run collective centres, whilst another 1,765 IDPs live in so-called "unofficial" collective centres where they are not eligible to receive government support or humanitarian aid. Of grave concern are the unknown number of RAE IDPs living in illegal settlements throughout Serbia[29] in truly inhuman and deplorable conditions[30]. As these IDPs do not have a legally recognised address in Serbia they are ineligible for assistance and experience considerable problems accessing basic rights.

Collective centres (CC) were originally designed to accommodate a large number of refugees from the territory of ex-Socialist Federal Republic of Yugoslavia. The arrival of tens of thousands of IDPs in 1999 put more strain on the CC system and unofficial CCs sprung up as IDPs searched for places to live. The Commissariat made accommodation sites available for these IDPs and the sites were then recognized as official CCs. In contrast, many IDPs entered premises on their own, and some of these sites have remained unofficial CCs without recognition of the Commissariat.

Unofficial CCs are usually privately owned. A large number are occupied without permission of the owners. IDPs in unofficial CCs are frequently faced with the danger of eviction and struggle to remain on the premises. In some cases they have no access to electricity and water. On the whole, conditions are appalling and thoroughly unhygienic[31]. Some IDPs living in unofficial CCs have been able to circumvent the problem of not having a legal address by using the address of friends, neighbours or relatives for the purposes of registration and are thus able to receive welfare support and assistance[32].

[27] Art. 5 of the Law on Permanent and Temporary Residence.
[28] UNHCR statistics as of October 2006.
[29] See research Romany Settlements, Living Conditions and Possibilities of Integration of the Roma in Serbia.
[30] See part RAE IDPs.
[31] "Collective Accommodation of Refugees and IDPs in Serbia", see Annex "Statistics".
[32] See Global IDP Project (Norwegian Refugee Council), *Profile of Internal Displacement: Yugoslavia (Federal Republic of) – Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council*, December 2002 at pp. 83-84 where CCs are described as industrial or prefabricated buildings in poor repair. Families often sleep and eat together in large rooms. In one centre, 15 to 20 persons share 2 showers and 4 lavatories and sewage sits in pools under the buildings.

The results of UNHCR's recent participatory assessment exercise to identify the concerns of different Age, Gender and Diversity groups in refugee and IDP communities[33] show that the chief concern of IDPs is inadequate housing. This encompasses their concerns with current living conditions in collective centres, as well as in private accommodation. Conditions are often below the level of human dignity prescribed by Article 11 of the International Covenant on Economic, Social and Cultural rights[34]. Harsh and inhumane living conditions, as well as the lack of basic infrastructure were cited by a large number of RAE IDPs living in illegal settlements (please see Chapter IV for further information on housing problems of RAE IDPs).

Recommendation 7:

The Government and local authorities should, in coordination with international agencies and donors, urgently seek alternative housing arrangements for IDPs without adequate housing, as well as appropriate institutional arrangements for vulnerable individuals including social housing, foster care or care homes. It should develop a comprehensive plan and take measures to provide IDPs with an adequate standard of living.

FOUR: Health

> *"1. All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.*
> *2. Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.*
> *3. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons".*
> Principle 19 of the UN Guiding Principle on Internal Displacement

Just like other citizens of Serbia, IDPs should have the right to access all health services within the state health care system free of charge[35]. However, over the last decade, the Government's ability to provide basic health care to the general population has significantly deteriorated. IDPs, who generally suffer greater health problems than the local population[36], feel the effects of this eroded public system

[33] The UNHCR Age, Gender and Diversity Mainstreaming (AGDM) is aimed at meaningful participation of girls, boys, women and men of all ages and different backgrounds in designing, implementing, monitoring and evaluating all UNHCR policies and programs. The participatory assessment includes structured dialogue with persons of concern of different groups (age, gender, and other diverse groups) in order to gather information on the specific protection risks they face, causes of those risks, understand capacities and to hear the solutions they propose. This represents the first step in the comprehensive situation analysis.

[34] General Comments 4 and 7 to the ICESCR lay out fundamental principles on what constitutes adequate housing in line with Article 11 of the ICECSR.

[35] Article 30 of the Constitution of Serbia entitles each *person* to health care with specific protection extended to pregnant women and the elderly. Article 45 of the State Union Constitution recognizes the right to health care for *everyone*.

[36] Global IDP Project (Norwegian Refugee Council), *Profile of Internal Displacement: Yugoslavia (Federal Republic of) – Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council*, December 2002 at p. 76 citing primarily *Joint Food Needs Assessment Mission – Final Report FRY (ex. Kosovo)* by the WFP and UNHCR (July 2001) and *Multiple Indicator Cluster Survey II – Report for FRY*, UNICEF 2000, for discussion on increased vulnerability and higher incidence of poor health in IDP population as caused by poorer living conditions, poorer diet and higher stress and trauma factors.

more acutely. In view of the particularly vulnerable socio-economic situation, IDPs still face difficulties in accessing existing health care structures in view of the obstacles related to access of documentation.

For example, IDPs in Serbia, along with other vulnerable persons such as children, elderly (above 65) and social welfare beneficiaries, are not obliged to pay the "contribution fee" for medical services or medicines, which is otherwise required. An IDP is only legally recognised as such once she/he has been registered as an IDP in the municipality of displacement, which may differ from their actual place of residence. Furthermore, to access health services, an IDP head of household must present her/his IDP card and JMBG to the local social welfare centre, which issues a certificate listing all household members. The IDP health certificate is valid for three months, and IDPs must go to the social welfare centre when the certificate expires in order to extend its validity. There is no payment or fee for the certificate or its renewal. The foregoing process is thus only open to IDPs who have resolved all documentation issues[37].

Regions with large IDP populations have not been given adequate financial means to face the increased health care costs. There is no specific mechanism in place to meet the additional needs linked to large population movements. Consequently, in those regions with a high influx of IDPs relative to the resident population, per capita spending on health has been severely curtailed. This affects the provision of care to vulnerable groups and contribution payers alike[38].

At the same time, IDPs are not systematically registered with the local health authorities. Consequently, health institutions do not always keep appropriate medical records on these patients. When this happens, such discriminatory practice prevents adequate health care follow up and ultimately undermines the quality of health care received[39]. It may even add to health costs in the long run, especially in emergency departments, as preventative and regular medical interventions are lacking.

Access to health care is a serious problem for many RAE IDPs who cannot access the health care system due to lack of documentation, and discrimination[40].

Recommendation 8:

The Serbian authorities should undertake measures to enable full access to health services for IDPs who face problems with documentation and should pay special attention to vulnerable groups within the IDP population.

[37] Instead of a certificate, non-IDP citizens usually hold a health booklet that is valid for a period of six months to one year. IDPs are inconvenienced in that they must renew their certificates at least twice as many times as other citizens. In this sense, there exists a double standard in the provision of health services with respect to IDPs and therefore a form of discrimination.

[38] *Op. cit.* Global IDP Project (Norwegian Refugee Council), *Profile of Internal Displacement: Yugoslavia (Federal Republic of) – Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council*, December 2002 at p. 77 citing *Humanitarian Risk Analysis No. 18, Humanitarian Situation, Protection and Assistance: Internally Displaced Persons in Serbia and Montenegro*, UN OCHA 26 April 2002 at pp. 16-17.

[39] *Ibid*.

[40] See Chapter IV.

FIVE: Education

> "*To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion."*
> Principle 23, Paragraph 2, UN Guiding Principles on Internal Displacement.

The considerable IDP population has put extraordinary pressure on the already-strained school system in Serbia. Notwithstanding this pressure, a very high number of IDP children are fully enrolled in primary schools and the attendance rate for children in CCs in 2002 was 92% – only 5% lower than the national average. This is a remarkable achievement[41].

In addition, the problem of missing documentation of school children is frequently resolved. Most primary schools in Serbia are willing to enrol children without proper documentation if parents show evidence that a request to obtain birth certification is submitted.

However, limited access to school files and diplomas left in Kosovo still complicates access to secondary and higher education. In cases of missing or destroyed diplomas and school certificates, IDPs are not able to prove their level of education and qualifications. Persons facing problems relating to educational documentation are often referred to court procedures for proving qualifications[42]. The practise of courts in this respect varies and often courts refuse to deal with these cases. This is again a problem of missing documentation. The mutual recognition of documents between UNMIK and the Serbian authorities would enable unimpeded access to secondary and higher education.

Despite many positive results in regards to the general access of IDPs to education, RAE IDPs are faced with considerable problems in accessing education, especially RAE IDPs (see more in Chapter IV)[43].

Recommendation 9:

The courts in Serbia should apply relevant laws without unnecessary delay, and the competent authorities in Serbia should recognize, without undue expense, duplicates of school certificates issued by the competent authorities in Kosovo in order to enable the continuation of schooling of IDPs.

SIX: Employment

> *"Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:*
> *[...] (b) The right to seek freely opportunities for employment and to participate in economic activities..."*
> Principle 22, Paragraph 1, UN Guiding Principles on Internal Displacement

[41] Global IDP Project (Norwegian Refugee Council), *Profile of Internal Displacement: Yugoslavia (Federal Republic of) – Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council*, December 2002 at 92 citing UN OCHA 26 April 2002, Humanitarian Risk Analysis No. 18, Humanitarian Situation, Protection and Assistance: Internally Displaced Persons in Serbia and Montenegro at p. 13.

[42] Articles 103 and 104 of the Law on Secondary School (*Official Gazette of the Republic of Serbia,* No. 50/92, 53/93, 67/93, 48/94, 24/96, 23/2002, 25/2002 – amended, 62/2003 – other law, 64/2003 – other law amended and 101/2005 – other law).

[43] See Chapter IV.

IDPs in Serbia are faced with numerous obstacles in obtaining legal and gainful employment. Subsequently, a large percentage of IDPs work in "grey economy" or as day labourers[44]. This might allow families to survive day to day, but leaves them in a vulnerable position. Often they are at the mercy of the employers and outside of the scope of any legal protection. Employers do not pay any pension, social or health insurance, as well as do not contribute to the income tax. Most of these problems originate from missing work booklets and other work related documentation (diplomas, M4 forms, etc).

IDPs whose working booklets are missing must undergo a lengthy procedure for the issuance of a new working booklet. Due to the lack of other working-related documentation (diplomas or M4 forms), they are often not in a position to prove the necessary facts in this procedure. The non recognition of the UNMIK stamped documents by the Serbian authorities creates an obstacle even for those who managed to obtain some document from Kosovo.

Those never employed before and who need to get a working booklet for the first time also face many problems. Due to requirements stipulated by the *Rulebook on Work Booklets:* an unemployed person submits the request for issuing a work booklet to the responsible municipality office according to his/her permanent residence, and an employed person according to the place of his/her employment.

Thus, unemployed IDPs whose permanent residence is registered in Kosovo cannot fulfil this criterion. Therefore, they try to obtain a work booklet as being employed in the place of temporary residence, by presenting a written statement from the anticipated employer. In this respect the practice of the competent authorities varies from one municipality to another. Some municipalities have simplified their procedures and some are still very restrictive. This lack of a unified practice regarding the issuance of working booklets, leads to unequal treatment of IDPs residing in different municipalities.

The missing work booklets and the complicated procedure of issuance of work booklets in some municipalities, hinder the possibility to register with the National Employment Bureau (NEB) and to access existing unemployment benefits. To register with the NEB, IDPs have to present diploma/s, work booklet and an IDP card. If a person lacks one of these documents, he/she will not be able to register with the NEB. However, the practice varies case by case. In case of missing diplomas, for example, the NEB is sometimes (randomly) willing to accept a statement by two witnesses verified by the competent municipal organ. Again, a lack of unified procedure leads to legal insecurity and unequal treatment of unemployed IDPs.

The Ministry for Education and Sport is the only Serbian government institution that accepts UNMIK stamped documents for employment related purposes and enables qualified IDPs to access employment in this field. At the same time, the National Action Plan on Employment of the Government of the Republic of Serbia, for the period of 2006-2008, recognizes IDPs as one of the most vulnerable groups in society and provides the following measures for the integration of refugees and IDPs: increased inclusion of these groups in the services of the NEB securing scholarships for children and measures for stimulating employment and self-employment. The above-mentioned steps are crucial to the improvement of the economic position of IDPs. However, much of this remains declaratory and IDPs still face numerous problems in trying to access the labour market and existing employment opportunities. The result is their unequal position in comparison to other citizens of Serbia.

[44] ICRC, *IDP Needs Assessment in Serbia and Montenegro*, at p. 14: "Fully 54% of IDP households do not have any regular source of income; the majority of these household are living in collective centres. The most common source of income for IDPS is daily labour, which 47% of households rely on. Pensions are the second most common source of income, followed by salaries. The grey market is the primary source of 23% of IDPs."

Recommendation 10:
The competent authorities in Serbia should amend the existing Rulebook on Work Booklets and establish clear and unified procedures for obtaining work booklets for IDPs to enable their access the labour market and existing unemployment benefits. They should recognise work-related documents issued by the competent authorities in Kosovo in order to facilitate the issuance and reconstruction of destroyed/missing work booklets.

SEVEN: Pensions

> *"Internally Displaced Persons shall enjoy in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced..."*
> Principle 1, Paragraph 1 of the UN Guiding Principles on Internal Displacement.

Frequently, IDPs in Serbia cannot access their well-earned pension benefits. IDPs who started receiving pensions before 1999 and have duly informed the Serbian Pension Fund of their change of address have not had major problems in receiving their pensions. However, certain categories of IDPs in Serbia who started receiving pensions after 1999 cannot receive their full pensions. This occurs for a variety of reasons, including problems rooted in the pension fund itself, as well as due to missing work related documentation. The heart of the matter appears to result in three major factors:

1. Missing Work Booklets

A Work Booklet is a one of the documents required for submitting claims for pension benefits. It is used as a proof of length of employment service and qualifications. Those who do not have one are not able to prove the length of employment service and thus cannot enjoy their pension rights.

2. Employers Failing to Make Contributions

Many IDPs face problems in accessing their pensions because their former employers did not make required contributions to the pension fund or failed to timely report to the fund that contributions have been made. The authorities in Serbia made a positive step in this regard with the adoption of the Law on Linkage of the Years of Employment[45]. The State accepted to compensate the Pension Fund for all employers who did not pay their contributions in the period from 1991– 2003. More than 300,000 claims have been submitted in the period October 2005-January 2006. However, the number of IDPs who benefited from this law remains unknown.

3. Missing and Non-recognitions of M4 Forms

The M4 Form represents crucial evidence of all contributions paid by employers and is necessary for the calculation of pension benefits. The Serbian Pension Fund recognizes only the original M4 Forms issued by the Fund itself. In a majority of cases, this documentation was left in Kosovo. In the meantime, UNMIK started issuing M4 Forms based on the Kosovo Pension Fund's documentation, but the Serbian Pension Fund does not recognize such documents.

[45] *Official Gazette Republic of Serbia*, No. 85/05.

Although an important step forward was made by the creation of a special Unit within the Serbian Pension Fund that deals with IDPs, they still face problems in accessing pension rights due to a lack of transparency and clearly established procedure. In this respect, the Ministry of Labour, Employment and Social Policy issued a Recommendation to the Serbian Pension Fund asking for a more flexible approach in regard to the required documentation and proposing acceptance of alternative documents such as receipts or statements, as valid proof of employment. This Recommendation presents a good example of how unnecessary obstacles can be removed if there is willingness to do so. However, more has to be done in order to enable IDPs to enjoy the same pension rights as other persons in Serbia.

Recommendation 11:

The Serbian Fund for Pension and Disability Insurance should recognize documents issued by the competent authorities in Kosovo, including M4 Forms until a sustainable solution to pension rights is found and institutional cooperation between pension funds in Kosovo and in Serbia is established.

Chapter IV

Internally Displaced Persons' Communities

RAE IDPs

Introduction

Certain minority groups within the Kosovo IDP population are more vulnerable than the overall IDP population. These minorities include the Roma, Ashkaeli and Egyptian communities (RAE IDPs). In the Kosovo conflict, these communities were viewed with suspicion by all sides, and accusations of collaboration were multiple. Today, most of them live in truly deplorable conditions, often well below the level of human dignity. They frequently live in informal/illegal settlements, without access to electricity, drinking water and sewage systems, in shacks made of metal and cardboard remains, as well as in abandoned worker barracks and warehouses. Their problems are often exacerbated by communication difficulties due to lack of education and language differences. Further, these communities frequently face discrimination. Their situation has worsened during the last 10 years of general economic decline. All RAE IDPs are facing same problems, although the vast majority of the RAE IDP community are in fact Roma[1].

In many respects, the RAE community is the hardest hit even among the other minority IDP communities. Even when not living in displacement, the RAE occupy a marginalized position within Serbian society. For this reason, the magnitude of the RAE IDP problem is very often "hidden", as many of them have not registered with the authorities, but simply mingle with the local RAE population[2]. Consequently they are forgotten and further marginalized. Though RAE IDPs face many of the same challenges as the rest of the IDP community – documentation, accommodation, access to health and education – the underlying reasons are often more complex. These include historic antagonism with non-RAE society and deep – rooted discrimination against RAE[3].

The particular vulnerability of the Roma, Ashkaeli and Egyptian IDP population has been recognised by a number of international actors including the UN Human Rights Committee[4] and the Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons[5].

[1] According to UNHCR statistics 10.80% of the IDP population are Roma, while Egyptians represent 0.36% and Ashkaeli 0.04% of the IDP population in Serbia. However, there are estimates that another 20,000 predominantly Roma IDPs remained unregistered during the IDP registration organized in Serbia in 2000.

[2] The 2001 Serbian Census places the Roma population in Serbia at 108,000, but the domestic and international estimates are closer to 300,000. See the PRSP, p. 6.

[3] See, for example, section 13 of the Roma National Strategy entitled "Discrimination and Related Issues". In particular, see reports listed in footnote 130 at p. 111 of the Roma National Strategy.

[4] See concluding observations on the Initial Report of Serbia and Montenegro to the Human Rights Commission on the implementation of XXX, at paragraph 18.

[5] See "Specific groups and individuals; mass exoduses and displaced persons" Report of the Representative of the Secretary General on the Human rights of internally displaced persons, mission to Serbia and Montenegro, Economic and Social Council, E*CN.4*2006*71*, Add.5.

The domestic legislative framework also recognises the vulnerability of Roma citizens (although not of IDPs specifically). The Law on Protection of Rights and Freedoms of National Minorities requires authorities to pass legal acts and undertake measures to improve their situation[6]. The highest representatives of Serbia signed the Decade Commitments thereby undertaking a number of obligations to improve their position and integration into society. The Roma National Council has adopted the Strategy for the Integration and Empowerment of the Roma (*Roma National Strategy*).

The Serbian authorities have taken first steps towards the implementation of the Roma National Strategy and the Roma Decade Commitments, by adopting four thematic Roma National Action Plans (RNAP) in the field of Housing, Employment, Education and Health in January 2005. Implementation has started, although there are problems with funding. Another eight thematic Roma NAPs have been drafted (on the Special Position of Roma Women, Media and Information, Culture, IDPs, Returnees from Western Europe, Social Welfare, Anti-discrimination and Documentation). These draft NAPs have not been adopted by the Government of Serbia, even though this would pave the way for resolving crucial issues related to the rights of RAE, especially the issue of documentation and access to rights. The position of the Serbian Government vis-à-vis resolving the problems of the Roma, Ashkaeli and Egyptians communities, including RAE IDPs, remains mainly declaratory and the NAPs are long way from implementation, while the problems on the ground are real and dramatic.

Documentation

Many displaced Roma, Ashkaeli and Egyptians remain unregistered as IDPs because they lack basic identification documents such as identity cards. In addition to the same hurdles other IDPs face in obtaining or replacing documents, RAE IDPs' situations are further complicated by a history of non-registration. Many RAE from Kosovo never had documents while living in Kosovo[7]. Often, generations of RAE families lack even basic documents. This creates a circular problem. In order to obtain personal documents, one must prove that his/her mother or father was born in Serbia (including Kosovo), but this is impossible if one's parents were not registered. The problem, known as "chronic unregistration", particularly affects Roma from Kosovo.

Lack of adequate documentation is especially problematic for RAE who live in informal/illegal settlements where they cannot register a legal address. Without an address recognized by the municipality, RAE cannot register for an ID card. Without civil documentation they cannot register for an IDP card. Without an IDP card or an ID card RAE cannot access basic socio-economic rights (health, social care, employment, health, education, etc.). Parents without documentation cannot register their newborn children in birth and citizenship registries. A new generation without documents and a parallel world of people outside the system is being created[8].

The lack of documents can lead to a "snowball effect" by which an individual cannot obtain other documents, preventing them not only to regularize their legal status, but also preventing them from proving and establishing their citizenship. This especially affects newborn children and could lead to cases

[6] See Law on the Protection of the Rights and Freedoms of National Minorities at Article (4).

[7] The Norwegian Refugee Council estimates that approximately 30-35% of Roma have never been registered at all. Of that number, 60-65% are Ashkaeli. It appears, however, that comprehensive statistics do not exist regarding the actual number or percentage of the Roma in this situation. A survey conducted by Oxfam in Belgrade found that a high percentage of the Roma were missing proper documentation – 39.5% did not have a valid ID card. [*The Roma Livelihood in Belgrade Settlements.* Research by ARGUMENT, commissioned by OXFAM, Belgrade, December 2001] In addition, 56% of the IDPs did not have an IDP registration card.

[8] Roma and Right to Legal Subjectivity in Serbia, Minority Rights Centre, Belgrade, April 2006.

of statelessness in contradiction to the Convention Relating to the Status of Stateless Persons[9] and the Convention of the Rights of the Child[10]. In this respect RAE IDPs are the most vulnerable. Besides ("chronic unregistration") there are other inter-related reasons why RAE IDPs have so many documentation problems. These include the loss of documents during flight, complex and cumbersome procedures for obtaining personal documents, lack of trust towards the authorities and lack of flexibility of the authorities to adapt to the particular situation of the Roma.

Presently, there is no legal mechanism in place for the chronically unregistered to become registered. They do not receive adequate advice in relevant institutions, and even when they do, they face insurmountable obstacles concerning the registration of residence[11]. Some International Organizations and Governments fund local and international NGOs[12] to provide free assistance for RAE in obtaining documentation in accordance with the system currently in place. At the same time, the Minority Rights Centre, a local Roma NGO, advocates for the respect of Roma rights and provides free legal aid, assistance and advice. However, these efforts are all limited by the reality of "chronic unregistration", the heavy and unclear procedural requirements of the civil registration and documentation system and the extremely difficult conditions that Dislocated Kosovo Registry Offices work in.

Recommendation 12:
The competent authorities in Serbia should undertake urgent measures to address the problems of registration and lack of personal documents of Roma, Ashkaeli and Egyptian IDPs thereby ensuring their recognition before the law and removing obstacles for them to access their basic socio-economic rights.

Recommendation 13:
The competent authorities in Serbia should take every measure to prevent and resolve possible cases of statelessness among RAE IDPs lacking documentation.

Accommodation

A majority of all registered RAE IDPs in Serbia live in Belgrade and are dispersed among 150 RAE settlements, most of them informal/illegal. The central and southern Serbian municipalities of Pozarevac, Kragujevac, Nis, Bujanovac and Kursumlija also host a large number of Roma IDPs, as well as the town of Subotica in Vojvodina.

Finding adequate accommodation and living conditions are identified as the most pressing needs for a majority of RAE IDPs. Few RAE IDPs are accommodated in recognized CCs. Many Roma IDPs have moved into existing local Roma communities often already in a precarious state. These communities are built from makeshift scrap-metal and cardboard shacks, run-down and deserted barracks or storage houses, containers and junk car bodies. The shelters usually lack sanitation facilities, water supply, electricity and heating. The entire communities are usually located within or next to garbage dumps, under bridges or in open fields. Often they occupy premises illegally and therefore exist outside the reach of basic social infrastructure and humanitarian assistance[13]. Roma and RAE IDPs frequently expe-

[9] "The Contracting States shall as far as possible facilitate the [...] naturalization of stateless persons." Serbia has joined the Convention.

[10] Article 7: "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents [...]"

[11] Roma and Right to Legal Subjectivity in Serbia, Minority Rights Centre, Belgrade, April 2006.

[12] Examples of NGOs providing free legal assistance are Praxis, MPDL and HCIT.

[13] *Op. cit.* Global IDP Project (Norwegian Refugee Council), *Profile of Internal Displacement: Yugoslavia (Federal Republic of) – Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council*, December 2002 at p. 83 reporting on UN OCHA, Oxfam and ERRC visits to Roma IDP communities.

rience forced eviction and/or the threat of forced eviction. Some RAE families have been victims of several forced evictions in succession[14]. Many families threatened by forced evictions are left prey to pressure and threats by local investors, without any form of protection, except the *ad hoc* interventions of international organizations and NGOs. When evictions occur reasonable alternative solutions are rarely provided by the relevant authorities.

Recommendation 14:

The competent authorities in Serbia should enact legislation on evictions, harmonized with relevant European and international standards, in order to prevent the forced eviction of IDPs who live in illegal/informal settlements without the provision of adequate alternative solutions. The authorities should ensure that evictions do not result in individuals being rendered homeless or vulnerable to human rights abuses.

Health

There is a serious lack of reliable information about the health condition of the RAE population. This, in itself, represents a failure in the system. A common conclusion is that hygiene and health care standards are low among RAE IDPs. A general lack of knowledge of health and hygiene issues is compounded by limited reliance on the health care system, scant trust in health care providers and little appreciation of their rights in accessing public health care services. For example, RAE children are often not immunized and most of their women do not visit a gynaecologist for regular check-ups except for childbirth. In the case of sickness and injury, RAE most often visit primary care physicians, while some treat themselves, and in the majority of cases serious health conditions go untreated when diagnosed. At the same time, the conditions in which socially imperilled RAE live are suitable for development of contagious diseases[15]. In the realization of the right to health care, Roma encounter both direct and indirect discrimination[16]. According to a recent Study conducted on the basis of a sample by the Minority Rights Centre it was established that 51.3% of Roma IDPs do not have a health card, while 74% of Roma IDP children covered by the Study lacked health cards[17].

Though RAE IDPs in theory have access to public health care, in practice this access is all but denied. This is because of their lack of information about the system, lack of personal documents, language and cultural barriers and overt and subtle discrimination by health care providers.

Recommendation 15:

The competent authorities in Serbia should ensure the full application of Article 11 of the Law on Health Care and Article 22 of the Law on Health Insurance providing health care for Roma who do not have permanent or temporary residence in the Republic.

Education

The majority of RAE IDP children in Serbia do not attend school[18]. According to the recent Study conducted on the basis of a sample by the Minority Rights Centre 74.6% of RAE IDP parents do not enrol their children in school.

[14] "The Protection of Roma Rights in Serbia and Montenegro", European Roma Rights Centre in association with UN OHCHR in Serbia and Montenegro, April 2003.

[15] "Roma and Right to Health Care in Serbia", Petar Antic, Minority Rights Centre, Belgrade, January 2005.

[16] *Ibid.*

[17] "Roma and the Right to Legal Subjectivity", Minority Rights Centre, April 2006.

[18] Non-governmental sources estimate that around 80% of Roma in Montenegro do not complete primary education.

RAE IDP children face a wide range of obstacles in their access to education including chronic illnesses, discrimination, suffocating poverty[19], prejudice from local communities, and language and cultural barriers. Further, many parents have not attended school. Most of the IDP children from Kosovo have either never been to school or drop out before completing the fourth year[20].

In Serbia, RAE frequently suffer discrimination and racial segregation in education, despite legal provisions for national minorities[21]. Research conducted by the Minority Rights Centre found that Roma children in many primary schools in Serbia are victims of violence and insults based on ethnicity. Teachers in many schools put Roma children at separate desks, or even in separate classes[22]. Chronic illnesses, lack of proper clothing and intolerance from local children further add to existing difficulties. Though Roma children sometimes suffer harassment by non-Roma peers, including violence and racial slurs, teachers and other schooling authorities reportedly do not always react adequately against this racism. Roma children are frequently excluded from the mainstream education system due to language and cultural barriers. In some cases, schools have refused to enrol Roma IDP children for their deficient Serbian, and often instead place them in separate classes, and even sometimes in schools for children with learning disabilities[23].

Recommendation 16:

The competent authorities in Serbia should ensure that RAE IDP children fully enjoy the right to education and should create conditions for educational opportunities in the respective languages of national minorities. They should take all necessary measures to prevent the segregation of RAE children in schools.

Conclusion

There is a strong resistance among the authorities to consider Roma, Ashkaelia and Egyptian IDPs as a "special group", as they explain that all IDPs are in a difficult situation and should not be separated in accordance with ethnicity. However, reality proves differently and RAE IDPs are the most vulnerable segment of the IDP population in Serbia. Their situation continues to deteriorate on a daily basis and their problems remain unresolved. Despite the commitments undertaken by the Serbian authorities within the Roma Decade, as well as their obligations to provide protection and humanitarian assistance to IDPs without discrimination, RAE IDPs remain subjected to social isolation, discrimination and marginalization.

Recommendation 17:

The competent authorities in Serbia should implement the recommendations of the four adopted thematic Roma National Action Plans. They should adopt and ensure the implementation of the outstanding thematic Roma National Action Plans without delay, especially the National Action Plan focusing on Roma IDPs.

[19] The yoke of poverty is heavy and consequently child labour is widespread among the Roma population as school-aged children often work to contribute toward the family income.

[20] See Global IDP Project (Norwegian Refugee Council), *Profile of Internal Displacement: Yugoslavia (Federal Republic of) – Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council*, December 2002, p. 92.

[21] *Law on Protection of Rights and Freedoms of National Minorities*, Article 3 "Prohibition of Discrimination" and Article 4 "Measures ensuring Equality between members of National Minorities and Members of the majority population".

[22] Antic, Petar, *Abuses of Roma Rights in Serbia*, Minority Right Centre, Report No. 2, June 2003, p. 29.

[23] Indeed, Roma are often categorically segregated into the special school system aimed at assisting children with mental disabilities. See European Roma Rights Centre with UN OHCHR, Human Rights Field Operation in Serbia and Montenegro, *Memorandum – Protection of Roma Rights in Serbia and Montenegro* April 2003 at. See also Roma National at pp. 91-92.

Recommendation 18:
The competent authorities in Serbia should enable the full participation of Roma and RAE IDPs in processes related to the improvement of their living conditions and their integration into Serbian society, as well as establish dialogue and reliable partnerships at all levels of the society.

Rejected Asylum Seekers Forcibly Returned from Western Europe

Persons who fled Kosovo to seek asylum in other European countries are being forcibly returned to Serbia (not including Kosovo) based on the application of the Internal Flight Alternative during determination of their asylum claims or following the cessation of temporary protection. Such persons are returned directly into a situation of secondary displacement in Serbia where they are unable to register as IDP. The Serbian Commissioner for Refugees asserts that IDP registration is available only to those who enter Serbia directly from Kosovo, thereby denying IDP status to those who find refuge in Serbia after a period spent in another State.

Without IDP documentation Returnees from Western Europe are unable to access basic socio-economic rights. Many of them, especially RAE from Kosovo cannot register their residence and are thus returned into a situation of undue hardship in which they are not recognized before the law.

Attached to this document as Annexes are Recommendation No. 1633 (2003)1 of the Parliamentary Assembly of the Council of Europe on "*Forced returns of Roma from the former Federal Republic of Yugoslavia, including Kosovo, to Serbia and Montenegro from Council of Europe member state*s" and "*UNHCR's Position on the Continued International Protection Needs of Individuals from Kosovo (June 2006)*". These documents provide Guidelines to States in the elaboration and implementation of returns policies relating to persons from Kosovo, including advisories against the return of specific groups into secondary displacement. For its part the Government of Serbia should formulate policies aimed at the reintegration of persons who have sought refuge abroad, including ensuring that all persons have access to civil registration and IDP documents where appropriate.

Recommendation 19:
The Serbian Commissariat for Refugees should issue IDP cards to all persons who have been returned into secondary displacement in Serbia (not including Kosovo) from countries where they have sought asylum following the Kosovo conflict, as they are internally displaced within their own country.

Chapter V

Conclusion

Seven years after the establishment of the international mission in Kosovo, and the displacement of over 200,000 non-Albanians from the Province to Serbia, Kosovo's IDPs in Serbia still struggle every day to find food, adequate shelter and a place in society. Though citizens of the country in which they are displaced, IDPs are often denied access to basic services normally extended to citizens. They continue to encounter serious legal barriers, most of which relate to obtaining documents, choosing a place of residence, recognition of their employment status, and the enjoyment of other rights possible only with proper documentation. Small progress has been made in developing programs to address economic hardships faced by the most vulnerable IDPs and they face many obstacles along the way.

In practice, discrimination against IDPs – even more pronounced against IDPs from other national minority communities such as Roma IDPs – undermines advances made in establishing programs or initiatives, such as the Roma National Strategy and the Roma National Action Plans. Most IDPs find themselves in a vulnerable situation; their displacement has undermined normal coping mechanisms open to others in the wider community. IDPs are largely left unprotected – legal provisions often subject them to greater scrutiny and higher standards, rather than reflecting in substance or application to their special vulnerable situation.

The authorities at all levels have repeatedly signalled that return is the only acceptable long-term solution for IDPs. Although, many IDPs have expressed the wish to return, few believe, based on the continuing volatile situation, that they can do this in the foreseeable future in safety and dignity. All levels of government are well aware of the continuing insecurity for members of minority communities in Kosovo. Yet, none have acknowledged openly that this translates into a protracted stay for the IDPs: no structural policies have yet been adopted to reflect and address this reality and enable IDPs to lead a dignified life during their displacement. In fact, IDPs' rights have been limited compared to those of other citizens in several crucial areas, e.g., in access to health, freedom of movement, and access to employment bureaus.

As a consequence of this reluctance to acknowledge the long-term duration of the displacement, strategies put into place have been short to mid-term in vision. Most initiatives have been undertaken on an *ad hoc* basis. Seven years post-displacement, there is still no clear vision or strategy for the community of IDPs. As a further consequence, the "return only" policy has had a negative impact on the type of assistance the international community and local NGOs can bring to bear. These organizations that deal with the protection of IDPs and the promotion of their rights are mainly confined to running programs compatible with a "return only" policy.

The authorities in Serbia at all levels are urged to examine the situation of their citizens in light of comments made in this study. Such an enquiry is crucial if sustainable, long-term solutions based on the reality of the needs of IDPs and the gaps – including the legal gaps – in the system are to be found. In this regard, the international organizations and the international and local NGOs that are dealing with IDP issues are ready to assist the authorities as much as possible in fulfilling the recommendations of this study.

Belgrade, Serbia
March 2007

Annex 1

Guiding Principles on Internal Displacement

Foreword to the Guiding Principles by Under-Secretary-General for Humanitarian Affairs Mr. Sergio Vieira de Mello

The humanitarian community is increasingly aware of the crisis of internal displacement which affects over 20 million people world-wide. While responsibility for the protection of IDPs rests first and foremost with national governments and local authorities, it is important for the international community to see how best it can contribute to enhancing the protection of IDPs in conflict and crisis situations. We must also design humanitarian assistance in such a way that it will promote the protection of IDPs.

Within the United Nations system, significant steps have been taken to enhance an effective and timely response to the needs of internally displaced persons (IDPs). The Inter-Agency Standing Committee (IASC) has entrusted me with the responsibility to act as Focal Point within the UN system for issues relating to the internally displaced. In discharging this mandate, I am committed to enhancing the capacity of the United Nations as a whole to respond to situations of internal displacement as well as to promoting strong co-ordination and a clearer division of institutional responsibilities and adequate support to operational agencies.

In this context, I welcome the issuance by the Secretary-General's Special Representative on IDPs of the Guiding Principles on Internal Displacement. These Principles, which are based upon existing international humanitarian law and human rights instruments, are to serve as an international standard to guide governments as well as international humanitarian and development agencies in providing assistance and protection to IDPs.

The IASC fully supports the Guiding Principles and has encouraged its members to share them with their Executive Boards and with their staff, especially those in the field, in order to ensure that the Principles are applied in their activities on behalf of internally displaced persons.

I believe that the Guiding Principles can play a significant role in raising awareness of the needs of IDPs, mobilising support within the humanitarian community and helping field colleagues to find solutions when confronted with the protection and assistance needs of the internally displaced. The Principles will also assist governments in providing for the security and well-being of their displaced populations.

I hope that each of you will work to ensure the widest possible dissemination and application of the Guiding Principles, in order to achieve the much needed improvement in the status and treatment of internally displaced persons.

Introductory Note by the Representative of the Secretary-General on Internally Displaced Persons Mr. Francis M. Deng

The international community is confronted with the monumental task of ensuring protection for persons forcibly uprooted from their homes by violent conflicts, gross violations of human rights and other traumatic events, but who remain within the borders of their own countries. Nearly always they suffer from severe deprivation, hardship and discrimination. It is to meet this challenge that the Guiding Principles on Internal Displacement were developed.

The Principles identify the rights and guarantees relevant to the protection of the internally displaced in all phases of displacement. They provide protection against arbitrary displacement, offer a basis for protection and assistance during displacement, and set forth guarantees for safe return, resettlement and reintegration. Although they do not constitute a binding instrument, these Principles reflect and are consistent with international human rights and humanitarian law and analogous refugee law.

The Principles were developed over several years pursuant to the mandate given to me in 1992 by the Commission on Human Rights and reinforced by subsequent resolutions of both the Commission and the General Assembly. Initially I was asked to study the causes and consequences of internal displacement, the status of the internally displaced in international law, the extent to which their needs are being addressed under current institutional arrangements, and ways to improve protection and assistance for them.

Accordingly, developing needed legal and institutional frameworks for the internally displaced and undertaking country missions to engage Governments and others in a dialogue on their behalf have been the main activities of my mandate. In collaboration with a team of international legal experts, I examined the extent to which internally displaced persons receive adequate coverage under international law and produced a "Compilation and Analysis of Legal Norms" (E/CN.4/1996/52/Add.2). The study found that while existing law provides substantial coverage for the internally displaced, there are significant areas in which it fails to provide an adequate basis for their protection and assistance. Subsequently, the Commission and the General Assembly requested me to prepare an appropriate normative framework for the internally displaced. This led to the drafting of the Guiding Principles which both restate existing norms and seek to clarify grey areas and fill in the gaps.

After I presented the Guiding Principles to the Commission in 1998, the Commission adopted a resolution taking note of the Guiding Principles and of my stated intention as the Representative of the Secretary-General to use them in my ongoing dialogue with Governments and all those whose mandates and activities relate to the needs of the internally displaced. The Commission also took note of the decision of the Inter-Agency Standing Committee, which had welcomed the Principles and encouraged its members to share them with their Executive Boards and staff, especially in the field, and to apply them in their activities on behalf of the internally displaced.

The Guiding Principles should provide valuable practical guidance to Governments, other competent authorities, intergovernmental organisations and NGOs in their work with internally displaced persons. It is my hope that they will be widely circulated and given practical application in the field.

Guiding Principles on Internal Displacement

Introduction – Scope and Purpose

1. These Guiding Principles address the specific needs of internally displaced persons world-wide. They identify rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration.

2. For the purposes of these Principles, internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border.

3. These Principles reflect and are consistent with international human rights law and international humanitarian law. They provide guidance to:
   (a) The Representative of the Secretary-General on internally displaced persons in carrying out his mandate;
   (b) States when faced with the phenomenon of internal displacement;
   (c) All other authorities, groups and persons in their relations with internally displaced persons; and
   (d) Intergovernmental and non-governmental organisations when addressing internal displacement.

4. These Guiding Principles should be disseminated and applied as widely as possible.

Section I. General Principles

Principle 1:

1. Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.

2. These Principles are without prejudice to individual criminal responsibility under international law, in particular relating to genocide, crimes against humanity and war crimes.

Principle 2:

1. These Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Principles shall not affect the legal status of any authorities, groups or persons involved.

2. These Principles shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law. In particular, these Principles are without prejudice to the right to seek and enjoy asylum in other countries.

Principle 3:

1. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.

2. Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities. They shall not be persecuted or punished for making such a request.

Principle 4:

1. These Principles shall be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.

2. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

Section II. Principles Relating to Protection From Displacement

Principle 5:

All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.

Principle 6:

1. Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.

2. The prohibition of arbitrary displacement includes displacement:
   (a) When it is based on policies of apartheid, „ethnic cleansing“ or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population;
   (b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;
   (c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests;
   (d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and
   (e) When it is used as a collective punishment.

3. Displacement shall last no longer than required by the circumstances.

Principle 7:

1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimise displacement and its adverse effects.

2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.

3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:
    (a) A specific decision shall be taken by a State authority empowered by law to order such measures;
    (b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;
    (c) The free and informed consent of those to be displaced shall be sought;
    (d) The authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation;
    (e) Law enforcement measures, where required, shall be carried out by competent legal authorities; and
    (f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

Principle 8:

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

Principle 9:

States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

Section III. Principles Relating to Protection During Displacement

Principle 10:

1. Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life. Internally displaced persons shall be protected in particular against:
    (a) Genocide;
    (b) Murder;
    (c) Summary or arbitrary executions; and
    (d) Enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death.

    Threats and incitement to commit any of the foregoing acts shall be prohibited.

2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular, against:
    (a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;
    (b) Starvation as a method of combat;
    (c) Their use to shield military objectives from attack or to shield, favour or impede military operations;
    (d) Attacks against their camps or settlements; and
    (e) The use of anti-personnel landmines.

Principle 11:

1. Every human being has the right to dignity and physical, mental and moral integrity.

2. Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against:
   (a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;
   (b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children; and
   (c) Acts of violence intended to spread terror among internally displaced persons.

   Threats and incitement to commit any of the foregoing acts shall be prohibited.

Principle 12:

1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.

2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.

3. Internally displaced persons shall be protected from discriminatory arrest and detention as a result of their displacement.

4. In no case shall internally displaced persons be taken hostage.

Principle 13:

1. In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.

2. Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances.

Principle 14:

1. Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.

2. In particular, internally displaced persons have the right to move freely in and out of camps or other settlements.

Principle 15:

Internally displaced persons have:
   (a) The right to seek safety in another part of the country;
   (b) The right to leave their country;
   (c) The right to seek asylum in another country; and
   (d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

Principle 16:

1. All internally displaced persons have the right to know the fate and whereabouts of missing relatives.

2. The authorities concerned shall endeavour to establish the fate and whereabouts of internally displaced persons reported missing, and co-operate with relevant international organisations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result.

3. The authorities concerned shall endeavour to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next of kin or dispose of them respectfully.

4. Grave sites of internally displaced persons should be protected and respected in all circumstances. Internally displaced persons should have the right of access to the grave sites of their deceased relatives.

Principle 17:

1. Every human being has the right to respect of his or her family life.

2. To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.

3. Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and co-operate with the work of humanitarian organisations engaged in the task of family reunification.

4. Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.

Principle 18:

1. All internally displaced persons have the right to an adequate standard of living.

2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:
   (a) Essential food and potable water;
   (b) Basic shelter and housing;
   (c) Appropriate clothing; and
   (d) Essential medical services and sanitation.

3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

Principle 19:

1. All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.

2. Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.

3. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.

Principle 20:

1. Every human being has the right to recognition everywhere as a person before the law.

2. To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.

3. Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.

Principle 21:

1. No one shall be arbitrarily deprived of property and possessions.

2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:
   (a) Pillage;
   (b) Direct or indiscriminate attacks or other acts of violence;
   (c) Being used to shield military operations or objectives;
   (d) Being made the object of reprisal; and
   (e) Being destroyed or appropriated as a form of collective punishment.

3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

Principle 22:

1. Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:
   (a) The rights to freedom of thought, conscience, religion or belief, opinion and expression;
   (b) The right to seek freely opportunities for employment and to participate in economic activities;
   (c) The right to associate freely and participate equally in community affairs;
   (d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right; and
   (e) The right to communicate in a language they understand.

Principle 23:

1. Every human being has the right to education.

2. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.

3. Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes.

4. Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

Section IV. Principles Relating to Humanitarian Assistance

Principle 24:

1. All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.

2. Humanitarian assistance to internally displaced persons shall not be diverted, in particular for political or military reasons.

Principle 25:

1. The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.

2. International humanitarian organisations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a State's internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.

3. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.

Principle 26:

Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

Principle 27:

1. International humanitarian organisations and other appropriate actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard. In so doing, these organisations and actors should respect relevant international standards and codes of conduct.

2. The preceding paragraph is without prejudice to the protection responsibilities of international organisations mandated for this purpose, whose services may be offered or requested by States.

Section V. Principles Relating to Return, Resettlement and Reintegration

Principle 28:

1. Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.

2. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

Principle 29:

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.

2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

Principle 30:

All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.

Annex 2

List of Relevant International Instruments to which Serbia is a Party

International Treaties and Conventions

Convention on the Elimination of All Forms of Discrimination Against Women, *Official Gazette SFRY – International Agreements,* No. 11/81

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, *Official Gazette SRY,* No. 13/02

Convention on the Rights of the Child, *Official Gazette SFRY – International Agreements,* No. 15/90

European Convention for the Protection of Human Rights and Fundamental Freedoms, *Official Gazette SCG,* No. 9/03

Protocol No. 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, *Official Gazette SCG,* No. 9/03

Framework Convention for the Protection of National Minorities, *Official Gazette FRY,* No. 6/98

International Covenant on Economic, Social and Cultural Rights, *Official Gazette SFRY,* No. 7/71

International Covenant on Civil and Political Rights, *Official Gazette SFRY*, No. 7/71

International Convention on the Elimination on All Forms of Racial Discrimination, *Official Gazette FNRY,* No. 6/67

Statute of the Council of Europe, *Official Gazette SCG,* No. 02/03

Universal Declaration of Human Rights, *Official Gazette FNRY,* No. 0/48

United Nations Resolutions

United Nations Security Council Resolution 1244, S/RES/1244, 10 June 1999

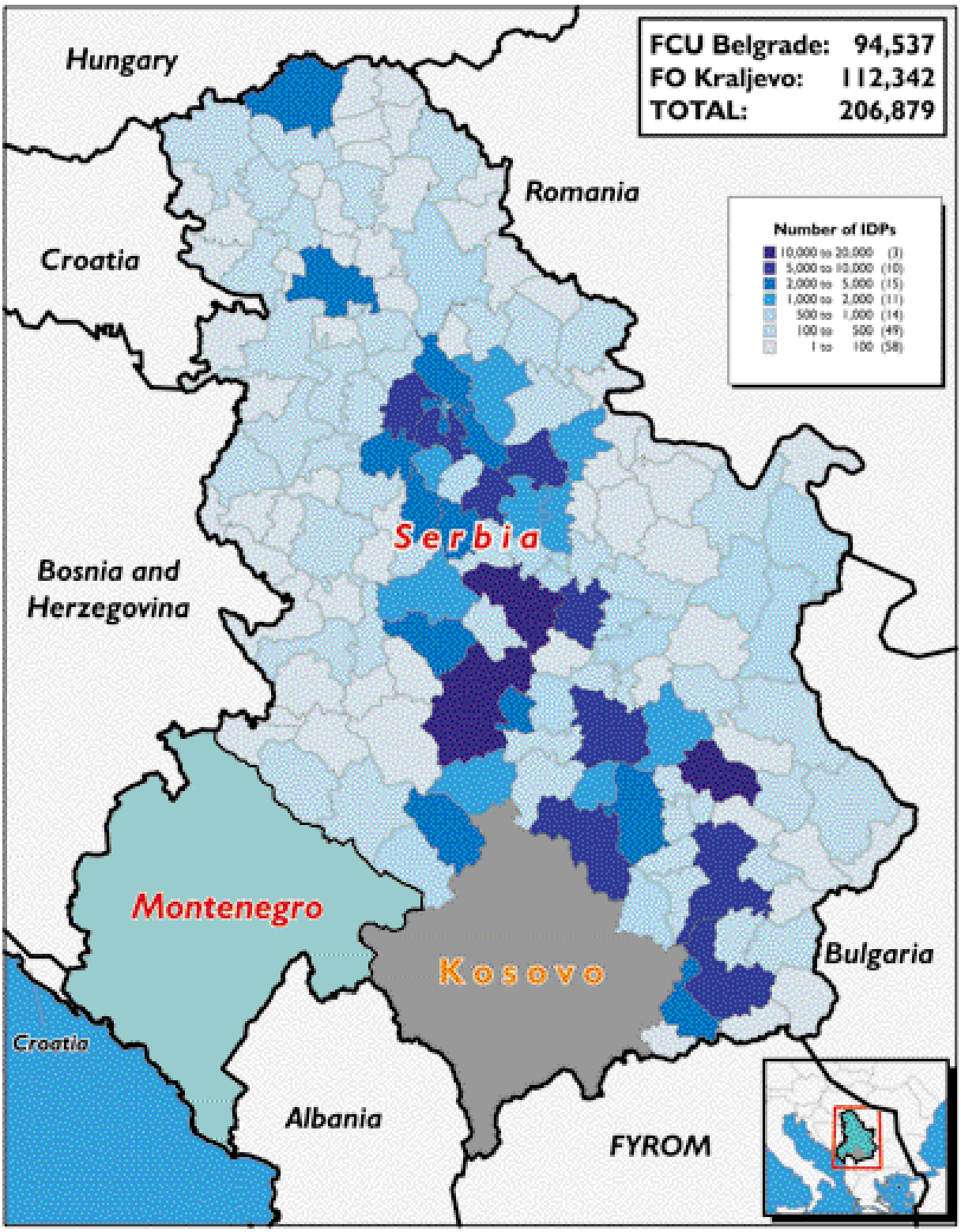
Non-binding Documents

United Nations Guiding Principles on Internal Displacement, UN Publication E/CN.4/1998/53/Add.2

Annex 3

IDPs in Serbia

(excluding Kosovo) as of 1st December 2006



UNHCR Belgrade, December 2006: The boundaries and names shown and the designations used on this map do not imply official endorsment or acceptance by the United Nations.

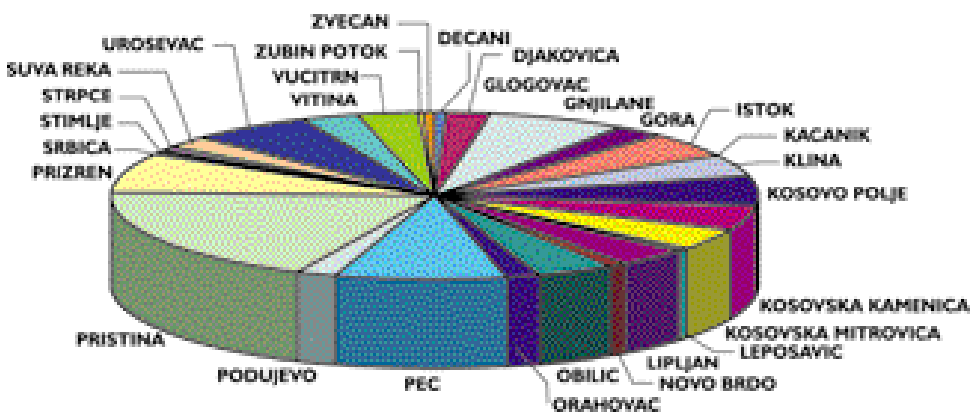
Annex 4

IDPs in Serbia

as of 1st December 2006 – Breakdown by Municipality of Origin

Municipality of origin	Number of IDPs in Serbia	%
DECANI	890	0.4%
DJAKOVICA	4,815	2.3%
GLOGOVAC	152	0.1%
GNJILANE	14,446	7.0%
GORA	5,149	2.5%
ISTOK	9,380	4.5%
KACANIK	373	0.2%
KLINA	8,661	4.2%
KOSOVO POLJE	12,047	5.8%
KOSOVSKA KAMENICA	9,803	4.7%
KOSOVSKA MITROVICA	8,609	4.2%
LEPOSAVIC	1,152	0.6%
LIPLJAN	7,361	3.6%
NOVO BRDO	1,667	0.8%
OBILIC	8,042	3.9%
ORAHOVAC	3,703	1.8%
PEC	17,687	8.5%
PODUJEVO	3,635	1.8%
PRISTINA	38,984	18.8%
PRIZREN	15,992	7.7%
SRBICA	853	0.4%
STIMLJE	998	0.5%
STRPCE	1,235	0.6%
SUVA REKA	4,548	2.2%
UROSEVAC	12,762	6.2%
VITINA	6,134	3.0%
VUCITRN	5,820	2.8%
ZUBIN POTOK	776	0.4%
ZVECAN	1,205	0.6%
TOTAL	**206,879**	**100.0%**

IDPs in Serbia by Municipality of Origin



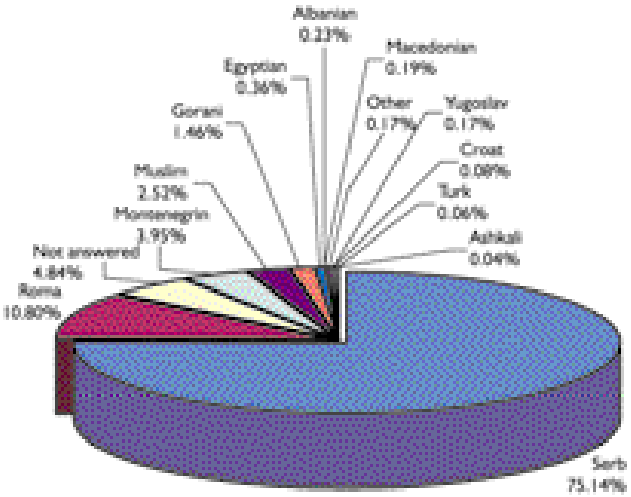
UNHCR Belgrade, December 2006: The boundaries and names shown and the designations used on this map do not imply official endorsment or acceptance by the United Nations.

Annex 5

IDPs in Serbia

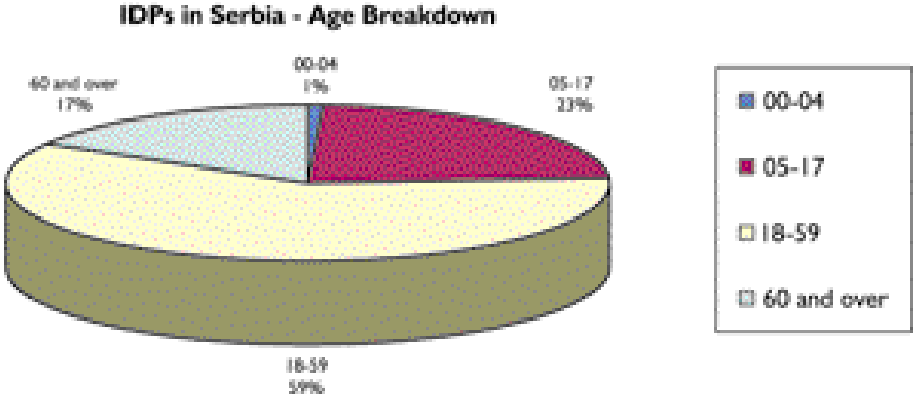
as of 1st December 2006 – Breakdown by Ethnicity

Ethnicity	IDPs	%
Serb	155,452	75.14%
Roma	22,345	10.80%
Not answered	10,012	4.84%
Montenegrin	8,180	3.95%
Muslim	5,204	2.52%
Gorani	3,021	1.46%
Egyptian	741	0.36%
Albanian	466	0.23%
Macedonian	390	0.19%
Other	361	0.17%
Yugoslav	344	0.17%
Croat	161	0.08%
Turk	124	0.06%
Ashkali	78	0.04%
Total	**206,879**	**100.00%**



IDPs in Serbia - Breakdown by Age/Gender

Age Group	Male		Female		Total	
	Persons	%	Persons	%	Persons	%
00-04	837	0.40%	745	0.36%	1,582	0.76%
05-17	24,771	11.97%	23,308	11.27%	48,079	23.24%
18-59	61,564	29.76%	61,128	29.55%	122,692	59.31%
60 and over	15,416	7.45%	19,110	9.24%	34,526	16.69%
Total	**102,588**	**49.59%**	**104,291**	**50.41%**	**206,879**	**100.00%**

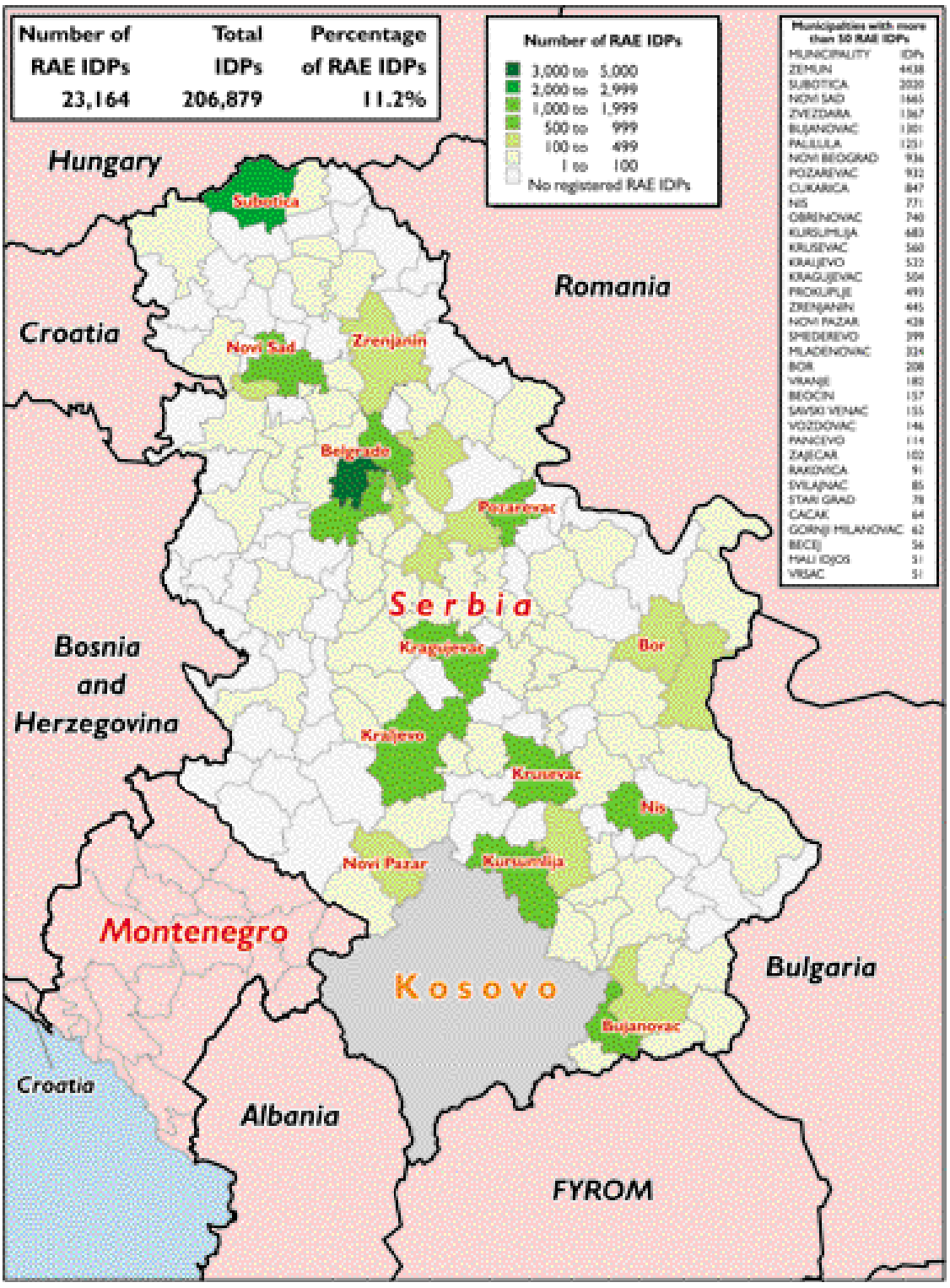


UNHCR Belgrade, December 2006: The boundaries and names shown and the designations used on this map do not imply official endorsment or acceptance by the United Nations.

Annex 6

RAE IDPs in Serbia

(excluding Kosovo) as of 1st December 2006



Source: UNHCR/SCR IDP Registration Database

UNHCR Belgrade, December 2006: The boundaries and names shown and the designations used on this map do not imply official endorsment or acceptance by the United Nations.

Annex 7

UNHCR's Position on the Continued International Protection Needs of Individuals from Kosovo*

(June 2006)

I. Introduction

1. Security Council Resolution 1244 (1999) gives the Office of the United Nations High Commissioner for Refugees (UNHCR) the mandate to supervise the safe and free return of all refugees and displaced persons to their homes.[1] To this end, UNHCR has contributed since 1999 to create conditions enabling sustainable return, and has regularly issued position papers that assess the situation of ethnic minorities, the international protection needs of ethnic groups and other categories of persons in Kosovo, and regularly evaluates the application of the internal flight or relocation alternative to individual asylum claims.[2]

2. The purpose of this paper is to provide updated recommendations to the relevant authorities in asylum countries to assist them in the determination of claims for international protection by persons originating from Kosovo. The paper first highlights important political developments related to negotiations on the future status of Kosovo, against which consideration of the situation of minorities should be seen. Second, it assesses the current situation of ethnic minorities by analyzing information collected by UNHCR's five field offices in the province, complemented by authoritative reports from other United Nations bodies and international nongovernmental organizations.[3] Third, the paper identifies the ethnic minorities in relation to whom there continue to be risks of persecution, and highlights humanitarian needs of individuals from Kosovo that should

* This position paper was finalized before the final result of the Referendum on Independence in Montenegro was announced on 3 June. Pending United Nations recognition of Montenegro's independence and Serbia as the successor state to the former State Union of Serbia and Montenegro, all references to Kosovo hence relate to the United Nations administered province of Serbia and Montenegro (SCG). Where reference is made to Serbia only, this relates to the specific situation of Serbia within the State Union of Serbia and Montenegro.

[1] See Annex 2 of Security Council Resolution 1244/99 dated 10 June 1999.

[2] UNHCR has continued to play a critical role in creating conditions conducive to return of refugees and internally displaced persons (IDPs) through facilitation of inter-ethnic dialogue, Go-and-See Visits and the Go-and-Inform Visit process, and through engagement in Working Groups, such as the Direct Dialogue Working Group on Return, the Kosovo Standards Implementation Plan and the Strategic Framework for Return. A compilation of UNHCR documents issued in this respect, can be found at *http://www.unhcr.org*

[3] UNHCR's monitoring activities are carried out through continuous and close liaison between its five offices in Kosovo located in Gjilan/Gnjilane, Mitrovicë/a, Pejë/Peć, Prishtinë/Priština and Prizren, as well as with UNMIK, key stakeholders and the local authorities/communities.

be considered before taking a decision on possible return to Kosovo. Fourth, the paper considers the possibility of applying the internal flight or relocation alternative.

3. Positive developments within the inter-ethnic environment have had a particular impact on members of the Ashkaelia and Egyptian communities in Kosovo. UNHCR is therefore no longer including these minorities among those at risk. On the other hand, UNHCR remains concerned about Kosovo Serbs, Roma and Albanians in a minority situation. Given their fragile security situation and the serious limitations to enjoying their fundamental human rights, UNHCR's position is that they should continue to be considered at risk of persecution, and should continue to benefit from international protection in countries of asylum. Return of these minorities should take place on a strictly voluntary basis, based on fully informed individual decisions. Their forced return to other parts of Serbia and Montenegro can not be considered as appropriate.

4. Continuing with established practice, UNHCR will be reviewing this position upon completion of the status talks, following a period sufficiently long to permit a new assessment of the situation of minorities.

II. The Political Environment

5. The current political environment is dominated by ongoing negotiations on the future status of Kosovo. Following the report of UN Special Envoy Kai Eide to the United Nations Security Council in October 2005 recommending that the political process to determine Kosovo's future status be initiated, negotiations on the future of the province have commenced in earnest with the appointment by the United Nations Secretary-General of Martti Ahtisaari as his Special Envoy on the future status process of Kosovo on 14 November 2005.[4]

6. The outcome of the status negotiations may significantly affect the position of minorities originating from Kosovo. The current situation has brought about a "wait-and-see" attitude on the part of many displaced persons, which is reflected, inter alia, in the low return figures and the slow reintegration process of internally displaced persons (IDPs). The overall number of refugees and IDPs voluntarily returning to/within Kosovo continues to be very low. From March 2005 to end May 2006, only 2,816 individuals from ethnic minority groups returned to 25 municipalities in Kosovo. The low rate of returns has its origin in a number of obstacles, which include, inter alia, (a) the fragile and volatile security situation in areas of return; (b) the absence of economic sustainability for returnees; (c) the unresolved status of returnees' homes and commercial/agricultural land; and (d) limited freedom of movement, resulting in only severely curtailed access to basic services, employment, and income-generating activities.[5]

[4] See, *A comprehensive review of the developments in Kosovo*, Report submitted by Ambassador Kai Eide, Special Envoy to the Secretary-General of the United Nations for the comprehensive review of Kosovo, annexed to the letter from the Secretary-General to the President of the Security Council dated 7 October 2005 (S/2005/635). The Eide report has highlighted a lack of progress in the field of minority rights and identified this as an area where an enhanced implementation of standards is required to foster the confidence of Kosovo Serbs and other minorities during the period of increased political tension accompanying status talks, pp. 9-12, and para. 73-74 on p. 14. In addition, see the International Crisis Group (ICG) Report No. 170 of February 2006, Kosovo: the Challenge of Transition, pp. 7-10.

[5] See also European Commission, Kosovo (under UNSCR 1244) 2005 Progress Report, Brussels, 9 November 2005, SEC (2005) 1423, section 1.2 Minority Rights: "Important obstacles remain to a sustainable returns process, resulting in few returnees. The overarching obstacle for the return of refugees and the internally displaced population (IDPs) is security concerns. This is coupled with a sense of uncertainty over the future status of Kosovo as well as limited opportunities in Kosovo to sustain a livelihood. Another major impediment of return are property related obstacles as returnees have difficulties in repossessing property left behind when fleeing Kosovo. Consequently, many of those displaced, in particular Serbs and Roma, have not yet found a durable solution."

7. In the delicate landscape of inter-ethnic relations surrounding the ongoing political negotiations over Kosovo's future status, a large-scale forced return of persons originating from Kosovo, regardless of their ethnicity, could represent another destabilizing factor in the months to come. Moreover, the forced return of persons originating from Kosovo to other areas of Serbia and Montenegro, prior to the conclusion of negotiations, may result in additional obstacles to achieving durable solutions for those concerned. States should consider placing the issue of forced return within the wider political perspective. The return of individuals considered not in need of international protection should be approached in a gradual manner, taking into account the social and economic challenges affecting Kosovo at present.

III. Situation of Ethnic Minorities

Security Environment

8. Since the issuance of UNHCR's March 2005 position paper, the overall security situation in Kosovo has progressively improved. The number of members of minorities working at the central Institutions of Provisional Self-Government (PISG) and in the Kosovo Protection Corps (KPC) has increased; freedom of movement has generally progressed; a number of important steps have been taken to reinforce the protection of property rights;[6] and an Inter-Ministerial Commission to monitor minorities' access to public services has been established.[7]

9. The United Nations Interim Mission in Kosovo (UNMIK) reported in May 2006 that crime statistics for the first quarter of this year revealed a marked decline in crimes where the possibility of an ethnic motive had not yet been ruled out.[8] Despite these improvements, the security environment, although stable, remains fragile and 'somewhat unpredictable'.[9] While the number of reported serious ethnically-motivated crimes has decreased, the Serb community continues to be affected by a considerable number of incidents.[10]

10. Members of ethnic minorities continue to suffer also from "low scale" ethnically motivated security incidents such as physical and verbal assaults/threats, arson, stoning, intimidation, harassment,

[6] See the Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, S/2006/45 (25 January 2006), Annex I - Technical assessment of progress in implementation of the standards for Kosovo, prepared by the Special Representative of the Secretary-General for Kosovo, Para. 1, p. 9.

[7] *Ibid*, Annex I, Para. 7, p. 10.

[8] As compared to 72 incidents recorded during January to March 2005, there were reportedly only 19 such incidents during the same period in the 2006. Of these, 12 involved Kosovo Serb victims, six Kosovo Albanians and one a Kosovo Croatian, UNMIK press release, UNMIK/PR/1554, 24 May 2006.

[9] See the Report of the Head of the OSCE Mission in Kosovo, Ambassador Werner Wnendt, to the Permanent Council, OSCE, Vienna, 19 January 2006. Referring (in Section 6) to the Internal Security Sector Review (ISSR) process that is being undertaken in consultation with a large section of Kosovo's society, the report says: "The ISSR comes at a moment when the security situation in Kosovo is stable, but somewhat unpredictable, with tensions remaining at heightened levels. Particularly in the context of status talks, it is in the interest of the political establishment, the international community and all communities in Kosovo to ensure that there is no widespread outbreak of violence". See also the Kai Eide Report (S/2005/635), of 7 October 2005, Para. 45, p. 9.

[10] In August 2005, two Kosovo Serbs were killed in Shtërpcë/Štrpce, and the highest-ranking Kosovo Serb Police Officer was shot the following month. On 27 August 2005, two Kosovo Serbs were killed and two others were severely wounded in a drive-by shooting incident from a speeding car. The four Kosovo Serbs from Lipjan/Lipljan, near Prishtinë/Priština, had been traveling in a vehicle en route from Shtërpcë/Štrpce to Ferizaj/Uroševac, returning home to Lipjan/Lipljan after a Saturday night out. These two incidents are still to be fully elucidated by the KPS and their exact nature thus far has not been established. However, the killings were generally perceived by the Serbs as targeted at their ethnic group. For an elaboration of the impact of these incidents on the overall fragile security situation in Kosovo, see Human Rights Watch, 31 December 2005, Essential Background: *Overview of human rights issues in Serbia and Montenegro – Kosovo*, p. 3.

looting, and "high-scale" incidents such as shootings and murders. Many of these incidents remain unreported, as the victims fear reprisals from the perpetrators of the majority community. Security incidents against Albanian minorities have been reported in the proximities of the main bridge in Mitrovicë/a, in the course of identity card (ID) checks by Serb bridge-watchers, often involving intimidation and physical assault. Members of the Roma community, possibly due to their weak social and economic position and lack of trust in the authorities' ability or willingness to protect them against retaliation, are reluctant to report security incidents to the Kosovo Police Service (KPS) or Serbian Police (SUP) operating in the northern part of Kosovo.[11] In addition, Roma infrequently resort to the court system, e.g. because they live in remote areas.[12]

11. Law enforcement, when crimes have an ethnic dimension, is considered by many observers as insufficient.[13] The failure to bring perpetrators of many serious reported crimes to justice contributes to a climate of impunity, aggravated by an ethnic imbalance in the composition of the local law enforcement structures.[14]

Insecurity – Real and Perceived

12. Members of ethnic minorities continue to perceive the current situation as insecure and in some instances even dangerous. Although not all security incidents are, of course, inter-ethnic in nature, they nevertheless exacerbate inter-ethnic perceptions and tensions.[15] The pervasiveness of "low-scale" incidents such as harassment, intimidation, stone throwing, graffiti, and insults/threats has a negative bearing on the level of confidence of minorities in the ability of the security forces to

[11] See the Opinion on the implementation of the Framework Convention for the Protection of National Minorities in Kosovo, Advisory Committee on the Framework Convention for the Protection of National Minorities – adopted on 25 November 2005, Council of Europe, ACFC/OP/I(2005)004, para. 53, p. 18: "The Advisory Committee notes that the normative framework for combating inter-ethnic hatred is advanced in Kosovo, with a specific UNMIK regulation on the prohibition of incitement to national, racial, religious or ethnic discord or intolerance and other norms providing important guarantees in this respect. There is, however, an exceptionally wide gap between the norms and reality in this sphere. According to UNMIK, large-scale violence against persons belonging to minority communities is now on the decrease in Kosovo. The Advisory Committee notes, however, that such violence did occur as late as March 2004, and that serious instances of inter-ethnic hostility are still reported rather frequently. Furthermore, it is a widely held view that a large proportion of the every-day manifestations of inter-ethnic hostility and harassment are not reported to lawenforcement bodies, often due to a lack of confidence in the institutions and in the effectiveness of the remedies available".

[12] *Ibid*.

[13] See, Kosovo Review of the Criminal Justice System 1999-2005, Reforms and Residual Concerns, OSCE, Department of Human Rights and Rule of Law, March 2006, p. 68. Additionally, the latest Human Rights Watch report, *Not on the Agenda: The Continuing Failure to Address Accountability in Kosovo Post-March 2004*, published on 30 May 2006, states that "[T]he failure to bring to justice many of those responsible for the violence and destruction of March 2004 compounds an earlier lack of accountability for the war crimes and serious anti-minority violence of 1998-2000. Human Rights Watch research indicates that the lack of progress in delivering justice for these serious crimes has hampered Kosovo's progress toward a functional state. There is a real danger that if the status quo on impunity continues, Kosovo risks becoming a "failed state" in which lawlessness and arbitrariness, not transparent, democratic rule will reign, regardless of the identity of the future leadership of the province."

[14] For example, in Pejë/Peć, out of a total of 952 KPS police officers in the local law enforcement structure, 114 are from minorities, including 15 Roma/Ashkaelia/Egyptians, and seven Serbs, and in Prizren the ethnic balance in the local law enforcement agencies is still not proportional for the Serb Minority. Prizren region has six municipalities with regional KPS HQ located in Prizren town. The region has 854 KPS officers out of which only two are Serb and there are no officers from the other minorities.

[15] For a further elaboration of this point, see the Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, S/2006/45 (25 January 2006), Annex I, Para 49, p. 14. See also Report of the Head of the OSCE mission in Kosovo, *op. cit.*, section 2: "The return of minority IDPs and refugees remains negligible. Despite an overall decline in recorded violent crime, some recent attacks on members of minority communities are likely to have at least a short term negative impact on freedom of movement – though there has been no proof that the criminal motivation in these cases has been ethnic in nature."

adequately protect them, this even though the number of incidents may have decreased.[16] Confidence in the Rule of Law sector has been weakened by ineffectual criminal investigations, low prosecution rates and a large number of unresolved theft and looting cases.[17] The cumulative effect of these factors has reinforced perceptions of insecurity in the Serb Community, and to a lesser extent, in the Roma community.[18]

Freedom of Movement

13. As argued in Ambassador Eide's Report, "the low number of reported inter-ethnic incidents partly stems from the fact that minorities tend to avoid or reduce to a minimum their contacts with the majority population".[19] Whether real or perceived, insecurity is still felt by the minorities in Kosovo and consequently limits their freedom of movement.

14. There are municipalities where minorities cannot travel freely for security reasons or have to rely on escorts and specially arranged transport. The provision of UN bus services and other organized transport has generated the perception of an improving freedom of movement among some members of ethnic minority communities. However, in general, individuals remain within the areas where their ethnic community represents the majority group.

15. Security incidents have a strong impact on the minorities' confidence and freedom of movement. In late 2005, UNMIK-CIVPOL began escorting all buses on the Dragash/š-Belgrade line following an incident where a rocket-propelled grenade was fired at a bus in Prizren. The Kosovo Serb community from Çagllavicë/Čaglavica to Graçanicë/Graçanica and Obiliq/Obilić areas has continued to request KFOR and KPS patrols to escort their children to attend classes to avoid stoning, allegedly by members of the Albanian majority population. Stoning incidents in March and May 2006 in the Pejë/Peć region affected buses on their way to Mitrovicë/a in Runik/Rudnik, Skenderaj/Srbica municipality, and in Shipol/Šipolj, one of the southern Mitrovicë/a suburbs.

16. As of July 2005, the Main Bridge joining northern and southern Mitrovicë/a, was opened for 24-hour traffic. Two-way traffic crossed the bridge at approximately 80 cars per day through August, after which monitoring ceased as traffic became routine. Nevertheless, Serbs crossing the bridge reportedly do not feel safe to move freely in southern Mitrovicë/a, and Albanians likewise do not enjoy freedom of movement in northern Mitrovicë/a.[20]

17. Freedom of movement for Roma in Mitrovicë/a continues to be limited, with only minor signs of improvement. Roma living in the Serb enclaves do not enjoy full freedom of movement outside the villages, except for the train to north Mitrovicë/a. A number of Roma returnees, who had declared themselves in asylum countries as Egyptian or Ashkaelia, have expressed feelings of insecurity, and their limited freedom of movement leaves them with little or no access to basic services. Similarly, ethnic Albanians (in a minority situation) who have been forced to return, remain displaced in

[16] UNMIK Police recently analyzed 1,408 Kosovo Serb convoys that were escorted by the Kosovo Police Service (KPS) during January to early May this year. It was found that there had been six incidents of stone throwing at these convoys and police had made five arrests in those cases.

[17] See, the Kai Eide Report, *op. cit.*, Executive summary, pp. *ii-iii*.

[18] According to Human Rights Watch, while most minority homes destroyed in March 2004 have been reconstructed, displaced persons trying to visit them have reported continuing threats and intimidation. Ethnic Albanians living in Serbmajority areas or who travel to such areas report similar concerns. See Human Rights Watch Report, *op. cit.*, p. 3.

[19] See, Kai Eide Report, *op. cit.*, p. 9, para. 47

[20] See the Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, *op. cit.*, Annex I, p.15, para. 53.

Mitrovicë/a south. Their freedom of movement in Mitrovicë/a north, where often their property is occupied, is restricted.

Access to Basic Services and Employment

18. Ethnic minorities continue to face serious obstacles to accessing essential services in the areas of health, education, justice and public administration.[21] Insecurity – both perceived and real – and limited freedom of movement negatively affect minority access to public services. The discriminatory behaviour of some civil servants, as well as the low representation of minorities in the administrative structures, result in further disincentives to the exercise of basic rights.[22]

19. Members of the Roma community face difficulty accessing public services.[23] Most Roma live in informal settlements where socio-economic opportunities are severely limited. Roma face discrimination when seeking employment and few are employed in municipal structures, which tend to fill their minority quotas with members of the Serb community.[24]

20. Parallel structures continue to operate in all municipalities with significant Serb populations.[25] In these municipalities access to services within the parallel structures is not possible for Roma and Albanians if they are not in possession of SCG identity documents. Individuals in isolated locations are particularly vulnerable, for instance, in case of health emergencies.

21. Restricted freedom of movement limits the ability of minorities to engage in income generating activities. The unemployment rate in Kosovo is estimated at over 50 per cent. This problem for the minorities is compounded by the fact that access to the work place is often difficult and risky. Furthermore security problems prevent a large number of persons from rural background from working on their lands and making a livelihood.[26] These constraints result in many families not being able to meet their basic subsistence needs.

Resolution of Housing, Land, and Property Issues

22. All persons should enjoy the right to the restoration of any housing, land and/or property (commercial and agricultural) of which they were arbitrarily or unlawfully deprived in the course of a conflict, or to be compensated for any housing, land and/or property that is factually impossible

[21] See Main Conclusions of the Assessment of Communities and the Returns Situation in Kosovo, European Agency for Reconstruction (EAR), February 2006, Para. 39. The report was commissioned by the EAR to assess the situation of communities and the returns situation in Kosovo.

[22] According to the Kai Eide Report, "the number of Kosovo Serbs and other minority communities in the bureaucratic structures of the provisional authorities is also low", *op. cit.*

[23] See the Ombudsperson Institution in Kosovo, Fifth Annual Report of June 2005, references to health (p. 36); employment (p. 39); and education (p. 41).

[24] The Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kaelin, listed the Roma minority population among one the most vulnerable groups in his September 2005 report. Report of Mr. Walter Kaelin, Representative of the Secretary-General on the human rights of internally displaced persons, Note by the Secretary-General, document A/60/338, 7 September 2005, *www.ohchr.org/english/bodies/chr/docs/ga60/A.60.338.pdf*. See also his Mission Report to Serbia and Montenegro, E/CN.4/2006/71/Add.5 dated 9 January 2006, available at *http://www.ohchr.org/english/issues/idp/visits.htm*

[25] See the Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, *op. cit.*, Annex I, p. 10, para. 14.

[26] See for example EC for Democracy through Law (Venice Commission), "Opinion on Human Rights in Kosovo" (11 October 2004) CDL – AD (2004)033, para. 34

to repossess. While UNMIK has adopted Regulation No 2006/10 on 4 March 2006 (on the resolution of claims related to private immovable property, including agricultural and commercial property), the current repossession rate for illegally occupied properties remains limited, and an effective and streamlined mechanism for property restitution and compensation is still lacking.[27]

23. A large number of displaced persons belonging to minorities do not physically repossess restituted property due to the prevailing problematic security situation and other obstacles to return. Following the eviction of illegal occupants, the looting and physical re-occupation of properties are commonplace as the rightful owners are often unable, or, due to security concerns, unwilling, to repossess their homes. In such cases, as a matter of legal procedure, the lawful owners must reinitiate court proceedings to evict the new illegal occupants.

IV. Groups at Risk

Kosovo Serbs, Roma and Albanians in a Minority Situation

24. Given the present fragile security situation in Kosovo and serious ongoing limitations to the fundamental human rights of Kosovo Serbs, Roma and Albanians in a minority situation, UNHCR maintains its position that persons in these groups continue to be at risk of persecution, and that those minorities having sought asylum abroad should be considered as falling under the provisions of Article 1 A (2) of the 1951 Convention and the 1967 Protocol relating to the Status of Refugees. Where a State feels unable to grant refugee status under the law, but the individual is not excluded from international protection, a complementary form of protection should be granted. The return of individuals belonging to these groups should only take place on a strictly voluntary basis. Individuals who express a wish to return voluntary should be able to do so freely and with the full knowledge of the current situation in Kosovo.

25. On the other hand, UNHCR, in consideration of positive security developments which have taken place in the 2006 in Kosovo, no longer considers that the Ashkaelia and Egyptian minorities in general, are in need of international protection. Therefore, asylum claims originating from among these ethnic communities should be assessed individually based on Art. 1 A (2) of the 1951 Convention and the 1967 protocol. Nonetheless, under the current political and socioeconomic circumstances, the return of persons from these two groups, found not in need of international protection should be approached in a phased manner, due to the limited absorption capacity of Kosovo, in order not to bring about politically and socially destabilizing factors at a time when negotiations on the future status of Kosovo are under way.

[27] The Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, *op. cit.*, Annex I, p. 22, para. 115 states: "Property rights protection in Kosovo remains extremely weak and in need of urgent strengthening. Illegal construction continues by individuals and companies on land owned by others, as well as nonpermitted construction on land by its title owners. Concerns continue over possible illegal expropriation of land by municipalities, including land owned by minority communities. Illegal occupation and use of property remains widespread. Kosovo's legislation, courts and administrative procedures need to be significantly strengthened to identify, correct and punish these crimes. The Government and public sector need to lead by example, enforcing disciplinary procedures against public servants illegally occupying property. Courts, municipal authorities and police need to increase efforts to enforce property-related law faster and more consistently."

Other Vulnerable Categories of Persons

26. In the current complex situation of Kosovo, individuals from groups not mentioned above may also have a well-founded fear of persecution for reasons covered by the 1951 Convention and the 1967 Protocol. These individuals may originate from ethnic minority groups not specified as being at high risk, or may belong to other vulnerable categories of persons. Examples may include but are not limited to:
    - Persons in ethnically mixed-marriages and persons of mixed ethnicity;
    - Persons perceived to have been associated with the SCG authorities after 1990;[28] and
    - Victims of trafficking.[29]

27. Furthermore, asylum-seekers who do not qualify for 1951 Convention refugee status may still be protected against return if non-refoulement obligations under international or regional human rights law apply.

V. Application of the Internal Flight or Relocation Alternative (IFA) to Ethnic Minorities at Risk

28. In considering asylum applications from persons originating from Kosovo, States may be inclined to assess whether an internal flight or relocation alternative is available for them in other parts of Serbia. Based on UNHCR's Guidelines, the circumstances faced by internally displaced persons in Serbia, leads UNHCR to maintain its general conclusion that internal flight in such conditions does not offer a relevant or reasonable alternative to international protection.[30]

29. UNHCR recommends that States refrain from forcibly returning ethnic minorities at risk in Kosovo to other areas of Serbia on the basis of the internal flight or relocation alternative, noting that this could lead to a situation of secondary displacement, which would appear to contradict the spirit of United Nations Security Council Resolution 1244.[31] This applies particularly to Kosovo Roma in the light of their especially vulnerable situation in Serbia. The forced return of minorities at risk would hence not constitute a meaningful alternative to international protection or a durable solution for those displaced.

    The Relevance Analysis: *Is the area of relocation practically, safely, and legally accessible to the individual?*

[28] The inter-ethnic violence in March 2004 highlighted the persistent and strong resistance in Kosovo to persons closely associated with the Kosovo Serbs or with the Serbian structures, whether past or present.

[29] See the UNHCR Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked HCR/GIP/06/07, 7 April 2006. On the risk for persons from Kosovo to become victims of trafficking, see e.g. UNICEF, "Trafficking in Children in Kosovo" (June 2004) and Human Rights Watch, "Country Summary: Serbia and Montenegro" (January 2005). See also OSCE, ODIHR, "Awareness Raising for Roma Activists on the Issue of Trafficking in Human Beings in South-Eastern Europe", Warsaw, April 2006.

[30] See UNHCR, "I*nternal Flight or Relocation Alternative" within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, HCR/GIP/03/04, Geneva 23 July 2003.

[31] Calls to "refrain from returning members of threatened communities and particularly vulnerable persons to situations where they would risk becoming internally displaced persons without the necessary assistance and protection of their rights" have been also made by Walter Kälin, following his visit to Kosovo in July 2005 and his assessment on the situation there. See Report of Mr. Walter Kälin, Representative of the Secretary-General on the human rights of internally displaced persons, *op. cit.*, para. 31.

30. Even though physical access to Serbia is possible and minorities there do not normally face persecution, it is of particular importance to the relevance analysis to assess whether the applicant can legally access other parts of Serbia (excluding Kosovo). Persons belonging to ethnic minorities at risk in Kosovo who seek protection in Serbia (excluding Kosovo) face significant challenges receiving legal protection there. Administrative practices relating to civil registration and documentation present serious obstacles to obtaining legal residence and may create pressure to move to other areas causing a chain of further displacement.

31. In Serbia, access to basic rights and services, such as medical care, employment benefits, pensions, housing, and education is dependent on registration as a permanent resident or an IDP rather than mere possession of Serbian citizenship. Although persons originating from Kosovo are formally permitted to register as permanent residents in Serbia, many are unable do so in practice as they cannot provide proof of residence. Moreover, despite their situation of secondary displacement, persons arriving spontaneously from Kosovo as well as forced returnees from abroad are not permitted to register as IDPs. Many are consequently deprived of access to basic civil, political, economic, and social rights, triggering a process of legal and socio-economic marginalization.

32. Administrative practices relating to documentation pose further barriers to effective legal protection. A large number of Kosovo Roma and some Kosovo Serbs lack personal documentation.[32] In order to undertake civil registration and obtain basic documentation relating to citizenship, birth, and civil status, persons originating from Kosovo must go in person to "dislocated" registry offices.[33] Lengthy administrative procedures are frequently hampered by the non-implementation of the law, the lack of mutual recognition of documents by UNMIK and the Serbian authorities, as well as the significant backlog of cases before Kosovo's courts.

The Reasonableness Analysis: *Can the applicant, upon return to Serbia and Montenegro, lead a relatively normal life without facing undue hardship?*

33. UNHCR considers that the application of the internal flight or relocation alternative is not reasonable due to the hardship that persons belonging to Kosovo's minorities face in the areas of relocation. Serbia (excluding Kosovo) is currently hosting some 225,000 IDPs from Kosovo and some 115,000 refugees, in a context where the overall difficult socio-economic situation is characterized by high unemployment and a severely strained social welfare system. Although persons originating from Kosovo who arrive spontaneously in Serbia or are forcibly returned to Serbia face similar problems to IDPs, they do not benefit from humanitarian assistance. The limited capacity of state institutions to deal with the additional burden of forced returnees further reduces the prospects of Kosovo minorities in achieving an adequate standard of living upon return.

34. The absence of access to adequate social housing constitutes a crucial problem for Kosovo minorities in the full enjoyment of their economic, social, and cultural rights in Serbia. Due to the lack of capacity and funds, the authorities do not provide housing to persons originating from Kosovo, with the exception of some 5,374 IDPs who are provided with basic shelter in collective accommodation centres. Many Kosovo Roma have found shelter in illegal settlements made up of

[32] The general marginalization of these minorities as well as the registration system of the former Federal Republic of Yugoslavia (FRY), resulted in many persons failing to obtain civil registration or documentation even before 1999. Moreover, many registry books have been destroyed, dislocated or were lost during the conflict.

[33] The registries were transferred to Serbia as FRY forces withdrew from Kosovo in June 1999. These registries have since been merged with the registry offices of the hosting municipalities.

makeshift huts, corrugated metal containers and other sub-standard shelters, and often live in extremely harsh conditions (no electricity, no running water, no sanitation, and no public services).[34]

35. Only 11 per cent of all Roma settlements in Serbia represent settlements allowing for a dignified life. The current privatization process has triggered a series of evictions from Roma settlements, in a context where the legal framework does not require the identification of alternative housing solutions. This gives rise to homelessness, physical injury, health problems, insecurity, and the removal of children from school and the loss of employment. Moreover, it should be stressed that only 12 per cent of the Roma population in Serbia have a regular income, only seven per cent of the Roma population are recipients of regular medical services, and that Roma children are faced with health related problems three to ten times more often than other children in Serbia. Racial segregation in schools is a serious problem. Seventy-five percent of the Roma, Ashkaelia, and Egyptian population in Serbia live in extremely difficult living conditions in abject poverty.[35]

VI. Humanitarian Categories

36. With regard to individuals who are not in need of international protection, their special needs should be taken into account in the context of return, particularly bearing in mind the limitations of social welfare institutions in Kosovo. The following vulnerable persons fall under this category:
    - Unaccompanied elderly persons who have no relatives or any other form of societal support in Kosovo;
    - Separated children without relatives or caregivers in Kosovo, and for whom it is found not to be in their best interest to return to Kosovo.

37. In addition, the return of separated children for whom relatives and caregivers have been identified should only take place after appropriate advance notification and arrangements have been made by the repatriating State, so that there is no gap in the care and protection provided to the children.

UNHCR
June 2006

[34] See the Report of Mr. Walter Kälin, Representative of the Secretary-General on the human rights of internally displaced persons, *op. cit.*, para 36.

[35] As stated by the Representatives of the Serbian authorities in May 2005 in a meeting on "The Role of Municipalities in the Decade of Roma Inclusion", organized by the Ministry for Human and Minority Rights of SCG.

Annex 8

Parliamentary Assembly of the CoE – Recommendation No. 1633

(2003)[1]

Forced Returns of Roma from the Former Federal Republic of Yugoslavia, Including Kosovo, to Serbia and Montenegro from Council of Europe Member States

1. The Parliamentary Assembly refers to its Recommendation 1569 (2002) on the situation of refugees and internally displaced persons in the Federal Republic of Yugoslavia; Recommendation 1588 (2003) on population displacement in South-eastern Europe: trends, problems, solutions; Recommendation 1348 (1997) on the temporary protection of persons forced to flee their country; Recommendation 1547 (2002) on expulsion procedures in conformity with human rights and enforced with respect for safety and dignity; and Recommendation 1504 (2001) on non-expulsion of long-term immigrants.

2. The Assembly notes with concern that the problem of displacement in the Balkans still remains unresolved. At the moment, there are still more than one million displaced persons seeking durable solutions in the region. Of these, half a million are living in Serbia and Montenegro, including Kosovo. This general context of displacement should be taken into account when examining any specific questions concerning returns.

3. Roma constitute a particularly vulnerable group of the displaced population. In Kosovo, their security cannot be guaranteed. In Serbia and Montenegro, their economic and social situation, as well as living conditions, are very precarious. Everywhere in the region the Roma are confronted with a pattern of subtle discrimination on the part of both the local population and the local authorities, who are often reluctant to accept them.

4. According to estimates, between 50,000 and 100,000 Roma from Serbia and Montenegro, including Kosovo, who had fled the region during the conflict in the Balkans, are still living in various European countries, with no permanent status. The majority live in Germany (25,000 – 30,000), the Netherlands (12,000), Belgium (3,000), Switzerland (3,000) and Luxembourg (2,000 – 3,000). They fall into the category of candidates for return.

5. Forced returns are carried out on the basis of bilateral return agreements concluded between Serbia and Montenegro on the one hand, and various European countries who wish to repatriate the Roma on the other. They started shortly after the democratic changes following the presiden-

[1] *Text adopted by the Standing Committee*, acting on behalf of the Assembly, on 25 November 2003 (see Doc. 9990, report of the Committee on Migration, Refugees and Population, rapporteur: Mr Einarsson).

tial elections in the Federal Republic of Yugoslavia in September 2000. So far, approximately 1,000 Roma have been forcibly returned, mainly from Germany.

6. The main concerns relating to forced returns of Roma can be divided into three areas. The first group of issues calls into question the legitimacy of certain decisions on expulsion taken by the host countries. The second group relates to the conditions in which forced returns take place, and the third to the situation in which forcibly returned Roma find themselves upon their return to Serbia and Montenegro.

7. It is particularly worrying that readmission agreements do not clearly define the conditions for the reception of returned persons and do not put any responsibility on the receiving state with regard to the reintegration of returnees.

8. The Assembly is also concerned by so-called "voluntary returns" which in some cases are so strongly encouraged that they may amount to disguised forced returns.

9. Therefore, the Assembly recommends that the Committee of Ministers:
   (i) urge the member states of the Council of Europe who are hosting Roma from Serbia and Montenegro, including Kosovo, to ensure:
      a. that any decision on a forced return of Roma to Serbia and Montenegro is taken on a case-by-case basis taking into account all relevant circumstances; in particular, humanitarian grounds should be considered as a sufficient justification for granting a residence permit;
      b. that every Roma who seeks international protection is given access to fair and effective asylum procedures;
      c. that there are no forced returns of Roma originating from Kosovo either to Kosovo or to Serbia and Montenegro, as long as the security situation in Kosovo does not allow for their return;
      d. that Roma representatives are given an opportunity to be involved, in an advisory capacity, at an early stage of preparation for a possible forced return of Roma;
      e. that forcibly returned Roma are in possession of appropriate documents which will enable them to be recognised as full citizens upon their return;
      f. that the procedures for deportation comply with international law and take into account recommendations included in Recommendation 1547;
      g. that they contribute financially to the setting-up and implementation of effective reintegration programmes for returning Roma. These programmes should also be supported by funding for the new wider Roma strategy;
   (ii) urge the Serb and Montenegrin authorities:
      a. to actively seek support and international funding for the setting-up and implementation of reintegration programmes for returning Roma, including financing from the Council of Europe Development Bank;
      b. to ensure that Roma representatives are consulted and involved in the setting-up of any reintegration programme concerning the Roma population;
      c. to give particular attention to Roma, who constitute the poorest category in the vulnerable population groups in the forthcoming governmental Poverty Reduction Strategy that is assisted by the World Bank;
      d. to ensure that relevant ministries in charge of education, housing, employment, social and health care, and most particularly the local and municipal authorities, are properly informed about the readmission process; that relevant authorities should provide targeted plans to ensure that Roma are able to exercise their fundamental rights in these areas, starting with access to appropriate registration and personal documentation;
      e. to adopt, in co-operation with non-governmental organisations representing the Roma pop-

ulation, a comprehensive policy to address all aspects of the human rights situation of Roma returned to Serbia and Montenegro and to provide funding to ensure full implementation of the strategy;

f. to adopt and implement, as a matter of priority, binding legal measures with the aim of preventing statelessness of Roma returnees, in particular to ensure that local authorities carry out the procedures necessary to provide them with identity documents. Urgent measures should be taken to improve the access of Roma returnees to public services necessary for the full exercise of their human rights;

g. to facilitate the speedy provision of school attendance certificates to Romani children educated abroad so that they can continue their education in Serbia and Montenegro;

h. to stop the practice of making returning Romani children attend classes they have already successfully completed abroad;

i. to provide extra classes for Romani children to learn the Serbian language;

j. to ensure that no ethnic segregation arises in the provision of schooling for returnee children.

10. The Parliamentary Assembly further recommends that the Committee of Ministers:

(i) strengthen its programmes involving the returning Roma population in Serbia and Montenegro;

(ii) promote and support activities of Roma civil society;

(iii) continue its work on the development of the code of good conduct for expulsion procedures.

11. The Assembly calls on the Council of Europe Development Bank to step up its co-operation with the Serb and Montenegrin authorities, with a view to financing projects for returning Roma.

12. The Assembly invites the Congress of Local and Regional Authorities of the Council of Europe to step up its programme for the twinning of the municipalities in the regions which are hosting Roma with municipalities in other Council of Europe member states.