

12/11/98 10:15
11:08 12:04MISSION DU DANEMARK GENEVE + UN
UNHCR GENEVE + AI2944NO. 476 P882/834
NO. 146 P882 16/11/98

FORB. JUGOSLAVIEN (31)

2/34

HUMANITARIAN ISSUES
WORKING GROUP

Geneva, 20 November 1998

225

Dist.
RESTRICTEDHIVG/98/6
11 November 1998

Original: ENGLISH

UNHCR POSITION PAPER ON THE
TREATMENT OF REFUGEES AND ASYLUM-SEEKERS FROM KOSOVO

I. INTRODUCTION

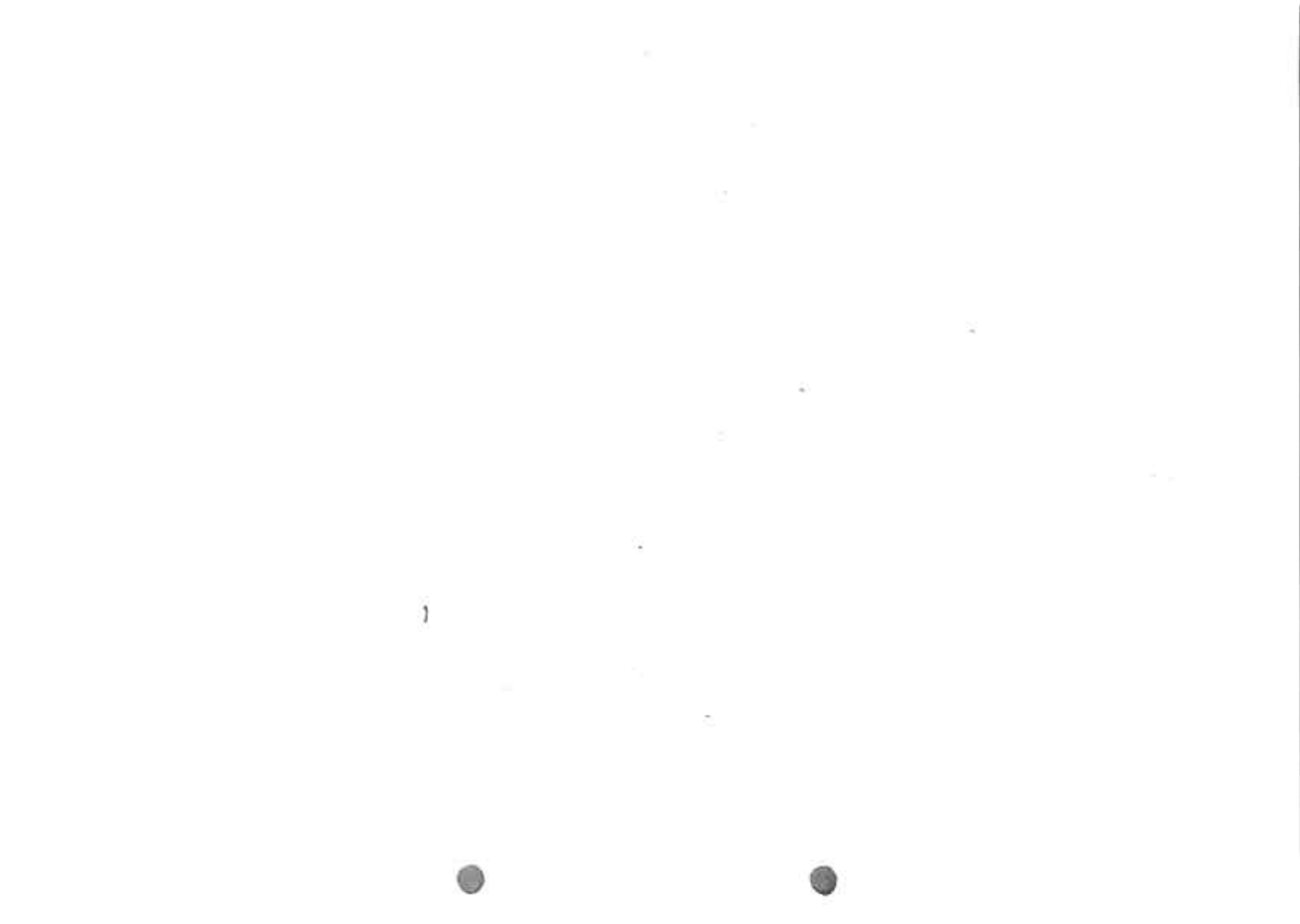
1. The present paper updates the "UNHCR Position Paper on the Treatment of Asylum-Seekers from Kosovo in Countries of Asylum: Relevant Consideration" issued by the Office of the United Nations High Commissioner for Refugees (UNHCR) on 25 August, 1998, to reflect developments in Kosovo through 1 November 1998. It provides information and guidance for those dealing with applications for refugee status lodged by asylum-seekers from Kosovo province of the Federal Republic of Yugoslavia. It also makes recommendations regarding the treatment of new arrivals. The paper is primarily intended for the authorities in asylum countries, particularly officials charged with establishing refugee policy and with the determination of refugee status. Its overall thrust remains to encourage asylum countries to receive Kosovar asylum-seekers, ensure that their protection needs are properly and fairly assessed through appropriate procedures, and continue to host them pending a durable removal of the causes of their flight. Notwithstanding the positive developments since 13 October 1998, when an accord was reached between President Milosevic of the Federal Republic of Yugoslavia and Ambassador Holbrooke, the United States Special Envoy, UNHCR believes it would be premature to consider repatriation in view of the fragility of the cease-fire and the continuing reports of human rights violations and security incidents.

2. To assist States, the paper provides up-to-date information on the situation inside Kosovo and addresses the prospects for protection internally and in the neighbouring countries, as well as the vulnerabilities of particular groups. The Annex contains a summary of the evolution of the conflict in Kosovo from the end of February 1998 to 1 November 1998, describing its development and the reaction of the international community. The situation in Kosovo remains volatile, and this paper should be read in conjunction with the latest available information on the situation there.

II. HANDLING OF KOSOVO ALBANIAN CLAIMS BY GOVERNMENTS

3. Persons fleeing Kosovo in search of protection and who make asylum claims should, like all other asylum-seekers, be afforded access to regular refugee status determination procedures, for consideration of their claims on a case-by-case basis. In considering such claims, it should be borne in mind that the displacement

01495 219



12/11/98 16:15

MISSION DU DREPERK GENEVE + UN

12/11/98 12:04

UNHCR GENEVE + 010044

NO. 146

P283

RTW/G/98/6

page 2

appeared in large measure to be driven by the threat of serious harm which is often meted out on the basis of ethnicity and imparted political opinion. In such circumstances, it may reasonably be assumed that important numbers of those displaced by the conflict could have a well-founded fear of persecution for 1951 Convention reasons.

III. GROUPS AT RISK

A. Specific Groups

4. Well before the escalation of the violence in early 1998 there was documented repression of Kosovo Albanians and documented serious human rights abuses affecting this group, on political and ethnic grounds.¹ The escalation of the violence in the province in early 1998 into a situation of armed conflict does not negate the Convention reasons which individuals may have for fleeing the area. In fact, for some claimants, the conflict may strengthen their refugee reasons for flight. These causes are not mutually exclusive. Persons displaced by war or conflict can legitimately fear persecution. War may well be the very instrument of persecution, the method chosen by the persecutors – whether part of the State apparatus or not – to repress or eliminate entire groups of people because of their ethnicity or other affiliations. The current cease-fire is fragile and there are reported incidents of continuing human rights violations.²

¹ See e.g., Periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, E/CN.4/1994/2, 3 May 1993; Sixth Periodic report on the situation of human rights in the territory of the former Yugoslavia, submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, E/CN.4/1994/110, 21 February 1994; Situation of human rights in the territory of the former Yugoslavia. Special report on the media, E/CN.4/1995/54, 13 December 1994; Situation of human rights in the territory of the former Yugoslavia Report submitted by Mr. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights, pursuant to Commission resolution 1995/89, E/CN.4/1996/63, 14 March 1996; Situation of human rights in the territory of the former Yugoslavia. Special report on minorities, E/CN.4/1997/8, 25 October 1996; Situation of human rights in the territory of the former Yugoslavia. Periodic report submitted by Ms. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 45 of Commission resolution 1996/71, E/CN.4/1997/56, 29 January 1997; Situation of human rights in the territory of the former Yugoslavia: Two trials of Kosovo Albanians charged with offences against the State in the Federal Republic of Yugoslavia in 1997. Report submitted by the Special Rapporteur, Ms. Elisabeth Rehn, E/CN.4/1998/9, 10 September 1997; Situation of human rights in the territory of the former Yugoslavia: Report on the situation of human rights in the Federal Republic of Yugoslavia submitted by Ms. Elisabeth Rehn, Special Rapporteur, E/CN.4/1998/15, 31 October 1997. See also Background paper on refugees and asylum-seekers from Kosovo, UNHCR, Centre for Documentation and Research, February 1996.

² Serbian police lance Kosovo warning officer two policemen killed, "Agence France Press, 9 November 1998; "Clashes between Kosovo rebels and Serb forces along refugee returns," "Agence France Press, 8 November 1998; "Kosovo guerrillas said to attack coal miners," "Reuters, 4 November 1998.

3/34

12/11/98 16:15 MISSION DU DENERRE GENEVE -> LH
12:04 UNHCR GENEVE -> 018544

HIV/G/98/6

page 3

4/34

5. The following groups continue to be at particular risk of persecution:

- Able-bodied ethnic Albanian men of military age are generally regarded by the authorities as being at least supporters of the Kosovo Liberation Army (KLA), if not active fighters. This is particularly so if they hail from areas of the province which have been affected by the conflict. Such persons have been subject to questioning, detention, beatings and other ill-treatment, up to and including death.
- The ethnic Albanian civilian population in areas of activity by the KLA are presumed by the authorities to be supporters of the KLA. Their homes and other property have been targeted for destruction in order to preclude their use in aid of the KLA, resulting in displacement at the very least, and sometimes injury and even death for civilians.
- Relatives of known or suspected KLA fighters, who have been directly targeted by Serbian security forces;
- Former KLA fighters (who would, however, not be refugees if they fall under the exclusion clauses contained in Article 1 F of the 1951 Convention);
- Employees of the parallel Kosovo Albanian health and medical services. Many have been harassed and, in some cases, detained under suspicion of providing supplies, medical training or medical aid to the KLA. On 24 August, three staff members of the Mother Teresa Society were killed in a deliberate attack on their relief convoy by Serbian security forces;
- Members of community-level emergency groups organized to assist the internally displaced have also been targeted, on the same basis as the health workers;
- Members of the Albanian intelligentsia (including editors, journalists, human rights activists, attorneys or politicians), who are perceived to side with the KLA or with the Albanian cause.
- 6. This listing does not preclude other individuals or groups from being recognized as at particular risk as well. These are merely indicative of the groups which to date have come to UNHCR's attention.

B. Draft Evaders and Deserters

7. While it is well-acknowledged that draft evasion or desertion generally is not of itself necessarily grounds for refugee status, draft evaders and deserters from the Yugoslav Army (VJ) may indeed be able to demonstrate a well-founded fear of persecution because of their refusal to perform military service. The basis of such recognition in these particular circumstances would most likely be valid reasons of conscience, either i) because participation in the military is contrary to genuine political, religious or moral convictions, and there is no alternative service available, or ii) because of an unwillingness to be associated with military action which has been condemned by the international community as contrary to the basic rules of human conduct.³ Important considerations in such analyses might include the reasons for the refusal, the genuineness of the claimant's convictions, and the

³ See para. 167-174 of the *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status*.

12/11/98 18:15

MISSION DU DRETPROK GENEVE → UN
UNHCR GENEVE → 018544

NO. 145 P085

HTW/G/98/6

page 4

5/34

penalty to be suffered (both legal and extra-judicial). With respect to the second ground, given the evidence of the way the conflict has been conducted (see the background information and reports by human rights organisations), and the reaction of the international community, serious consideration would need to be given to a refusal based on unwillingness to participate in action contrary to the basic rules of human conduct.

C. Other potential groups at risk

8. While the purpose of this paper is to provide assistance with claims by Kosovo Albanians, it must be acknowledged that members of other communities may also be singled out for persecution, sometimes at the hands of non-State agents. The KLA, for its part, is accused of abduction, hostage-taking and even murder of persons of Serb and Roma origin, as well as ethnic Albanians, suspected of sympathising with the Serbian authorities in areas under their control. There have been and continue to be abductions and disappearances both from the Serb and Albanian communities, as well as from the Roma community and other national groups considered to sympathise with the Serbian authorities. There are also recent reports of Serb civilians being forced from their homes as security forces withdraw and KLA moves in. Other groups that could be at risk are ethnic Albanians, Romas and others considered "loyal" to Government authorities.

IV. RETURN OF REJECTED CASES

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

10. Since the time of its renewed appeal and until the accord of 13 October 1998, the situation in Kosovo had markedly worsened. In his 3 October 1998 report to the Security Council, the United Nations Secretary-General noted that,

"There are concerns that the disproportionate use of force and actions of the security forces are designed to terrorize and subjugate the population, a collective punishment to teach them that the price of supporting the KLA is too high and will be even higher in the future. The Serbian security forces have demanded the surrender of weapons and have been reported to use terror and violence against civilians to force people to flee their homes or the places where they had sought refuge."

¹ S/1998/912, para. 7. No new report had been issued at the time of writing.

12/11/98

10:15

MISSION DU DENERREX GENEVE -> UN

NO.146

Page 1

11/11/98

12:05

UNHCR GENEVE -> 0109344

H/WG/98/6

page 5

6/34

11. Until such time as there is evidence of conditions conducive to return in safety, UNHCR is compelled to reiterate its appeal to States to ban temporarily the deportation of rejected asylum-seekers on humanitarian grounds. This request is motivated by the fragility of the present cease-fire, slow progress on a political settlement and the security risks for deportees which the situation entails and the further risk that returns could further destabilise the situation.

V. HUMANITARIAN STATUS

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

VI. SAFETY WITHIN THE FEDERAL REPUBLIC OF YUGOSLAVIA

13. This is essentially a practical, factual question, relating to the effectiveness and reasonableness of a move to another location in order to find safety within the country. The circumstances of the specific case being considered will be of paramount importance. For the larger number of Kosovo Albanian claims, which involve fear of persecution by State agents who are able to act throughout the Federal Republic of Yugoslavia (or they police, security forces or the Yugoslav military), safety elsewhere within the country is far from assured.

14. With respect to claims that may not involve a fear of the State authorities, but a fear, for instance, of the KLA or its sympathisers, it must be remembered that the analysis of the reasonableness of such a move relates also to the circumstances in the proposed site of relocation. With respect to Serbia, for claims not involving State agents, an analysis of the reasonableness of moving to those locations would have to take into account not only the circumstances of the individuals concerned, but also all the circumstances found there. These would include factors such as limited reception facilities and absorption capacity, considerations of ethnic make-up and balance, concerns about political stability and the attitude of the local population.

15. For Montenegro, which is already hosting an estimated displaced Kosovo population of over 42,000, in addition to some 30,000 refugees from Bosnia and Herzegovina, and whose total population is 644,000, reception facilities and absorption capacity are already overstretched. Problems of finding shelter and providing food for the displaced have been raised by Montenegrin authorities to the international community, highlighting the lack of residual capacity to absorb further displaced persons. The Secretary-General has noted that the growing number of

12/11/98 10:17

MISSION DU D'ENERGIE GENEVE + UN

NO. 145 P887

12/11/98 14:45

UNHCR BENECH + 818244

HIVG/98/6

page 6

internally displaced persons and refugees in the region "in turn causes further instability," and has described "the move in certain quarters away from a willingness to search for compromise on a basis of multi-ethnic communities" as "a particularly dangerous element" in the Kosovo situation.⁵ Montenegro has a permanent population of 40,000 ethnic Albanians, and the numbers of displaced now hosted nearly double that. Hosting even greater numbers could upset the balance and lead to political instability in Montenegro, further destabilising the region.

16. On 11 September, the Government of Montenegro decided to close its provincial boundary with Kosovo to new arrivals, given the crossing of some 3,000 new IDPs that day, reportedly accompanied by KLA fighters, with news that thousands more were poised to follow. The new arrivals were assisted by the authorities to cross into Albania and proceeded to Shkoder and its environs. The closure remains in effect and Montenegro cannot be considered to provide a safe flight alternative.

VII. RETURN OF ASYLUM-SEEKERS TO ALBANIA

17. Current experience is that ethnic Albanian asylum-seekers from Kosovo will not be refouled to Kosovo or elsewhere in the Federal Republic of Yugoslavia by the Albanian authorities. Indeed, UNHCR is convinced that the authorities in Albania are using their very best efforts to welcome and protect those who have entered the country. However, for a number of reasons set out in the following paragraphs, asylum-seekers should not be returned to Albania for the purposes of determination of their claims or in the belief that they can find effective protection there.

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

19. Albania is one of the poorest nations in Europe. In 1997 the country was convulsed by an upheaval which saw the collapse of the government and the reign of chaos, evidenced by, among other activities, the destruction of significant

* Ibid., para. 16.

7/34

12/11/98 10:17 MISSION DU DRAPERK GENEVE + LM
11/11/98 12:40 UNHCR GENEVE + B18944

NO.146 P388

HWWG/98/6
page 7

8/34

elements of its infrastructure, the looting of military arms depots and the desertion of the bulk of its military. At present the country is re-emerging from this catastrophe and attempting to rebuild its infrastructure, physically, economically and socially. The conflict in neighbouring Kosovo, however, is preoccupying authorities to a significant degree. The capacity of the authorities to provide shelter, food, jobs and security to the native Albanian population, let alone to the population of newly arriving Kosovo Albanians, is therefore extremely limited, as was demonstrated by events in Tirana and elsewhere in the country in September 1998, and is acknowledged to be so by the authorities themselves.

20. The situation in the northern districts of Albania, where the majority of Kosovo Albanians entered and where some remains, is notoriously insecure and increasingly militarised. In such an environment, basic human rights cannot, despite the best efforts of the Albanian government, be adequately protected for citizens or others, including the Kosovo Albanians and the humanitarian aid workers attempting to protect and assist them. UNHCR and other international organisations had to relocate their offices to safer locations and to limit their presence in the north owing to security concerns. In the north, the situation is particularly precarious for certain groups, such as the elderly and women and children without an accompanying male family member, who are vulnerable to physical and sexual exploitation and abuse. For men of military age, there is a risk of coercion and forced recruitment into the KLA. Even in other regions of Albania where UNHCR has previously relocated refugees in the north, the lack of adequate physical infrastructure to absorb this population, and the lack of sufficient numbers of trained police, military and other governmental authorities means that the capacity to provide protection and assistance to the refugee population in the country is seriously compromised.

VIII. RETURN OF ASYLUM-SEEKERS TO BOSNIA AND HERZEGOVINA

21. Bosnia and Herzegovina (BiH) is a country emerging from conflict and struggling to find the capacity to absorb the returns of those former residents who were displaced by the conflict of the early 1990s and who wish to return. Though there is a draft asylum law currently being processed, it has not been implemented and no procedure exists for determining refugee status. UNHCR has been cooperating closely with the authorities of BiH in the reception of arriving Kosovo Albanian asylum-seekers. As at 1 November, the country had received some 10,000. In early October, the authorities issued an "Instruction on the Temporary Admission of Federal Republic of Yugoslavia (FRY) refugees from the Territories of Kosovo and Metohija," which provides that the refugees will be admitted on a temporary basis and will be protected from refoulement, envisages the registration of new arrivals and sets out their entitlements. Regulations to implement the above instruction were issued in early November. Despite these positive developments, UNHCR does not believe that the absorption capacity is sufficient for the purposes of returning asylum-seekers from Kosovo to BiH from other potential asylum States. It is also apparent that it will take some time for the Instruction on Temporary Admission to be implemented fully.

HTW/G/98/6

Table 8

9/34

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

IX. SUMMARY OF UNECR'S POSITION

23. On the basis of the foregoing analysis and the background information contained in the Annex to this paper, UNHCR considers that the security situation throughout Kosovo, while improved, remains exceedingly fragile and that the prospect for sustainable return in safety and dignity remains uncertain. Ethnically based repression continues to be a dominant feature of the situation, as indeed it was prior to the escalation of violence which led to the displacement of recent months. There is as yet no agreement on the political resolution to the problem, and the Albanian party to the negotiations is not representative. The full deployment of the planned OSCE Kosovo Verification Mission will only be achieved in 1999. The September upheaval in Albania has served to illustrate the instability and insecurity there, and the situation in other neighbouring countries remains precarious. In such circumstances, UNHCR remains of the view that asylum-seekers who have reached other countries should have their refugee status assessed through established asylum procedures. Those who are found not to meet the prevailing refugee definition may nevertheless have protection needs militating against return at this time. UNHCR continues to call for a response from the asylum States which respects their responsibilities towards refugees and asylum-seekers and which is principled, balanced and sensitive to their protection needs.

24. Until such time as there is evidence of conditions conducive to return in safety, UNHCR is compelled to reiterate its appeal to States to ban temporarily the deportation of rejected asylum-seekers on humanitarian grounds. UNHCR of course hopes that relevant Security Council resolutions will be fully implemented, and that the political negotiations will succeed. As and when this happens, the Office will review its position, and will in any case keep States informed of developments affecting refugees and asylum-seekers from Kosovo.

HRW/G/98/6
 Annex
 page 1

10/34

Background Information on the Situation in Kosovo (as at 1 November 1998)

1. The open conflict in Kosovo was preceded by a period of mounting tensions within the province over a number of years. The spiral of sustained violence pitting national police/security forces and the majority Albanian community against each other that began in the early months of 1998 has deep roots.

2. Through the winter months of 1997-1998, the presence and action of armed men calling themselves the UCK¹ or Kosovo Liberation Army (KLA) became evident in the Drenica triangle of Kosovo. International focus on Kosovo was galvanised by major security operations mounted by Serbian security forces on 28 February, 5 March and 24 March 1998. On 28 February, Serbian special police carried out an armed security sweep in the villages of *Lloshane* and *Ciriz*, near *Glogovac* in the Drenica region, prompted by an attack on a regular police patrol by "Albanian separatists." On 5 March, a second police operation took place against suspected KLA houses in the villages of *Gornji Prekaz* and *Dorzi Prekaz* in *Stolica* municipality, also in the Drenica region. (Already on 26 November 1997, Serbian police units, supported by armoured vehicles and helicopters, surrounded a number of villages near *Stolica*, culminating in an exchange of fire around the village of *Dorzi Prekaz*.) A simultaneous police action was also carried out in the village of *Llancho*. On 24 March, Serbian authorities carried out a similar security operation in *Glogovac* and *Dobruva*, near *Decani*, opening attempts to stem the flow of weapons and KLA fighters entering from Albania.

3. The security operations of February and March 1998 in Drenica, intended to wipe out KLA strongholds, reportedly left 80 people dead. Amnesty International and other human rights organisations alleged that the two security sweeps involved human rights abuses including extra-judicial executions, as well as the excessive use of force, which was disproportionate to that required under the circumstances.² In addition to those who had taken action against the police, "(un)armed people, unconnected with any of these attacks on the police, were killed or injured; some appeared to have been extra-judicially executed in summary executions subsequent to the main police offensive operations."³ Such allegations are reportedly being investigated by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Special Rapporteur of the Commission of Human Rights, Mr. Hri Dienstbier. In a report submitted to the Commission on Human Rights on

¹ "Ushtria Çlirimtare e Kosovës" in Albanian.
² Comprising the municipalities of Glogovac, Klinë and Stolica.
³ See "Drenica, February-April 1998: Unlawful killings, extrajudicial executions and armed opposition abusers", Amnesty International, June 1998. AI Index: 70/33/78.
 See "A Human Rights Crisis in Kosovo Province: *Llancho* and *Prekaz* - A Province Represents", Amnesty International, July 1998. AI Index: 70/46/78.

HRW/G/98/6

Annex
page 2

8 April 1998, Mr. Dierckx informed the Commission that, "The human rights situation in Kosovo is grave," and referred to earlier reports of previous Special Reports which highlighted arbitrary arrests and detention, political trials, violations of due process, as well as torture and physical abuse of detainees by police and security officials.¹⁰

4. In Security Council resolution 1160 of 31 March 1998, the Council condemned "the use of excessive force by Serbian special police forces against civilians and peaceful demonstrators in Kosovo, as well as all acts of terrorism by the Kosovo Liberation Army or any other group or individual and all external support for terrorist activity in Kosovo." The Contact Group, meeting on 9 March and 25 March, began action at the political level to encourage the Yugoslav leadership to seek a negotiated settlement and halt the violence.

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

6. The period from April through June 1998 saw a number of developments, described below, which increased the number of displaced persons and triggered refugee flows into Albania. The former Yugoslav Republic of Macedonia and Bosnia and Herzegovina, as well as to other States. Within Kosovo and Montenegro, UNHCR, working with other United Nations humanitarian agencies and NGOs, began delivering assistance to displaced civilians. The Office also dispatched an emergency team to Albania, to assess the needs of newly arrived refugees.

* Geographic spread of incidents. Security incidents spread beyond Shtica and Glogovac to Elina in the Drenica region, and to the west and south into Dreni and Djakovica municipalities, bordering on Albania.

* Consolidation of KLA control over certain areas. The KLA consolidated its control over significant portions of central regions of Kosovo west of Pristina, connecting Drenica to the area immediately south, centred on the town of Malisavo. They also took control over a large segment of the area west of the highway and a number of other roads, as well as portions of the area west of the Djakovica-Pec road. Overall, more areas effectively came under KLA control, as demonstrated by the growing number of attacks on police and others associated with or sympathizing with the Serbian authorities, as well as reported kidnappings, hostage-taking and summary executions. For example, in the first week of April 1998, the municipality of Oranovac was the scene of the reported brutal murder of six Albanians considered to be "Serbian sympathizers."

HIWG/98/6
Annex
page 3

12/34

• Increases in arms and firepower. The presence of Serbian special police armed checkpoints and the number of patrols in and around the Drenica triangle as well as in municipalities near the Albanian border increased. At the same time, the number of armed and uniformed persons identifying themselves as KLA members grew sharply, as did the amount and firepower of their weapons and the opulence of their presence.

• Tension on the border with Albania. From early April, there were a series of border incursions of armed men entering from Albania and the Yugoslav military presence increased along this border. Incidents multiplied inside municipalities within Kosovo along the Albanian border, particularly Decani and Djakovica. On 29 May, Serbian police forces, supported by the Yugoslav Army, launched an offensive in the border municipalities of Djakovica and Decani in an attempt to establish a "cordon sanitaire", and stop the movement of arms and KLA fighters. This massive operation caused a large refugee movement into northern Albania, as towns and villages were heavily shelled; as well as into significant movements of internally displaced persons within Kosovo and into Montenegro and, to a lesser extent, into other areas of Serbia. In Albania, UNHCR sought to separate the refugees from armed KLA groups. Within Kosovo, delivery of assistance to displaced civilians became increasingly difficult given the level of violence and the risks of travel. A system of escorted humanitarian convoys was started.

• Violence between affecting all segments of the population. Security incidents began to affect not only Kosovo Albanians, but also Serbs, Montenegrins, Roma and Muslim Slavs. Amongst displaced persons arriving in Montenegro were Roma, who alleged attacks on members of their community by Kosovo Albanians who consider them to be sympathisers of the Serbian authorities. A rise in the number of incidents involving civilians attacking other civilians for ethnically motivated reasons was noted. The ranks of the KLA also swelled with support from the local population, as well as the return via Albania of Kosovars previously living abroad. As KLA support grew, efforts began to bring the KLA to the negotiating table, in hopes of reaching a negotiated settlement.

7. The following weeks saw growing international concern over developments and condemnation of the spiralling violence. On 14 May 1998, the European Parliament characterised the conflict in Kosovo as a "low-level war" and expressed concern at the "continuing violence in that region, the systematic violation of human rights, ethnic discrimination, arbitrary police action and torture by the Serb authorities." In a Joint Statement issued in London on 12 June 1998, the Contact Group reported that, "security forces have again intervened indiscriminately causing many civilian casualties and forcing tens of thousands of inhabitants to flee their homes." The Ministers also "condemned Belgrade's massive and disproportionate use of force which has resulted in wide-scale destruction and the deliberate displacement of large numbers of people." They requested the authorities to "cease all action by the security forces affecting the civilian population and order the withdrawal of security units used for civilian repression (as well as to) ... facilitate ... the full return to their homes of refugees and displaced persons." Yet the

H/WG/98/6

Annex
page 4

Serbian forces did not withdraw although the offensive was halted temporarily, since the KLA continued to operate from amongst the civilian population. On 25 June 1998, the Council of Europe Parliamentary Assembly adopted a resolution requesting Member States "to act generously in granting asylum to refugees and asylum-seekers, having special regard to the needs of women and children; and not to send back to the Federal Republic of Yugoslavia Kosovo Albanians asylum-seekers whose applications have been rejected until such time as they can return in safety and dignity."

8. By 4 June 1998 -- some three months after the Drenica operation -- UNHCR estimated that 55,700 people had been displaced (45,000 internally displaced persons (IDPs) in Kosovo, 4,000 in Montenegro, 6,500 refugees in Albania and some 200 in FYROM). By 30 June 1998, UNHCR estimated that a total of 76,300 had been displaced: 52,900 within Kosovo alone, 13,400 IDPs in Montenegro, and 10,000 refugees in Albania. In mid-June, the United Nations humanitarian agencies issued a joint appeal for resources the meet the needs of internally displaced persons and refugees.

9. From the end of June until end July, the KLA attempted to expand its control to include urban areas in Kosovo, and the Serbian forces launched an offensive to regain control over all main roads and west areas from KLA control. In the process, civilian populations were particularly hard hit, despite the undertaking contained in the 1 July 1998 "Non-Paper of the Yugoslav Government on Kosovo and Metohija," that "the State guarantees that no repressive measures will be undertaken affecting civilian populations."¹¹

10. The KLA apparently used the lull in fighting which had ensued after the 16 June 1998 meeting in Moscow between President Milosevic and President Yeltsin to consolidate positions and even make substantial territorial advances. The main road between Pristina and Pec remained closed by the fighting as the KLA appeared intent on forging a link between areas held in Western Kosovo and Drenica. On 28 June, KLA forces surrounded the village of Kijevo laying siege to its 200 inhabitants. The ICRC carried out a mission into Kijevo to rescue villagers in need of emergency medical assistance. In one of its more provocative attacks, the KLA briefly took the mining village of Belacvat, only 10 kilometres west of Pristina. On 1 July, after three days of fierce fighting, Serbian police forces announced that they had regained control of the mining village. Fighting also continued further west, along the Albanian border. On 3 July, the Serbian authorities reportedly lifted the KLA siege of the Serb village of Kijevo, where 200 Serb civilians had been under attack for a week.

11. Meeting on 8 July in Bonn, the Contact Group noted with concern that "the prospects of a peaceful settlement" had "deteriorated", since its meeting in London on 12 June 1998. On 6 July 1998, the Kosovo Diplomatic Observer Mission (KDOM) began a monitoring mission in Kosovo as part of international efforts to

¹¹ *Non-Paper of the Yugoslav Government on Kosovo and Metohija*, 1 July 1998, para. 5.

13/34

HTW/G/98/6

Annex

page 5

14/34

monitor compliance with Security Council resolution 1160 and end the fighting. On 11 July, a KLA spokesperson, Jakup Krasniqi, was quoted in the Kosovo daily Kohë Ditë, as announcing that the KLA "would be in Pristina very soon." The KLA offensive to take the town of Oranovac, just 50 kilometres south-west of Pristina on 17, 18 and 19 July marked a qualitative and quantitative change in the nature of the Kosovo conflict. First, Oranovac was the largest town to be affected by the fighting, second, it marked the first effort by the KLA to capture a major town, and finally, it was the first time where the KLA announced that it had used heavy artillery. The civilian population was obliged to flee the town to Malisevo, a nearby town already overflowing with IDPs, which later fell to a major Serb offensive at the end of July. July 18 and 19 also saw clashes on the Albanian border west of Decani, as the Serbian forces attempted to repel an incursion of KLA fighters from Albanian territory and later sustained pressure on border municipalities. In mid-July, the conflict also spread to the Pec area, with heavy fighting in Lodja, on the outskirts of the city.

12. In response to the change in KLA tactics, the Serbian authorities began an all out offensive on 25 July to reneke areas under KLA control, designed initially to secure the Pristina-Pec and Pristina-Prizren roads. Following the reneking of Oranovac after a five-day battle, a major offensive was launched on a number of fronts in Malisevo and its surroundings, the Albanian border area and finally in Drenica itself. From 24 to 26 July major clashes erupted in the vicinity of *Klina*, *Kijevo*, *Komorane*, *Lapuvac*, *Rudnik* and *Srbica*. Sporadic fighting continued in the area of Pec and, on 25 and 26 July, in the vicinity of *Jurik*. On 22 July, Yugoslav authorities also announced that they would widen the restricted security strip along its border with Albania to five kilometres. On 29 July 1998, the KLA stronghold of Malisevo was retaken by the Government.

13. On a number of occasions, the authorities offered to guarantee the unimpeded return of all displaced persons and refugees and assist in reconstruction, notably in the 16 June 1998 Joint Statement by Presidents Milosevic and Yeltsin and in the "Framework Programme for the Resolution of Humanitarian Problems within the Province of Kosovo and Metohija."¹¹ Few of the IDPs felt confident that it was indeed safe to return. During the month of July, an undetermined number of displaced Serbs and Roma were returned by the authorities to their homes near conflict areas, and were provided with police protection. UNHCR also accompanied some return movements of Kosovo Albanians, such as to the locality of *Ado* near *Obilic*. While encouraging return, the authorities did a number of things which effectively discouraged larger-scale movements. Leaflets were dropped urging displaced persons to return to their homes, but couched in terms unlikely to win the confidence of the population. Reports were received that, upon

¹¹ "unilateral nature of all refugees and displaced persons on the basis of programs coordinated by the ICRC and the UNHCR is declared. Given aid in rebuilding homes will be provided."

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

15/34

HRW/G/98/6

Annex

page 6

return, men were summoned by the authorities for "informative talks" which worked to discourage returns. Fear of reprisal or persecution at the hands of police or security forces led many to delay their return or to refuse to stay overnight following return; returns that did occur largely involved women, children and the elderly.

14. Substantial return movements of displaced persons failed to materialise, owing to persistent fears regarding security and the wanton destruction and pillaging of property by police and security forces. All observers criticised the excessive force used by Serbian security forces. The Secretary-General denounced the disproportionate use of force against the civilian population by Government troops in his report to the Security Council of 5 August 1998.¹⁴

15. The month of August saw substantial Government advances and a sharp rise in the number of displaced. During the first week of August, Government forces made advances particularly in the Droneta region and in Junik and its environs, along the Albanian border. Government forces enforced the five-kilometre security zone in the West along the border with Albania, displacing the remaining civilian population. Government troops regained control of Likovac on 6 August while the town of Junik, a reported KLA stronghold, was retaken on 15 August. By 11 August, UNEHCR estimated the Kosovo displaced population in the region as follows: Kosovo, over 167,000; other parts of Serbia, 20,000; Albania, 13,000; Montenegro, over 28,000. The former Yugoslav Republic of Macedonia, over 600; and Bosnia and Herzegovina, 2,600. By mid-August, fierce fighting was raging in the Western parts of Djakovica, Decani and Pec. In late August, fighting continued in several areas west of Pec, the Rugovicka Klisura area, along the Stimlje-Suva Reka road and in the Komorane-Kijevo stretch of the Pristina-Pec road. The pattern of heavy destruction and de-population which had characterised the operation by Serbian security forces in the western part of the province seemingly extended to central Kosovo around Malisevo and Suva-Reka, south west of Pristina. At the very end of August, the area south of Prizren was the scene of intense military activity. This widespread violence resulted in continuing displacement; some new, some repeated. Increased efforts to meet the needs of the displaced were made by the humanitarian agencies, and the Government authorities announced the opening of 12 humanitarian centres in conflict-affected areas.

16. As the KLA continued to lose ground to Government forces, August saw a change in tactics. The KLA resumed to guerrilla tactics, beginning a cycle of "hit-and-run" strikes against police, prompting retaliation by security forces against the ethnic Albanian population. Retaliatory action against ethnic Albanian civilians, regarded as actual or potential KLA supporters, was described by some as "scorched earth" tactics. The deliberate shelling of villages caused loss of lives and massive destruction of personal and real property. At the same time, reports emerged of persons being arbitrarily arrested by Government forces for questioning and kept in pre-trial detention for periods well beyond legal limits. Torture and ill-treatment

BTW/G/98/6

Annex

page 7

16/34

was reported, including reports of at least four deaths in custody. For its part, the KLA was also reported to have committed serious human rights abuses, including kidnapping and detention of Serbs, Kosovo Albanians and Roma civilians. Two slices allegedly used by the KLA to torture and execute detainees were discovered. At the same time, the KLA engaged in driving Serbs and Romas, as well as some Kosovo Albanians, from their homes.

17. By the end of August, open fighting by the KLA and retaliatory action by Government security forces against civilians had reportedly led to the death of 700 civilians, the destruction of entire villages, the burning of fields and crops and the displacement of over 240,000 persons. The vast majority, 170,000, were displaced within Kosovo, as internally displaced persons (IDPs). Others included 34,000 IDPs in Montenegro, 20,000 IDPs in other parts of Serbia, 14,000 refugees in Albania, approximately 1,000 refugees in The former Yugoslav Republic of Macedonia, over 5,000 in Bosnia and Herzegovina, 2,000 in Turkey and growing numbers of asylum-seekers in Western European countries. The number of displaced increased tenfold compared to the 25,000 persons estimated by UNHCR to have been displaced during the first four months of the conflict. Insecurity, impediments to access and the fluidity of population movements made it impossible, however, to assess fully the number of displaced at any one time. Thousands of civilians remained on the move in an effort to escape attacks by Government forces or seek relative safety in remote locations.

18. Though humanitarian access remained adequate for humanitarian actors following the June agreement between President Milosevic and President Yeltsin, aid workers were routinely exposed to security risks in attempting to assist the displaced. On 24 August, three staff members of the Mother Teresa Society were killed in a deliberate attack on their relief convoy by Serbian security forces. In late August, Deputy High Representative Soren Jessen-Petersen visited Kosovo in order to assess the situation and concluded that an immediate cease-fire and political settlement were indispensable to prevent further displacement and avoid a humanitarian catastrophe. UNHCR estimated that 50,000 individuals had been forced to flee their homes into the woods and mountains and live out in the open. UNHCR announced its priority as being to assist them to get back under adequate shelter before the onset of winter.

19. On 2 September 1998, President Clinton and President Yeltsin issued a Joint Statement on Kosovo in which they "noted with concern that the situation in Kosovo continues to deteriorate, causing growing alarm among the world public about the growing negative consequences for regional stability" and urged President Milosevic to "order a halt to all repressive actions against the civilian population in Kosovo. All violence by Kosovo Albanian armed groups must cease immediately." During the entire month of September, however, fighting continued along a pattern similar to that of August. Government security forces carried out operations in various parts of Kosovo, including the areas of Licovac, Glogovac and Cicavica, which resulted in the displacement of more tens of thousands. UNHCR's Special Envoy for the Former Yugoslavia, Mr. Nicholas Morris, briefed the Security Council on

ITW/G/98/6

Annex

page 8

17/34

10 September 1998 stressing that the international community was faced with the humanitarian consequences of a political problem. He advised the Council that security and an immediate end to displacement and destruction was a prerequisite for successful humanitarian action and the prevention of a humanitarian catastrophe in Kosovo. On 11 September, the Government of Montenegro decided to close its provincial boundary with Kosovo to new arrivals, given the crossing of some 3,000 new IDPs that day, reportedly accompanied by KLA fighters, with news that thousands more were poised to follow. The new arrivals were assisted by the authorities to cross into Albania and proceeded to Shkoder and its environs.

20. Sharp differences emerged between the Yugoslav authorities and the international community on developments in Kosovo, particularly as to compliance with the terms of Security Council resolution 1160. The Yugoslav authorities continued a concerted effort to give their version of developments in Kosovo to counter what they alleged to be biased and unfounded reporting by national and international observers. One example was contained in "Facts on the Situation in Kosovo and Metohija" dated 5 September 1998, which describes the activities of the KLA, gives an account of the kidnapping and killing of civilians as well as the discovery of clandestine prison facilities and execution sites, whilst also giving an account of substantial return movements of displaced persons. In a meeting on 14 October 1998 with the diplomatic corps accredited to Belgrade, Yugoslav Federal Minister for Foreign Affairs Jovanovic announced that close to 100,000 displaced persons had returned to their homes and villages and that no groups or individuals remained without shelter. This was followed by a statement on 28 September 1998 to the National Assembly of the Republic of Serbia by the Serbian Prime Minister, Mr. Marjanovic, in which he announced that anti-insurgency operations in Kosovo had been completed and that peace reigned in Kosovo.¹⁵

21. The United Nations High Commissioner for Refugees travelled to the Federal Republic of Yugoslavia (Belgrade, Pristina and other parts of Kosovo, Montenegro, including Rozaje and Podgorica) and Albania from 24 to 29 September 1998 to make a first-hand assessment of the situation and the humanitarian response. The High Commissioner found that displacement continued and that the pattern of displacement was fast-changing and unpredictable, as people fled in response to the actions and real or perceived threats of the security forces. While some return movements had indeed continued in September, over 200,000 people remained displaced. During a visit to the village of Besnik on 26 September 1998, the High Commissioner met a group of desperate and frightened people who had recently been displaced. She heard first-hand accounts of their experiences. Amongst the

¹⁵ In his report of 3 October 1998 to the Security Council, the Secretary-General directly refuted this allegation, noting that, "Fighting continued in Kosovo on 28 and 29 September, contrary to the statement of the Serbian Prime Minister." See also the "Conclusions of the National Assembly of the Republic of Serbia on the Situation in Kosovo and Metohija" of 28 September 1998 which state that, "The National Assembly of the Republic of Serbia considers that, owing to measures undertaken by the Government of Serbia, the situation in Kosovo and Metohija has significantly improved both regarding security as well as the social, humanitarian and economic aspects." (para. 4)

HRW/G/98/6

Annex

page 9

18/34

findings the High Commissioner reported to the Secretary-General at the conclusion of her mission was that security forces were using terror and violence against civilians to force people to flee their homes or the places where they had sought refuge. The displaced reported that, under the guise of separating them from KLA fighters, Serbian police demands for the surrender of weapons were followed by disruption of electricity and other services, shelling, detentions and threats to life, and, finally, short notice to leave or face the consequences.

22. In view of the continued violence and reported atrocities, international action intensified aimed at negotiating a cessation of hostilities and making rapid progress towards a political settlement. On 23 September 1998, the Security Council adopted resolution 1199 (S/RES/1199) (1998) expressing grave concern at 'the recent intense fighting in Kosovo and in particular the excessive and indiscriminate use of force by Serbian security forces and the Yugoslav army.' Acting under Chapter VII of the Charter, the Council demanded an immediate cessation of hostilities, demanded Yugoslav authorities and the Kosovo Albanian leadership to take immediate steps to improve the humanitarian situation and avert the impending humanitarian catastrophe and called on parties to begin negotiations aimed at achieving a political solution.

23. The Security Council also demanded that the Federal Republic of Yugoslavia, in addition to the measures called for under its resolution 1160, implement a number of concrete measures already contained in the Contact Group Statement of 12 June 1998 including, *inter alia*: to "cease all action by the security forces affecting the civilian population and order the withdrawal of security units used for civilian repression" (Para. 4(a); and "facilitate, in agreement with the UNHCR and the International Committee of the Red Cross (ICRC), the safe return of refugees and displaced persons to their homes and allow free and unhindered access for humanitarian organisations and supplies to Kosovo." (Para. 4(c)) The Council requested the Secretary-General to report regularly his assessment of compliance with resolution 1199 as well as resolution 1160 and decided, in the case of non-compliance, "to consider further action and additional measures to maintain or restore peace and stability in the region." (Para. 16)

24. Following on the heels of the Security Council resolution 1199 (1998), on 24 September 1998 the North Atlantic Council approved the issuing of an ACT WABN for both a limited air option and a phased air campaign in Kosovo. The ACT WABN took NATO to an increased level of military preparedness, allowing NATO commanders to identify the assets required for NATO operations.

25. International attention then centred on the report of the Secretary-General to the Security Council which was expected to focus on the issue of compliance with resolution 1199 and possibly trigger NATO action. Alleged Serbian atrocities in Goraje Obrinje drew heated international condemnation and triggered an emergency session of the Security Council on 2 October, after which a Presidential Statement was issued requesting the Secretary-General to bring forward his report to the Council. In his report to the Council dated 3 October 1998 concerning resolutions

19/34

HRW/G/98/6

Annex

page 10

1160 (1998) and 1199 (1998), the Secretary-General noted that, "In the week following the adoption, on 23 September 1998, of resolution 1199 (1998), the (Government Security) forces in fact intensified their operations, launching another offensive in the Drenica region and in the Suva Reka-Sumje-Urosvac triangle. Those operations have reportedly resulted in the displacement of some 20,000 additional people."¹⁶

26. Of special significance is paragraph 7 of the report, which expresses concern "that the disproportionate use of force and actions of the security forces are designed to terrorize and subjugate the population, a collective punishment to teach them that the price of supporting the Kosovo Albanian paramilitary is too high and will be even higher in future." The Secretary-General went on to conclude that the "level of destruction points clearly to an indiscriminate and disproportionate use of force against civilian populations." Mr. Annan also expressed "outrage at reports of mass killings of civilians in Kosovo", referring to the killing of Kosovo Albanian internally displaced persons in Gornje Obrinje (central Drenica) on 28 September and to the alleged summary executions of Kosovo civilians in the Golubovac area on 27 September.¹⁷ The Secretary-General made clear that, "While the victims of the conflict are overwhelmingly ethnic Albanians, Kosovo Serbs are suffering as well."¹⁸ On the question of Government compliance, the Secretary-General concluded that he did not have the "means to provide an independent assessment of compliance, as required by the Security Council in paragraph 15 of resolution 1199 (1998)."¹⁹

27. Addressing the opening session of UNHCR's Executive Committee on 5 October 1998, the High Commissioner remarked that, "While the pattern of displacement is not always clear and changes by the day, its causes...are sadly obvious: while there are - indeed - reports of serious human rights violations by the Kosovo Liberation Army, the main cause for civilians to flee is the excessive use of force by governmental security units, which is designed to terrorize and subjugate them. (...) So long as violence and oppression continue to prevail in Kosovo...I appeal to governments - in the region and in the rest of Europe - to maintain an open attitude towards asylum-seekers from this area." On the same day, the two chambers of the Yugoslav Federal Assembly (Parliament) adopted conclusions on the situation in Kosovo in a joint session in which, *inter alia*, they noted that that Federal Republic of Yugoslavia "has generally complied" with Security Council resolution 1199. Following the session, the Federal Minister for Foreign Affairs extended a written invitation to the Chairman-in-Office of the OSCE to visit Kosovo. On 6 October, the 27-nation European Conference held in Luxembourg "condemned in the strongest terms the persistent violations of human rights and urged the Belgrade authorities to allow and support actively an immediate return of all refugees and displaced persons."

¹⁶ S/1998/912, para. 5
¹⁷ *Ibid.*, para. 9
¹⁸ *Ibid.*, para. 10
¹⁹ *Ibid.*, para. 12

EW/G/98/6
Annex
page 11

20/34

28. At the same time, energetic efforts continued to negotiate a political settlement of the Kosovo crisis. Meeting in London on 2 October, the Contact Group endorsed a revised paper presented by the U.S. negotiator, Ambassador Christopher Hill and requested that it be put to the parties on behalf of the Contact Group. US Envoy Richard Holbrooke also continued consultations with the parties with a view to concluding an agreement on compliance with the relevant Security Council resolutions, as well as with the long-standing demands of the Contact Group. On 13 October 1998, the North Atlantic Council decided to issue an "activation order" or "ACT ORD" - for both limited air strikes and a phased air campaign - execution of which was put on hold for a period of 96 hours. On the same day, US Ambassador Richard Holbrooke announced that an agreement had been reached with President Milosevic on compliance. *Inter alia*, with Security Council resolution 1199. Almost immediately, the Yugoslav authorities announced measures to clamp down on independent media in the Federal Republic of Yugoslavia. Threatened NATO action led many members of the international community as well as UN agencies and partners to relocate temporarily to safer locations, disrupting humanitarian relief operations for a short time.

29. Among the key elements of the Holbrooke-Milosevic accord of 13 October were the undertaking to comply fully with United Nations Security Council resolution 1199, which requires the maintenance of a cease-fire; to withdraw recently deployed military and special forces from Kosovo and place the rest in garrison; and give humanitarian relief workers full and immediate access to persons in need. A report by Serbian President Milutinovic to the Serbian Parliament on 13 October 1998 gave some details of the principles contained in the agreement, including, *inter alia*: commitment to a peaceful solution through dialogue within the territory of the Federal Republic of Yugoslavia; the equality of all citizens; the democratically elected local government and a police representative of the population. Concerning legal action against activists in the KLA, no amnesty was offered, but indications were given that prosecution would be limited to those who had violated "humanity and international law as set forth in Chapter XVI of the Federal Penal Code" (which sets out war crimes and crimes against humanity). The agreement also envisaged verification arrangements, involving the deployment of 2,000 OSCE monitors on the ground, as well as NATO air verification. Agreements to implement the verification arrangements were signed in Belgrade between NATO and FRY military authorities on 15 October and between the Chairman-in-Office of the OSCE and the Yugoslav Foreign Minister on 16 October 1998.

30. On 16 October, the North Atlantic Council decided to maintain the Activation Order (ACT ORD) and agreed to extend the period before execution of the ACT ORD until 27 October 1998. By the third week of October, a cease-fire appeared to be holding in Kosovo, despite occasional skirmishes. The presence of Serb police in villages became less obstructive. There was evidence that growing numbers of displaced were beginning to return home, although it was difficult to give precise numbers, since many returned to find their homes heavily damaged or

21/34

HTW/G/98/6

Annex

page 12

uninhabitable, often stripped of all furnishings and valuables, and simply returned or moved to temporary accommodation. On 24 October, the Security Council adopted resolution 1203 in which it, *inter alia*, "demand(ed) immediate action from the authorities of the Federal Republic of Yugoslavia and the Kosovo Albanian leadership to cooperate with international efforts to improve the humanitarian situation and to avert the impending humanitarian catastrophe," and "reaffirm(ed) the right of all refugees and displaced persons to return to their homes in safety, and underline(d) the responsibility of the Federal Republic of Yugoslavia for creating conditions which (would) allow them to do so."²⁰

31. On 26 October 1998, the European Union's General Affairs Council meeting in Luxembourg, adopted a Declaration on a Comprehensive Approach to Kosovo, in which states that, "The EU remains gravely concerned at the situation in Kosovo, in particular regarding the plight of the civilian population, refugees and displaced persons." It called upon "all parties, and in particular on President Milosevic, to live up to their obligations and commitments, to refrain from further acts of violence in the region and to engage in immediate political negotiations." On 27 October 1998, the North Atlantic Council decided to the maintain the ACT ORD, on the understanding that execution would be subject to a further Council decision and assessments that the Federal Republic of Yugoslavia was not in substantial compliance with Security Council resolution 1199. The Council noted, nevertheless, that NATO aerial surveillance had confirmed that Yugoslav and Serb security forces had indeed withdrawn in substantial numbers.

32. UNHCR staff on the ground witnessed a gradual increase in returns after the accelerated withdrawal of security forces which began on 26 October. Before the pullback of security forces from villages and highways in late October, UNHCR estimated that there were 200,000 displaced persons within Kosovo, including some 10,000 without adequate shelter. It also estimated that some 50,000 people had returned to their homes or home areas. Some 130,000 persons remained displaced outside Kosovo (including 42,000 in Montenegro, over 20,000 in Albania, 20,000 in Serbia, 10,000 in Bosnia and Herzegovina and some 38,000 in Western Europe.

33. By 1 November, under 200,000 people were estimated still to be displaced inside Kosovo. By the same date, all but a few hundred of the IDPs who had been living in the open had returned to their villages or taken shelter in houses of friends or relatives. A combination of the withdrawal of security forces and the onset of cold weather contributed to spur returns. Initially, most of those returning went going back to assess the condition of their homes and to ascertain the security situation. Many began repairs or agricultural activities. One continuing obstacle to sustainable return is the threat posed by booby traps planted in houses in villages vacated by the police, while an increasing number of anti-tank and anti-personnel mines makes the task of providing humanitarian assistance very dangerous. On 30 September, one doctor working with ICRC was killed and three persons wounded when an ICRC vehicle struck a landmine. Explosives from various sources also

HIW/G/98/6
Annex
page 13

22/34

indicate that of the some 20,000 homes which sustained damage during the fighting in Kosovo, some 60 per cent were either severely damaged or totally destroyed. KLA presence and armed action also increases the risk of provocation or retaliatory action by security forces. On 2 November, a three-day survey conducted by UNHCR and UN/NGO partners started to determine how many IDPs had returned to their villages and to assess the extent of damage to houses. On the same day, the Government announced the opening of 100 humanitarian assistance centres.