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UNHCR Position on the Continued Protection Needs of Individuals from Kosovo

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Introduction

1. This paper is an update of UNHCR's position on the continued protection needs of individuals from Kosovo, and return there, as outlined in the previous position paper of April 2002.
2. The focus of this paper is primarily on the continued need of international protection of minority groups originating from Kosovo. The vast majority of Kosovo Albanians who fled during the 1999 crisis have returned home, and few of them have experienced individual protection problems. Groups of Kosovo Albanians who may have residual protection concerns are described in this paper.
3. Improvements have taken place in the general situation in Kosovo during the last year, including, significantly, those, which have led KFOR to adopt the Kosovo-wide policy of gradually relaxing security measures. Despite this, however, UNHCR's view is that the improvements remain limited to the extent that the security situation of minorities continues to be a major concern¹. Non-ethnic Albanian persons originally from Kosovo continue to face security threats which place their lives and fundamental freedoms at risk, and fuel ongoing departure from the province. The level of risk is variable depending on the minority concerned as well as the location. Significantly, Kosovo Serbs, the Roma, the Egyptians and, in many cases, the Ashkaelia continue to face serious security threats.
4. UNHCR's position is that members of minority groups in Kosovo as described in this paper, especially Kosovo Serbs and Roma, but also Ashkaelia and Egyptians should continue to benefit from international protection in countries of asylum. UNHCR stresses that return of these minorities should take place on a strictly voluntary basis and be based on fully informed individual decisions. Any such voluntary return movements should be properly co-ordinated, and re-integration should be supported through assistance to ensure sustainability. Kosovo Serb, Roma, Ashkaelia and Egyptian individuals or families should not be forced or induced to return to Kosovo.

¹ For more detailed background information on the current circumstances of ethnic minorities in Kosovo, see the attached *Update on the situation of Roma, Ashkaelia, Egyptian, Bosniak and Gorani in Kosovo, UNHCR January 2003*. See also the joint *UNHCR/OSCE Assessments of the Situation of Ethnic Minorities in Kosovo*. The reports are available on UNHCR and OSCE websites at: www.unhcr.ch/cgi-bin/texis/...?country=kosovo&display=minorities, or www.osce.org/kosovo/publications/pdf/minrep.pdf.

I. Kosovo Albanians

While most Kosovo Albanians are unlikely to face protection difficulties, there are certain categories of Kosovo Albanians who may face serious protection related problems, including physical danger, were they to return home at this time. These categories include 1) Kosovo Albanians originating from areas where they constitute an ethnic minority; 2) Kosovo Albanians in ethnically mixed marriages and persons of mixed ethnicity and 3) Kosovo Albanians perceived to have been associated with the Serbian regime after 1990. Traumatized individuals such as victims of torture and egregious forms of violence will require special attention in that their past experiences will be relevant in determining their continued protection needs. Similarly there are individuals in a particularly vulnerable situation, such as those suffering from various medical conditions whose special needs should be taken into account in the context of return. These categories are defined in the UNHCR Position on the Continued Protection Needs of Individuals from Kosovo, of April 2002, which remains valid with regard to the Kosovo Albanian population.

II. Minorities

Kosovo Bosniaks and Goranis

The security situation for Kosovo Bosniaks has improved and become more stable. However, members of the community continue to face intimidation, harassment and discrimination and in Mitrovica municipality they have been targets of serious incidents of violence. Improvements in relation to access to health and other essential services as well as education in their own language are evident in some regions. However, the risk of being considered as ethnic Serb in the event of using their language outside their area of habitation and the consequences thereof limit their freedom of movement throughout Kosovo and, thereby inhibit equal access to social services and economic opportunities. This limits their capacity for self-reliance. One consequence of such conditions has been the discrete but steady departure of Bosniak families from Kosovo.

Concerning the Goranis, with the exception of Gjilan/Gnjilane region, in particular Ferizaj/Uroševac, their security situation can likewise be considered relatively stable particularly in the rural communities of Dragash municipality which has a high concentration of Gorani. As Serb speakers they are in a similar situation to that of the Bosniaks in terms of opportunities as well as equal access to social services in other parts of the province. A consequence of these conditions is the small-scale but steady departure of Gorani families from Kosovo.

Overall, a general improvement of conditions in certain locations² from which Bosniaks and Goranis originate favours the voluntary return to these locations. Alternatives to voluntary repatriation may be examined for members of these groups who have no protection or compelling humanitarian needs requiring prolongation of their stay in the asylum countries, as an option of last resort. In view of the geographical isolation and the difficult economic conditions facing these communities, financial and development assistance would be required to underpin sustainable returns.

² These locations are described in the UNHCR Update on the situation of Roma, Ashkaelia, Egyptian, Bosniak and Gorani in Kosovo.

Kosovo Serbs

The Kosovo Serb community remains the primary target of ethnically motivated violence, including grenade attacks, deliberately laid landmines and booby-traps, drive-by shootings and arson. Such attacks have indiscriminately affected the entire community, including the elderly, women and children. Physical security remains the overriding concern of Kosovo Serbs as it not only affects their lives and fundamental freedoms, but also the enjoyment of a multitude of life-sustaining economic and social rights. Many live in enclaves, some of which require 24-hour protection by KFOR, including for any movement outside these areas. Ethnically motivated crime often appears to be directed at ensuring that Kosovo Serbs leave, or do not return to the province. Persistent violations of property rights, including forced evictions, illegal occupation of residential property, coercion to sell property, destruction of property, attacks on religious sites and desecration of cemeteries, have all contributed to the decision of many Kosovo Serbs to leave. Cumulatively, these ethnically motivated acts constitute a source of intimidation, humiliation and demoralisation and have pervasive effect on the community's sense of security whether or not actual physical harm occurs. These factors create an environment in which the Kosovo Serbs' perception of being under threat on an on-going basis is well founded.

Kosovo Roma, Ashkaelia and Egyptians

While general improvements in the overall situation of Roma, Ashkaelia and Egyptian communities have continued, with a stabilised security situation in many regions, these three communities continue to face serious protection problems. The Roma to an extent comparable to the Serbs, the Ashkaelia and Egyptians to a lesser extent. The problems include grenade attacks and physical harassment, in addition to acute discrimination and marginalisation. Even where inter-ethnic relations appear to have improved enabling small scale return, among the Ashkaelia particularly, experience has demonstrated that the risk of attack remains, whether targeted to remaining or newly returned persons. Hence their physical security remains precarious.

The Roma, Ashkaelia and Egyptian communities tend to live in concentrated groups as a means of enhancing their sense of safety. Their freedom of movement is generally restricted, although it varies according to geographical location. Freedom of movement also varies with language ability, (for instance Albanian-speaking Ashkaelia appear to be better tolerated and thus enjoy relatively greater freedom of movement). The resulting restrictions on overall ability to exercise basic social and economic rights aggravate an already impoverished situation. In order to maintain a sense of their own safety many Roma, Ashkaelia and Egyptian returnees to Kosovo have chosen to relocate to larger communities of their own ethnic group rather than to their places of origin. This has resulted in overcrowding and created an obstacle to the further return of those originating from these locations.-

While there has been progress with the return of Roma, Ashkaelia and Egyptians, including the facilitated return of Ashkaelia families to some locations, this remains minimal and is often characterised by secondary displacement and relocation to a few already overcrowded locations. Despite comprehensive and cautious planning for return, incidents such as grenade attacks and the stoning of returnee homes have continued. It should be stressed moreover, that although achievements to date with spontaneous and facilitated voluntary returns do indicate improvement in specific locations, they do not reflect a substantial general improvement in

the situation for the Roma, Ashkaelia and Egyptian communities. To maximise security and sustainability, most of these returns have required careful detailed planning and difficult and labour intensive preparatory activities related to confidence building and inter-ethnic dialogue.

III. Conclusion

Given the above-mentioned factors affecting the various minority groups, UNHCR believes that to be safe, dignified and sustainable, the return of members of the Serb, Roma, Ashkaelia and Egyptian communities can only take place on a voluntary basis and in a very gradual manner. The process should allow for careful preparation of the recipient communities including the promotion of tolerance and inter-ethnic dialogue.

UNHCR is willing to extend information, counselling and other activities aimed at facilitating voluntary return of these minorities from countries beyond the immediate region from Kosovo. However, the human and material resources required for this process would have to be made available.

IV. Relocation within the Federal Republic of Yugoslavia

In considering the asylum applications from persons originating from Kosovo, asylum countries may be inclined to assess whether an internal relocation alternative is available for them in other parts of FRY. The circumstances faced by internally displaced persons from Kosovo, in Serbia and Montenegro lead UNHCR to maintain its general conclusion that internal displacement in such conditions does not offer an adequate or reasonable alternative to international protection, as described in UNHCR's Position on the Continued Protection Needs of Individuals from Kosovo, of April 2002.

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