

## Assessment of the Situation of Ethnic Minorities In Kosovo

(period covering October 2000 through February 2001)

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### **Executive Summary**

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In this seventh joint report we aim to give an overview of the security situation endured by minority communities in Kosovo. At the same time we focus on a selected number of issues of particular concern such as: return; access to health services; property issues; participation in political structures and access to employment. The format differs somewhat from the previous report in its focus on a limited number of key issues as opposed to an all-encompassing review. While this is the result of a deliberate decision to undertake a more targeted assessment, it is also a reflection of other stark realities. With the passing of time the lack of lasting improvements for minority populations means that we are at increasing risk of merely repeating issues addressed at length in previous assessments.

The continued lack of adequate security remains the key issue for minorities. The reporting period was marked by a deterioration in the overall security situation. It was punctuated at its beginning by the killing of four Ashkaelia returnees, and, at its end, by a series of fatal attacks singling out Kosovo Serbs on some of the major transport routes used by them to maintain links with Serbia. These attacks culminated with the 16 February atrocity targeting the "Nis Express" bus service, in which ten Kosovo Serbs, including a couple and their infant child, died. The period in-between was characterised by an upsurge in attacks against the person and property of minority populations. No ethnic group was left unscathed, including those Kosovo Albanians living *de facto* as a minority group in certain locations within the province. The unrelenting tide of violence has shaken the confidence not only of minorities who feel increasingly exposed but has also created a sense of frustration and uncertainty amongst the majority Kosovo Albanian population. Events of the past several months have severely undermined efforts to stabilise and improve the general security situation.

The degree of sophistication and planning behind recent attacks, such as the sniper attack on an escorted convoy of Kosovo Serbs travelling to Strpce/Shterpce and the attack on the "Nis Express" challenges the characterisation of continued violence against minorities as isolated attacks motivated by individuals desire for revenge. It would appear there is an orchestrated campaign, or campaigns organised by, as yet, unidentified elements whose aim is clearly to terrorise minority populations. The number of perpetrators arrested and successfully prosecuted for these attacks remains very low.

There is general recognition of the right to return but there is insufficient action on the part of local communities to demonstrate their commitment to this principle. Against a backdrop of intolerance and ongoing violence there are few who have had the courage to take a firm stance and speak out against the current situation backing their words with concrete actions. That is not to say however that there are none. We have therefore tried to therefore to draw out a number of complex issues related to the question of return in order to give a fair and accurate reflection of the progress that has been made without losing sight of the immense obstacles that still remain to be overcome. In addition, the volatile situation in south Serbia and the more recent violent clashes in FYROM are another aggravating factor. The potential negative impact on the remaining minorities, which could even include further displacement, cannot be ignored.

Access to health care was chosen as an illustrative example of the challenges faced in trying to ensure the equitable and sustainable provision of essential services in a highly polarised environment. What we have found, unfortunately, is that there has been little progress since earlier reports. Despite commitment and commendable efforts on the part of many dedicated individuals within the relevant JIAS department, the municipal structures and numerous

NGOs, the provision of health care services is still largely marked by separate service provision for different ethnic groups. The ongoing security threat is compounded by discrimination and intolerance, necessitating the continued use of special measures, such as mobile clinics and escorted transport to medical facilities.

Attacks on property and illegal occupation of property are still used as a means to drive out remaining minority communities or to preclude their return. The fair resolution of property disputes and the equitable distribution of reconstruction assistance are aspects of the larger property question and are closely linked to the potential for sustainable return. What we show in this report is that, despite more widespread recognition of the importance of this link, there are many obstacles that have yet to be tackled and appropriately resolved. Insufficient funding continues to impede the effectiveness of the Housing and Property Directorate.

Participation in political structures has gained a new relevance in light of the completion of the first province-wide municipal elections. The turnout for the elections was exceptionally high and many minority communities actively participated with the notable exceptions of the Kosovo Serbs and some sections of the Turkish community. As UNMIK moves towards phasing down international involvement in many aspects of administration, the municipal structures are becoming increasingly important. In this report, we aim to give a general overview of how the power of co-option has been utilised by the SRSG. This is one means of assessing the degree to which minority representatives have been incorporated into the newly formed municipal structures. Their presence alone however is no guarantee of participation and we try therefore to go beyond the numbers and get some sense of how active and more importantly how influential is their role at municipal level. What we have illustrated in this report is by necessity limited to a preliminary assessment. As the municipal structures continue to develop there will be a need for ongoing monitoring.

Under the heading of access to employment we focus on employment within municipal structures, as an important benchmark in the fair treatment of ethnic minorities. What we have found is that practices vary from one municipality to another and it is still too early to draw firm conclusions. The employment of minorities demands a degree of commitment and flexibility that must be forthcoming from all municipalities. Equally so there is a need for commitment and co-operation from the minorities themselves. As with so many other issues, security is an aspect that can not be overlooked and the employment of minorities may well initially demand special measures with resources implications. It is also important that minorities be given access to effective remedies to be able to address the question of discrimination either by appropriate mediation or by legal action.

As Kosovo progresses further towards the substantial autonomy envisaged by Security Resolution 1244, the treatment of the minority populations and an improvement of the conditions that they currently face remains a central issue. It is something of a well worn, but in the case of Kosovo an accurate, cliché that democratic society is best judged not by how it treats the majority but rather by how it treats its minority populations. Thus far, Kosovo's performance has been seriously called into question and in the months to come the attention of the international community will remain focused on this issue as the essential benchmark of the success of the international administration.

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## Security

1. In previous Assessments, we have consistently highlighted the fact that **security is the overriding concern for minority communities**. This is so not only because of the immediate and direct impact of violence on individuals and communities which have been targeted, but also because of the wider implications for freedom of movement and the exercise of a variety of other basic rights. The volatile security situation continues to have an adverse affect on the general wellbeing of minority communities, heightening their perception that they are not safe and that their future in Kosovo is uncertain. The overall assessment of security at the close of the previous reporting period, in September 2000, was categorised as precarious with incidents of murder, arson, grenade attacks and lesser forms of intimidation still routine occurrences for many minority communities. Simultaneously, however, an increasing diversification in the experience of different minority communities was highlighted. Some communities were seen to enjoy an encouraging degree of relative stability. The overall trend in ethnically motivated violence pointed downwards when measured in absolute number of deaths and serious injuries, though the overall negative impact of sporadic violence had not diminished. This was essentially a continuation of the pattern that pervaded throughout much of 2000.
2. However, from late 2000 onwards, starting more or less in the period immediately after the municipal elections, **the pattern of violence has changed**. There has been an overall deterioration in the security situation and all minority groups to one degree or another have borne the brunt of this. The number of incidents directed at minority groups appears to be on the increase and judging by the events of February 2001 in particular, the attacks are more highly organised, co-ordinated and carefully targeted, than was previously the case. Roma communities along with Kosovo Serbs continue to figure disproportionately among the victims of ethnically motivated crime but other groups have not been left unaffected. The reporting period was punctuated at its beginning by the execution-style killing of four Ashkaelia returnees in Skenderaj/Srbica<sup>1</sup>, and at its end by a series of attacks on transport routes used by minorities to travel in and out of Kosovo, culminating in the 16 February attack on the "Nis Express" bus service which killed ten Kosovo Serbs and seriously injured a number of others. The effect of this unrelenting violence has been to instil terror and outrage in the minority populations. The fears and frustrations of the Kosovo Serb community in particular were clearly evidenced by the widespread protests in the wake of the fatal bus attacks of mid-February. Practically every Serb community in Kosovo was the scene of some form of protest, numerous roads were temporarily blocked, and in some locations the protests themselves spilled over into further violence. There is a constant cycle of violence breeding further violence as the frustration mounts within all communities, including Kosovo Albanians.

*Below follows a chronological, but non-exhaustive, overview of security related incidents affecting minorities during the period under review.<sup>2</sup> The frequency and variety of incidents occurring throughout the province during the reporting period is such that we have opted simply to list them without any attempt at classification as was done in previous reports.*

3. **October** was characterised by numerous attacks on minority properties across the province targeting occupied and empty properties alike. On 1 October two explosions just north of Viti/Vitina destroyed a Kosovo Serb owned house and damaged two others. All three properties were in the process of being sold to Kosovo Albanians, the original owners having already fled Kosovo. The following day, five Kosovo Serb men were

<sup>1</sup> The following formula has been used with regard to place names; in majority Kosovo Albanian municipalities, the Albanian language name is placed first while the Serbian is listed first in those areas where Kosovo Serbs constitute a majority. This is in keeping with the spirit of Regulation 2000/43 which additionally stipulates the use of names in languages other than Albanian and Serbian for municipalities where other ethnic or linguistic communities form a substantial part of the population.

<sup>2</sup> Some overlap may occur with the previous assessment which covered the period June through September 2000 but included some incidents which occurred in October as drafting of the report continued on an inclusive basis up to the date of release in late October.

injured in Pasjan/Pasjane when shots were fired and a hand grenade was thrown at them from a passing car. On 4 October two explosions targeted an abandoned Kosovo Serb property in Zhiti/Zitinje, Podujeve/Podujevo municipality. On 7 October a hand grenade was thrown at a Roma house in Shtime/Stimlje. On 10 October small arms fire and an explosion targeted a Kosovo Serb home in Kamanice/Kamenica. On the same day a Kosovo Serb was shot at whilst tending his sheep near Gorne Bitinja/ Biti E Eperme in Strpce/Shterpce. On 14 October a Roma family in Shtime/Stimlje was again targeted in a hand grenade attack (earlier attack only the previous week). On 15 October a Kosovo Serb man and his son died when their tractor struck a land mine near Crkvena Vodica/Palaj in Obiliq/Obilic municipality<sup>3</sup>. On 18 October a Roma family in Shtime/Stimlje suffered their third grenade attack in the space of ten days. On this occasion, a woman and a young child were injured. Shortly afterwards the family fled Kosovo in fear of their lives having been subjected to unrelenting attacks over the course of the previous months. On 20 October two hand grenades were thrown at a Kosovo Serb shop in Viti/Vitina. On 23 October a rocket was fired at an apartment building in Prishtina/Pristina housing Kosovo Serbs. Despite structural damage to the building no serious injuries resulted. On 24 October an abandoned Roma home in Rahovec/Orahovec was set alight following an earlier arson attempt on 21 October. On 25 October a hand grenade was thrown at the house of a Kosovo Serb in Binaq/Binac, Viti/Vitina. On 26 October three hand grenades were thrown at the house of a Roma in Vushtrri/Vucitrn. Overall the number of deaths occurring during the month was very low considering the number of attacks involving the use of weapons of war.

4. The death toll in November was considerably higher and the pattern of violent attack against persons and property continued unabated. On 2 November a Kosovo Serb was shot dead in the market place in Viti/Vitina. On 7 November a Bosniak woman was shot dead in her home in Vitomirica following an argument between her son and a Kosovo Albanian youth. On 9 November the bodies of four Ashkaelia were discovered in Dashefc/Dashevc in Skenderaj/Srbica within 48 hours of their return to the village. On 10 November two Roma homes were burnt in Cerce village, Istog/Istok. On 11 November an Ashkaelia child was murdered in Ferizaj/Urosvevac. On 13 November a Bosniak man was assaulted in Peje/Pec. On 18 November a hand grenade was thrown into the yard of a Kosovo Serb home in Rahovec/Orahovac. On 22 November a major explosion ripped through the Prishtine/Pristina home of Ambassador Vukicevic, a representative of the FRY government as head of the Committee for Co-operation with UNMIK. One member of his staff was killed and two others were injured. On the same date two separate explosions destroyed Kosovo Serb homes in Klokot/Klokot village, Viti/Vitina. On 25 November KFOR diffused a booby-trapped explosive device which had been attached to the gate of an Ashkaelia home in Mali Alas/Hallac i Vogel, Lipjan/Lipjan.
5. December saw no respite in the levels of violence but overall the death toll was lower than the previous month. On 4 December an explosion destroyed an empty Kosovo Serb house in Zhiti/Zitinje, Podujeve/Podujevo municipality. On the same date an occupied Kosovo Serb house was set alight in Lebane, Prishtina/Pristina municipality. On 11 December one Kosovo Serb died and two others were injured when their tractor struck a landmine in Suvo Grlo/Suhogerile. On 12 December an occupied Kosovo Serb home in Gjilan/Gnjilane was targeted with a hand grenade. On 13 December a Kosovo Serb was discovered injured in his apartment in Viti/Vitina and was later declared dead on arrival at hospital. On 14 December an explosion totally destroyed an unoccupied Serb house in Klokot/Klokot in Viti/Vitina. On the same date two separate explosions destroyed an unoccupied Serb house in Sredske/Sredska in the Zhupa Valley area near Prizren. On 15 December a Roma man was stabbed in Fushe Kosove/Kosovo Polje. On 29 December an elderly Kosovo Serb couple were found lying in a pool of blood on their own doorstep in Obiliq/Obilic having been severely beaten with a shovel. The old man was already dead and the woman was close to death when they were found but she survived. Also on 29 December a Roma home was burnt in Prizren.

<sup>3</sup> It should be noted that reference to mine incidents in this report relate not to accidental mine strikes where minorities have stumbled upon mines remaining from the war but rather to situations where there are indications that mines have been newly planted to deliberately target minority populations.

6. In January the death toll remained low but serious incidents continued unabated. On 12 January the KFOR-operated passenger train was stoned near Fushe Kosove/Kosovo Polje, an occurrence so frequent as to be considered routine. On 14 January the home of an Ashkaelia family in Shtime/Stimlje was set alight while they were out. On 20 January an elderly Serb man in Shtime/Stimlje was threatened by masked men, who stole his tractor. Also on 20 January in Kmetofc/Kmetovce in Gjilan/Gnjilane a hand grenade was thrown into the yard of a Kosovo Serb house injuring a woman who was hit in the leg by rocks thrown by the blast. On 22 January a Kosovo Serb house in Mogille/Mogila was damaged as the result of a small explosion. On 24 January a total of eight Kosovo Serb houses were damaged in a mortar attack on Hoce e Madhe/Velika Hoca. On 26 January a Serb owned shop in Viti/Vitina was attacked with a grenade resulting in injuries to two persons. It was the sixth such attack on the same premises. On 27 January a Kosovo Serb was stabbed to death in Fushe Kosove/Kosovo Polje. The end of the month was marked by a serious outbreak of ethnically motivated violence in Mitrovica/Mitrovica. A 15 year old Kosovo Albanian died on 29 January due to injuries sustained during a grenade attack in the northern part of the city. This death sparked a series of protests in both the Albanian and the Serbian communities and further violence ensued in a pattern that has been repeated time and again in Mitrovica/Mitrovica. International organisations were obliged to cease operations and temporarily withdraw from the area whilst KFOR called in reinforcements to regain control of the situation. One incident occurring during this period involved the beating of OSCE minority staff, who were intercepted by a crowd of Kosovo Albanians while being driven back to their homes in an official vehicle.
  
7. February has been the blackest month for some time with a sharp escalation in violence across the province and a rising death toll as a consequence. The month opened with Mitrovica/Mitrovica still gripped by inter-ethnic violence that ran the course of a week before the situation eventually stabilised again. Over the weekend of 2 to 4 February two abandoned Kosovo Serb homes were blown up in Gornje Budriga, Gjilan/Gnjilane and a third house was targeted in the same village on 7 February. Also on 7 February, a hand grenade attack targeted the home of the Kosovo Serb community leader in Mushnikovo village in the Zhupa valley. On 8 February, an abandoned Roma house in Viti/Vitina was set alight and completely destroyed. On the same day the Serbian Orthodox church in Livoq i Eperme/Gornji Livoc, Gjilan/Gnjilane was destroyed in an explosion. Again on the same date shots were fired at a Roma home in Shtime/Stimlje, targeting a family that has been previously attacked on numerous occasions. On 9 February a bomb exploded in Dragash/Drage town causing extensive damage to an apartment building and leaving 14 families, a mix of Gorani and Kosovo Albanians, homeless. On 10 February a Roma family in Suareke/Suvareka was attacked with hand grenades. On 13 February the regular twice-weekly escorted convoy between Strpce/Shterpe and Serbia was attacked by sniper fire which killed the Kosovo Serb driver and injured a number of other passengers. It would appear that the attack was designed to cause maximum damage by targeting the driver in the expectation that the bus would then fall into a ravine, killing or injuring a greater number of passengers. On the same date a Kosovo Serb was shot and injured in Klllokot/Klokot, Viti/Vitina municipality. Also on 13 February three Kosovo Serbs were injured where their vehicle struck an anti-tank mine on the road between Zubin Potok and Skenderaj/Srbica. One of the victims was evacuated to Belgrade and is reported to have died of his injuries. Again on 13 February a bazooka was fired at an Ashkaelia home in Medvece, Lipjan/Lipljan. On 14 February the body of an Ashkaelia male was found shot dead on the roadside near Shtime/Stimlje. The victim had recently returned from Bosnia in search of his wife. During the night of 14/15 February the bolts were removed from a stretch of the railway track linking Fushe Kosove/Kosovo Polje and Mitrovica/Mitrovica. The train service, an important transport link for Kosovo Serbs, had been scheduled to restart following an interruption of some two weeks needed to undertake repairs to windows that had been smashed during the most recent outbreak of violence in Mitrovica/Mitrovica. Had the train run on the damaged track, the risk of derailment and the consequent threat of injury to the passengers would have been exceptionally high. On 15 February the latest in a series of arson attempts against minority homes in Rahovec/Orahovac was thwarted by UNMIK Police. On that occasion they arrested a Kosovo Serb in the act of setting alight the home of a relative but previous incidents during the month pointed to the involvement of

Kosovo Albanians and there was in fact an earlier arrest of a Kosovo Albanian suspect. The upsurge in violence culminated in the 16 February attack on a passenger bus carrying Kosovo Serbs travelling under KFOR escort. An explosive charge laid under the road was detonated just as the leading bus in the Nis Express passed. Two military escort vehicles had already passed before the explosives were detonated. Ten people died in the resulting carnage and a number of passengers were hospitalised with very serious injuries. This particularly shocking attack was the most serious and deadly to have occurred in Kosovo in some time. The remainder of the month did not see any diminution of the violence. On the same day, 16 February a number of violent incidents targeted Kosovo Serbs in other locations around the province. A group of stone throwing youths rampaged through Lipjan/Lipjan breaking the windows of Kosovo Serb homes. Hand grenades were thrown at 2 Kosovo Serb houses in a village in rural Pristina north. A small group of Kosovo Serbs under KFOR escort were stoned while visiting a graveyard in Zahac/Zahac. On 17 February an explosion destroyed a Kosovo Serb home in Mogille/Mogila while the family were out of the house. On 18 February two Kosovo Serb homes on the periphery of the enclave in Rrahovec/Orahovac were targeted with molotov cocktails causing extensive structural damage. The previous week KFOR had intercepted two Kosovo Albanian men trying to access the enclave via a drainage tunnel. On 19 February a Bosniak home in Vitimirica/Vitimirice was attacked and robbed and two abandoned Kosovo Serb houses were burnt in Crkolez/Cerkolez. On the same date an abandoned Roma home in Shtime/Stimlje was set alight. On 20 February a Roma man was assaulted by a Kosovo Albanian in the market place in Kline/Klina. On 24 February a hand grenade was thrown at a Kosovo Serb house in Viti/Vitina. The owner had recently rejected an offer to sell the property. On 24 February there was an arson attempt against a Kosovo Serb house in Rrahovec/Orahovac. On 24 February in Fushe Kosove/Kosovo Polje a 66 year old Kosovo Serb woman was knocked to the ground and kicked unconscious by some youths. The woman had to be hospitalised after this ordeal. On 26 February an abandoned Kosovo Serb home was burnt in Kabas/Kabash, Viti/Vitina. The month came to a close with the murder of an elderly Kosovo Serb couple in their home in a village in Kamenice/Kamenica. Their bodies were found on 27 February lying on the floor of their home.

8. While many of the incidents listed above were clustered in or around areas that have previously been targeted, notably locations such as Viti/Vitina, Fushe Kosove/Kosovo Polje and Lipjan/Lipjan, there are very few areas that have not been affected by violence during the course of the reporting period. Even locations such as the Prizren region, generally considered as comparatively calm, experienced an increase in violent incidents illustrating the volatile and unpredictable nature of the security situation which can be subject to destabilisation at any time.
9. Attacks against transport routes, including deliberately laid mines, sniper attacks and explosions have resulted in numerous deaths. These incidents along with non-fatal attacks such as stone throwing and sabotage of the railway line have also had the cumulative effect of creating a siege mentality. Kosovo Serbs, in particular, now feel threatened when travelling, even under security escort. This has had an immensely damaging effect on the morale and wellbeing of minority populations across the province. A compounding issue is that numerous incidents have taken place in close proximity to KFOR checkpoints. It is important to recall that minorities' perceptions of security are not formed only with reference to the number of incidents. A crucial factor is their perceived sense of security, and even when a community is not under direct attack, attacks against others serve to reinforce the widespread belief that minorities in general are not safe. Once that belief has been instilled, and so long as the threat of violence remains credible, it is not necessary to sustain a high level of violence in order to terrorise the population. All that is needed is to retain the capability to target minority communities. It would appear on present evidence that this capability has been retained and is regularly exercised to keep minority communities under pressure. Efforts to prevent such violence are having little success.
10. The bewildering number and variety of violent attacks listed above falls short of telling the whole story. UNHCR and OSCE remain convinced that numerous crimes against

minority communities go unreported. Obvious incidents such as murder, grenade attacks and explosions are difficult to ignore. However, lesser incidents of intimidation such as verbal threats and insults, stone throwing, theft and a variety of other crimes targeting minorities have become so commonplace in the general climate of lawlessness and impunity that pervades Kosovo that the victims see little point in reporting them. In some cases that may even fear that by reporting them they risk drawing further retribution upon themselves and their communities. This constant and unrelenting harassment of minority communities undermines their overall sense of security and wellbeing, and as a consequence leads them to question their future in Kosovo. The volatile situation in south Serbia coupled with the recent violent clashes in FYROM are also factors to be borne in mind. The general instability that this generates coupled with the current reality, and future potential, for population displacement into Kosovo places further pressures on minority communities.

## Return

11. In our previous report, the issue of return was covered as an integral component of a broader analysis encompassing **population figures, displacement and return**. It is important to consider return within this broader context in order to illustrate the relationship that exists between ongoing displacement and return as set against the overall background of conditions faced by residual minority populations. As has been stated in earlier reports neither UNHCR nor OSCE consider themselves competent to undertake a full and comprehensive review of the size of minority communities remaining in Kosovo. Such an exercise, tantamount to a census, is beyond the mandate of either organisation and would be better undertaken by UNMIK. Nor are we able to systematically track all population movements. What has been offered by previous reports were best estimates for minority populations in specific locations, based on various field sources including community representatives. Such methodology does not allow for conclusive calculations of the total number of any given minority group. In preparing for this current update, time and resource limitations precluded a systematic review of population figures previously offered. However, as there have been no indications of *large-scale* population movements of minorities during the period under review we assume that previous estimates remain valid as general guidelines.
12. The pattern of **ongoing displacement** as noted during the reporting period has continued to be small scale and low key, yet unrelenting. Minority populations are still leaving Kosovo. The primary motivation for such departures is security related. Security concerns manifest themselves not only in fear for physical safety but also in more complex ways including freedom of movement restrictions and limited access to basic services and employment prospects. On this basis recent departures may be attributed as much to the occurrence of individual incidents of violence as to resignation after prolonged periods of lesser forms of intimidation and harassment. Lack of optimism for a longer-term future in Kosovo is a major contributing factor in the decision to leave. Specific incidents referred to in the security section of this report are illustrative of the kind of risks which minority communities continue to face. Coupled with the ongoing pressures of living under restrictive conditions, it is not difficult to see why displacement continues and why people are justifiably apprehensive about return.
13. Despite this harsh reality, there has been an increased focus on the question of **return** throughout the reporting period. The overriding guiding principle continues to be that of **promoting the creation of conditions conducive to return as opposed to promoting return itself**. There is a vital distinction between the two, which it is important to note. By focusing on the task of creating conditions conducive to return the aim is to offer minority communities realistic options; conditions under which they would be likely to opt for return confident in the knowledge that it offers a long term solution to their current predicament of displacement. This is qualitatively different from the promotion of return, which would of itself involve a concerted effort to directly encourage IDPs and refugees to come home. Active promotion of return under current conditions would be to offer false hope and a false sense of security to minority populations who still face considerable risk.

What is emerging from ongoing discussions about return is the growing realisation on all sides that return is a process. There is as much scope for progress as there are continued obstacles and only by facing realities and working in full co-operation can all concerned actors take the agenda forward in a constructive manner bearing in mind the complex environment that prevails in Kosovo.

14. With reference to **Kosovo Serbs**, the international community, in co-operation with representatives of the community, has concentrated its efforts on developing the concept how return can be effected. By way of concrete activity a document has been produced which articulates the main obstacles currently blocking return and goes on to highlight the measures required for the creation of conditions of return. The resulting **Framework for Return 2001** constitutes a consensus amongst the relevant representatives of the international community and the Kosovo Serbs on the best approach to pursue the issue. The document should not be considered a blue print for effective return. Nor however, should it be considered simply as a theoretical concept paper. It is a viable working tool upon which to base further and more detailed activities linked to the potential return of Kosovo Serbs building on activities that have already commenced such as small scale go and see visits for the benefit of IDPs.
15. It is important to provide a brief description of the processes that contributed to the Framework in order to dispel any misconceptions about its content and intent. During the latter months of 2000 the members of the Joint Committee on the Return of Kosovo Serbs (JCR)<sup>4</sup> focused their discussions on the major obstacles to safe and sustainable return, and the measures that are required to address these obstacles. JCR members agreed to draft a joint framework that would guide all co-ordinated activities related to potential return in the year 2001. Working at local and regional level through five Regional Working Groups (RWG), the JCR formulated the Framework which was adopted by consensus at a meeting of the JCR on 13 January 2001.<sup>5</sup> The Framework does not aim to set operational targets for return but rather strives to reflect the basic principles that shall guide organised and spontaneous return of displaced persons and create the co-ordination mechanisms needed to foster the return process. On many issues, such as property rights and access to essential services, the measures agreed upon by the members of the JCR as necessary conditions for return mirror those that previous UNHCR/OSCE Assessments have recommended as basic necessities to improve the situation of remaining minority communities.
16. As a central and repeated theme, the Framework recognises the crucial importance of **inter-ethnic dialogue**. Such dialogue is by necessity a two way street, requiring not only the active and responsible participation of the Kosovo Albanian community, through their leaders, but also a willingness on the part of the Kosovo Serbs to engage in constructive communication and confidence-building measures with Kosovo Albanians through municipal leadership structures and through community counterparts. The critical importance of the active engagement and participation of representatives of the displaced Serbs (IDPs), representatives of the receiving communities of all ethnicities and Albanian leaders at all levels, in the return planning and implementation process is emphasised. Discussions to date resulting in the adoption of the Framework as a working document have been by and large limited to the international community and representatives of the Kosovo Serbs. Obviously, it will be necessary to actively engage other sectors of Kosovo society, principally Kosovo Albanians at central and local level. While stressing the importance of such dialogue as part of the broader discussion on return, the Framework equally recognises that return is a basic right and not one that can be conditioned solely upon the acceptance of one community or another.

<sup>4</sup> The JCR was established in May 2000 to provide a working forum within which to discuss the realities of Serb return. The office of the SRSG, UNHCR, OSCE, various components of UNMIK (Pillar II and IV), UNMIK Police, KFOR and the SNC have all co-operated in the work of the JCR. For further details refer to paragraph 119 of the UNHCR/OSCE joint assessment covering the period June through September 2000.

<sup>5</sup> The Framework was therefore agreed to by the SRSG, the UNHCR Special Envoy, COMKFOR, the Heads of UNMIK Pillars II, III and IV, UNMIK Police and the leaders of the SNC.

17. In order to commence "he process of **broader discussion**, involving key actors within Kosovo society UNHCR has embarked on a series of consultations with **prominent Kosovo Albanians** to present them with the Framework and to solicit their views and their suggestions on how best to proceed. While the Kosovo Albanians recognised the right to return they link this right to a number of other issues, the most immediate being the return of detainees held in Serbian prisons and the longer term being the future status of Kosovo. There is still much work to be done to ensure that the right to return, voluntarily and in safety and dignity can be fully exercised. The Kosovo Albanian leaders acknowledged the fact that they have an important role to play in fostering conditions that will favour return. It will take concerted efforts on all sides to ensure that the issue of continued displacement and return can be brought forward in a climate of respect and tolerance that takes into consideration the concerns of all affected communities. Success in this regard will hinge not only on the actions of the Kosovo Albanians but also on the willingness of the Kosovo Serb community to co-operate with the administrative structures of the province.
18. Whilst the Framework document concentrates on the needs of Kosovo Serb IDPs, they are not of course the only community to have experienced displacement. The needs of Roma, Ashkaelia and Egyptian (RAE)<sup>6</sup> communities equally require attention. The question of RAE return has been on the agenda for some time. It was first highlighted by the **Platform for Joint Action, regarding Kosovar Roma, Ashkaelia and Egyptian Communities**, adopted in April of 2000. The central issues requiring attention before there can be any concrete and measurable progress with RAE return relate to the improvement of conditions on the ground within Kosovo. RAE communities currently face security concerns, restrictions on their freedom of movement and limitations in accessing essential assistance and public services. The discussion focuses, as is the case for Kosovo Serb return, on addressing and resolving existing obstacles to return. These obstacles and concerns have been, and continue to be, attended to by mechanisms which have proved effective in promoting an inclusive and constructive debate.
19. The process began with the **Humanitarian Round Tables** of early 2000 hosted by UNHCR. These involved the active participation of Kosovo Albanian political leaders. The commitment to return was subsequently articulated in the Platform for Joint Action which additionally seeks to set out the main issues requiring concerted follow up action. This positive development was taken one step further through the organisation of direct talks between RAE community leaders and officials of the **Joint Interim Administrative Structures (JIAS)**. Two consultative sessions have been held so far with the participation of RAE community leaders from various locations around Kosovo and officials of those JIAS departments most closely covering issues of concern to the RAE communities, inter alia, employment, health and social welfare and education. The idea of these sessions is to allow RAE communities raise their concerns directly with the JIAS officials and work jointly with them in the identification of appropriate solutions. The latest such session was held on 30 January and was attended by some 28 RAE community representatives. The greatly expanded participation as compared to the previous session held on 25 September, reflects the number of RAE representatives co-opted into the municipal structures.
20. A clear and connecting line can be drawn between the aspirations of the RAE communities to achieve return, the objectives articulated in the Platform for Joint Action, and the aim of the JIAS consultative mechanisms to offer practical solutions to those problems identified as obstacles to return. Each forms a constituent part of broader and complementary efforts to make constructive progress towards return. While the JIAS sessions have provided a unique opportunity for the RAE communities to raise their concerns, they do not provide a forum for an **in-depth discussion on security needs**. In recognition of this UNMIK and UNHCR have committed themselves to supporting further consultations with greater emphasis on the question of return and security related

<sup>6</sup> As per the formula adopted in other documents we use the abbreviation RAE to refer collectively to the Roma, Ashkaelia and Egyptian communities where the reference is by necessity to all three. Otherwise, we specify as appropriate which of the community groups we intend to refer to.

matters. The involvement of KFOR and UNMIK Police in these discussions will be essential.

21. At field level UNHCR has continued to support the efforts of RAE communities and individuals to work towards their return. Increased attention has been paid to the importance of go and see visits to Kosovo for the benefit of refugees and IDPs as a means of allowing them to re-establish links with their communities of origin. Activities undertaken thus far have been pitched at a very modest level and have concentrated on those displaced in FYROM and Montenegro. In addition UNHCR and OSCE, have co-operated closely to focus attention on the needs of those RAE displaced within Kosovo and who are seeking support to return to their home communities. The relative success of such measures suffered a huge setback with the murder of four Ashkaelia returnees in Skenderaj/Srbica in November 2000. During the course of 2000 a group of Ashkaelia families, who had been displaced from Skenderaj/Serbica to Fushe Kosove/Kosovo Polje in mid-1999, sought and received support from UNHCR and OSCE to explore the possibilities for return. On their own initiative the families had started a dialogue with their former neighbours centering on their desire to return home and restart their lives. A number of visits took place, and the international community provided concrete commitments on the question of reconstruction assistance and other material aid. This process culminated in a decision by the male heads of family to return to their village in early November, confident that they could start to rebuild their homes and eventually be joined by other family members. The discovery of their bodies less than 48 hours after their return was a harrowing reminder of the dangers implicit for those minorities who seek to exercise their right to return. The shock waves sent out by these murders were felt in communities across Kosovo. Ashkaelia parents in numerous locations withdrew their children from schools fearful for their safety. A cautious confidence born of months of painstaking work was shattered as minority communities grappled to come to terms with the meaning of such an incident. Many read it as a clear and unequivocal warning against return. However in comprehensive discussions following the tragedy, Ashkaelia community representatives reiterated their commitment to continue to work in favour of return despite the dangers and risks involved. The remaining communities of RAE do not, however underestimate the continued threat of violence and as a result they do not envisage large-scale return under current conditions. They favour a phased and somewhat cautious approach to return and rely on the support of the international community.
22. There are outstanding issues of concern for other communities affected by displacement. The issues which sparked flight in the first instance and which still continue to impede return, namely violence and infringements of basic rights, are elements shared in common by all minority communities albeit that the scale and gravity of incidents are variable. For the Turks, the Muslim Slavs and the Gorani there has been no structured discussion on return comparable to that undertaken to date for the benefit of Kosovo Serb and RAE communities. JIAS sessions, however, the same as those held with the RAE, have been held with representatives of the Turkish, Muslim Slav and Gorani communities to allow them too to avail of the opportunity to raise their legitimate concerns. Such sessions are considered an important factor in fostering the recognition and open discussion of the problems faced by each community, with the overarching aim of finding solutions in a climate of co-operation between all actors.
23. While Kosovo Albanians have returned to the province in huge numbers, the question of return of Kosovo Albanians to locations where they constitute a numerical minority, such as Mitrovica/Mitrovica town and Strpce/Shterpce, still demands special attention. This issue needs to be dealt with as part of a comprehensive approach which recognises return as an integral part of broader efforts to stabilise the various communities within Kosovo, offering each the prospects of peace and prosperity on equitable terms. Until such time, those Kosovo Albanians who originate from areas predominantly inhabited by Kosovo Serbs will mostly remain displaced within or outside Kosovo.
24. Despite some progress towards developing a more open and constructive debate on minority return, the fact remains that very little has been achieved in terms of removing

the obstacles that impede return. Violence which engenders insecurity continues unabated and considerable efforts are still required before minority communities can realise their aspirations to return. With this in mind and with reference to the security-related information included in this report **asylum states are alerted to the dangers inherent in any premature efforts to accelerate the return of minorities to Kosovo.** Any such moves at this time would risk provoking a backlash from the majority community and would ultimately undo any progress that has been achieved to date. The possibility that a number of recent security incidents were intended as a direct deterrent to return can not be discounted; the murders in Skenderaj/Srbica being a case in point. This is a factor that will have to be borne in mind when assessing how to lay the necessary groundwork in preparation for minority return.

## Health services

25. **Access to health care services remains a persistent problem for minority populations.** It has been noted in previous assessment reports that the problem of access is particularly acute when it comes to secondary and tertiary health care. In comparison, the provision of primary health care was less problematic given the broad network of ambulancias (clinics) at local level. However, it was equally noted that primary health care for minority patients was often dependent on the existence of a minority specific ambulancia within their own community or in other cases, especially for isolated rural minority communities, on the provision of mobile health services supported by NGOs. The same is true for isolated minorities in urban locations who are reliant on house calls in order to access health care. Concerns have already been expressed in previous reports about the sustainability of such complementary services, which are not fully incorporated into the long-term plans for health care provision. Such worries were echoed loudly by several of the specialist health NGOs highlighting the fact that such services are ultimately unsustainable. More recently doubts have been expressed even for the short to medium term sustainability of such services given that a number of NGOs are phasing down their activities and planning their departure from Kosovo.
26. Regulation 2000/45 on the Self-Government of Municipalities in Kosovo envisages the devolution of responsibility for a number of activities from central to municipal level. Amongst these activities is listed responsibility for the provision of primary health care. In anticipation of a transfer of responsibility on January 1, 2001, the Department of Health and Social Welfare (DHSW) drafted an overview document by way of guidance which aimed to answer the questions of municipal administrators and health authorities with regard to the organisation of primary health care services at municipal level. The aim of the DHSW was that this document would serve as a helpful tool for the municipal authorities rather than a definitive instruction as to how to organise their services. Within the existing legal framework and with reference to the relevant guidelines issued by the Department of Local Administration, each municipality is free to establish their own system.
27. **Primary health care is understood to include: health education, water safety and basic sanitation, maternal and child care, immunisation and vaccination, basic medical treatment, community based mental health, basic oral health care and drug supply.** For the purposes of this report UNHCR and OSCE sought to review whether or not the transfer of responsibility to the municipalities has had an impact, positive or negative, on the provision of services to minority communities. It should be recognised that the resources of UNHCR and OSCE are not sufficient to undertake a comprehensive review of health services. What we have done therefore is simply to gather information on a sample basis from a limited number of minority locations. This information was then supplemented by information gathered directly from some of the NGOs providing health care services and information provided directly by the DHSW itself. We are however informed, that WHO is in the process of undertaking a comprehensive review of minority access to health care the results of which will obviously be more detailed than what UNHCR and OSCE have been able to compile. Work on this review is already quite

advanced with information gathered from most municipalities. Some of the issues under consideration by WHO as indicators of the degree of access of minority communities include; access to primary health care within the immediate community; quality of the primary health care; availability of laboratory equipment; water and sanitation; availability of emergency transport; immunisation; access to ante natal care; and access to secondary and tertiary health care.

28. Drawing on the information gathered by UNHCR and OSCE and by way of general observation it can be said that **Kosovo Serbs continue to experience the most acute problems** in accessing health care at all levels. In almost all cases this is directly related to their security and freedom of movement problems. As a direct corollary Kosovo Serbs can arguably be said to have benefited from the most intensive efforts on the part of the international community to provide complementary services, such as the installation and equipping of a medical facility in Gracanica/Ulpiana. RAE communities, by comparison, are generally assumed to enjoy access to facilities servicing the needs of Kosovo Albanians. Feedback from the field, however, reveals that this is not always the case and limitations on their freedom of movement coupled with incidents of intimidation and harassment at clinics can adversely affect the ability of RAE communities to effectively access health care. In several areas it was noted that where separate services (physically separate ambulanta) exist and are clearly identified as benefiting Kosovo Albanians or Kosovo Serbs, RAE and other minority communities are left stuck in the middle. Services are available but the simple act of availing of such service can be interpreted as a statement of loyalty or allegiance, with the consequent security implications that such may entail.
29. The **assumption of responsibility by municipal authorities** has not been uniform across the province and is affected by a number of factors. After 28 October when the municipal elections occurred, the establishment of municipal structures took place at varying speeds depending in many cases on the degree of consensus or lack thereof in each location. As a result it can not be said that there was a uniform and simultaneous act of decentralisation. The DHSW originally envisaged a comprehensive hand-over of the responsibility for primary health care to the municipalities as and from January 1, 2001. However, in recognition of the difficulties faced by some municipalities in fully assuming their responsibilities, this target date was pushed back to March 1. In reality the process of transition is likely to be gradual and ongoing and ultimately will vary from one location to another according to local circumstances. This is particularly so in the case of services provided to minority populations as the practice in each municipality can vary considerably according to the actors involved and the specific needs of the beneficiary populations.
30. The provision of **health education** to minority communities has been variable and in large part has depended on the pro-active involvement of NGOs who are now increasingly reducing their operations. The DHSW envisages that in the longer-term health education activities will form part of a Kosovo wide programme. In such a scenario, the Central Institute of Public Health would assume responsibility for the theme, plans, methods and materials and these would then be communicated to the municipalities via the District Health Authority who would supervise implementation. Whilst the DHSW continue to grapple with practical problems such as the maintenance of ambulantas, progress on issues such as overall health education has been slow and it is not likely to improve dramatically in the short term.
31. Likewise, with reference to **safe water and basic sanitation**, many minority communities have complained of scant and irregular attention to these issues and expressed concerns about the potential for adverse effects on the overall health and welfare of their communities. It should be noted, however, that sporadic water supply and sub-standard sanitation are problems that affect many communities throughout Kosovo. This is the net result of years of neglect and poor maintenance compounded by more recent war damage. It is not necessarily the case that minority communities suffer such problems as a direct result of discrimination but rather they share them in common with many of their

Kosovo Albanian neighbours. In the case of some RAE communities the problem was noted as being more acute and in some instances there were complaints of lesser attention and resources being dedicated to resolving such problems where they primarily affect RAE communities.

32. **Access to maternal care and child healthcare** is variable from one location to another, and depending on the minority group in question. Access becomes a particularly acute problem for all minority communities in the case of complicated births where the expectant mother needs to be transferred to a hospital facility. Almost without exception, minority communities indicated that this was a cause of difficulties due to a combination of factors. In some cases the problem centred on security concerns and/or discrimination at the hospital. Most frequently however, the challenge was posed simply by the logistics of reaching a hospital safely given the general context of severe limitations on the freedom of movement of many minority communities. In the case of RAE communities, who often do not have the same access to emergency transport as is available to Kosovo Serbs closely guarded by KFOR, there appears to be more recourse to home births. This as a matter of necessity rather than as a matter of choice. In more routine cases without any aspect of emergency complications most communities reported satisfactory access to maternal services but noted that like other medical services these are frequently provided in a segregated manner e.g. the maternal unit of the health centre in Gracanica/Ulpiana for Kosovo Serbs.
33. **Immunisation and vaccination services** for minority communities continue to rely heavily on the involvement of NGO actors. Under current arrangements it would appear that no sector of the population has been left unattended by the vaccination campaigns carried out to date. However, the DHSW recognises that mobile services dependant on international support is an expensive way of running this service and in future it should be completely in the hands of the municipality as part of normal primary health care services. It remains to be seen how the needs of minority communities can be fully integrated into a localised system.
34. **Community based mental health services** by the admission of the DHSW are barely existent beyond the realm of those provided by international NGOs. This gap in health services is one that affects minority and majority population alike. The DHSW intends to develop a community based mental health care scheme, which will ultimately fall to municipal authorities to implement. The severe lack of trained psychiatrists and psychologists has been and continues to be an obstacle. It is clear that the stressful conditions faced by many minority communities generate a range of mental health problems, which make services of this type all the more necessary.
35. **The supply of basic drugs** was previously overseen by the international NGO, Pharmacens sans Frontiers but since their withdrawal from Kosovo in early January 2001, this responsibility has passed to the Kosovo Pharmaceutical Co-operative (KFK). The KFK is a hybrid organisation; in one sense the successor of what remained of the former state pharmacy, and in another sense a species of NGO. As currently constituted this organisation is very much Kosovo Albanian dominated and some minority communities have complained that their supply of drugs has been adversely affected as a consequence. KFK are tasked and paid by the DHSW to ensure the supply and delivery of drugs to all communities without discrimination on ethnic or any other basis. Currently KFK face practical and logistical difficulties in ensuring a supply to minority areas where their own staff are apprehensive to travel. As a result there is a continuing need for international organisations to be involved in the supply and distribution of drugs to ensure that minority populations are adequately attended to. KFK have reached an agreement with an international organisation to supplement their outreach to minority communities. This arrangement is valid until June 2001 after which time KFK will be obliged to ensure that their services cover minority needs. The DHSW hopes to support KFK's capacity to meet their obligations by advocating for the direct involvement of minority populations in KFK management. Like many aspects of health care services, this will be a delicate process of negotiation as there is reluctance to full co-operation on both sides driven by a mutual lack of trust. The experience thus far with KFK may be illustrative of a variety of

problems that are likely to arise as the health service is increasingly "Kosovarised". The DHSW will need to remain constantly alert to the problem and open to finding workable solutions, conscious of the fact that such solutions may well have additional resource implications in the short to medium term.

36. The level of involvement of minority health care workers is generally low with the striking exception of the Kosovo Serb community. Several institutions that service the Kosovo Serb community continue to be overstaffed as health care workers have been concentrated in a limited number of geographical locations as a direct result of displacement. This can result in situations where the health house of a relatively small location like Priluzje is staffed by over 100 nurses and four doctors on a rotational basis<sup>7</sup>. UNMIK continues in its efforts to incorporate Kosovo Serb health workers into the overall system, specifically by extending UNMIK contracts and salaries. However, this represents a dilemma for the workers themselves, who are anxious not to lose seniority and pension entitlements accumulated as a result of continuous years of work in the state health care system. It is still a reality that some health care workers remain outside the UNMIK system and instead receive their contractual status and salary directly from the central authorities in Belgrade. There are continuing reports that some workers come under pressure from the central authorities, which they simply refer to as "Belgrade" without specifying any particular source, to resist full co-operation with UNMIK. Additionally they may face pressures from within their own communities who see co-operation with UNMIK as a betrayal. Such issues will have to be realistically and responsibly addressed if UNMIK is to develop an equitable health care system meeting the needs of all patients and health workers alike.
37. Mitrovica/Mitrovica hospital which is under Kosovo Serb dominated management continues to provide a striking example of polarisation in the provision of healthcare. The net result in this case is that Kosovo Albanians are the ones who end up faced with exclusion and discrimination. For them the hospital remains effectively out of bounds, largely for security reasons, and they are obliged to travel elsewhere to access health services. Isolated and vulnerable cases who live on the northern side of the town and who are unable to easily access health facilities on the south demand special attention. At the moment a number of international organisations have instituted an *ad hoc* system of home visits. However, this is constantly affected by fluctuations in the overall security situation and does not offer a sustainable and effective system for the longer term to cover the needs of these patients.
38. Access to hospital services elsewhere in Kosovo continues to be a major problem affecting minority communities to varying degrees. Whilst there are positive examples such as reports from the Egyptian community of western Kosovo regarding their satisfaction with current arrangements to ensure their access to hospital services<sup>8</sup>, minority communities at other locations remain very apprehensive about their security in hospitals. In Prizren, for example, where we have previously reported on the commendable efforts to ensure adequate access for minority patients, a Kosovo Serb patient was recently evacuated from the public hospital due to security related problems. The patient was transferred to Prizren hospital following surgery in a KFOR military field hospital. Shortly after his arrival in the public hospital a bomb threat was received by telephone necessitating the emergency evacuation of all patients. This resulted in a request to the Belgian Red Cross by hospital staff and KFOR to evacuate the patient in question. He was transferred via Pristina to a hospital in Serbia proper but unfortunately died soon afterwards. Likewise in the Gnjilane/Gjilan area, where we had previously

<sup>7</sup> We do not mean to suggest that it is necessarily the case that where such concentrations occur all health care providers are included on the UNMIK payroll. Many may choose to continue working without pay or be paid by other sources. The point is rather than situations occur where many service providers are concentrated in one area while other areas are relatively under attended. This unfortunate phenomenon is a direct consequence of displacement.

<sup>8</sup> It should be noted that while the Egyptian community leaders have expressed their satisfaction vis a vis non-discriminatory access to health care facilities in the western Kosovo area they have equally expressed concerns that members of their communities still face freedom of movement problems. This factor effectively impedes their full and free access to services. It would still be difficult if not impossible for many Egyptians from western Kosovo to travel unhindered to Pristina by public transport in order to access the hospital. The limiting factor remains the general security threat posed to minority communities when moving in public places.

reported growing confidence on the part of Kosovo Serb patients to avail of services at the hospital, the death of a Kosovo Serb amidst allegations that poor medical attention was a contributing factor has proved a setback. UNMIK and health related NGOs working in the area remain committed to the idea of shared health facilities and with this in mind Kosovo Serb patients are actively encouraged to use the hospital and facilitated to do so by the provision of special security measures. The Kosovo Police Service (KPS) has extended assistance to escort patients to the hospital. While it is still a harsh reality that security escorts are needed the involvement of KPS marks a small step towards a more practical and potentially sustainable practice as it involves local actors rather than total reliance on KFOR.

39. The Department of Health and Social Welfare remain committed to the goal of a fully integrated health system servicing the needs of all Kosovars on the basis of equality. As of December 2000 an Office of Minority Affairs was instituted within the Department with an international staff member specifically tasked to follow up on the concerns of minority populations. To achieve the overriding objective of an equitable service, emphasis is focused on two key issues: *participation*, realised by the employment of minority workers within the health system, and *access* for all patients. The reality, however, is that security concerns, combined with an ongoing perception of discrimination, continues to obstruct constructive progress. One clear need, particularly as responsibility for health services is decentralised, is for the DHSW to maintain a monitoring role and to set up speedy and effective mechanisms to ensure that specific claims about discrimination in health care are fully considered and action taken when required.
40. The provision of **special temporary measures** is still required as the best means to ensure that services are available to respond to real needs. The challenge remains that of ensuring that such temporary measures do not simply become entrenched, constituting an unacceptable status quo that will be difficult to dismantle in the future. NGOs have been to the forefront in highlighting concerns in this regard. As many NGOs prepare to leave Kosovo they have given ample warning to the DHSW as to gaps which may appear in the provision of services as a result. The DHSW in turn has recognised the need to ensure that such gaps are filled and is working with NGOs to try to ensure a smooth transition upon withdrawal of their services. The provision of health care on an equitable basis to all Kosovo residents remains a major challenge for the international community and one that has thus far eluded an easy solution.

## Property

41. There has been little noticeable improvement in the **property situation of minorities** since the previous assessment. The main areas of concern remain: access for minorities to an effective system to adjudicate ownership claims; allegations of unlawful occupation; illegal construction on minority owned properties; access to reconstruction assistance, and the phenomenon of 'strategic sales'. The latter in particular, is of growing concern having reached alarming proportions in some communities and being perceived by minority communities as yet another method used to drive them out of Kosovo.

### Strategic Sales

42. What is referred to as "strategic sales" of minority-owned property can be defined as the practice whereby the minority owners of property, located in strategically important locations within minority areas, are induced to sell their property, as part of what *appears* to be an organised campaign<sup>9</sup>. The inducement to sell may be linked to threats of, or actual, violence. In other instances, however, the inducement may simply be purchase offers far above the local market rate, but which appear to form part of a broader plan to

<sup>9</sup> What constitutes a strategic location is not always easily defined as it has a lot to do with the perception of the communities themselves. It should be understood to include properties which link or bridge clusters of minority houses to each other or to services such as shops or clinics. The fact that the sale of such a property would have the result of reducing further still the general area inhabited by the minority group obliging them to transit a majority area is a common basis upon which communities classify certain properties as strategic.

buy up property in such a way as to weaken residual minority communities. Given the growing reports of such trends in various locations, we have attempted to examine, in as systematic a fashion as possible, the available information on such strategic sales. It should be noted from the outset that the question of sale of minority property, strategic or otherwise is the subject of intense debate. There are some community leaders who see it as an urgent priority to stem all sales as a means of protecting the greater good of the remaining population. On the other hand the sale of individual properties may be seen by the owners as their right and as a means to secure sufficient funds to re-establish themselves and their families in Serbia or elsewhere.

43. It is very difficult to judge the full extent of the so called 'strategic sales' taking place. First, direct evidence of any organisation behind such purchases is very difficult to obtain. Furthermore, in many cases it is difficult to distinguish between general attacks on minorities, which has the effect of provoking their departure from Kosovo, from specific threats designed to particularly target and drive out members of minorities living in what could be considered as strategic locations. In a number of areas there has even been intimidation of Kosovo Albanians attempting to buy Kosovo Serb property, with sectors of their own community alleging that as the Kosovo Serbs had no right to the property in the first place there is no need for it to be purchased.
44. However, in several locations evidence does appear to substantiate targeting of certain strategic areas. For example, in one building in **Prishtine/Pristina** with a concentration of remaining Kosovo Serbs (and extensive KFOR protection), there are persistent attempts by Kosovo Albanians to purchase Serb property within the building. Although Kosovo Albanians have thus far been prevented by KFOR from occupying property in this building several prospective purchasers informed the OSCE that one reason behind their attempts to buy property in the building was to accelerate the departure of the remaining Serbs. These potential purchasers said they believed that once a certain critical mass of Albanians were residing in the building, KFOR would reduce their level of protection.
45. The bulk of information suggesting targeted purchasing, and coerced sales, of Kosovo Serb property is drawn from the **Prishtina/Pristina region**. Previous complaints about this phenomenon had been largely confined to the towns, but this period saw the spread of indications of what appeared to be strategic purchasing (for above market prices) of Kosovo Serb properties, to key locations in the larger Kosovo Serb villages near Prishtine/Pristina. In Obiliq/Obilic a declining Kosovo Serb community has witnessed ongoing sales of property which they believe to be deliberately targeted at key locations, (e.g. property in the centre of the community or in other key locations vital to the community's sense of well-being). According to the community the transfer in ownership of such property leads to an increase in insecurity. Systematic purchases of strategically located property has also been observed in the Kosovo Serb areas of Lipjan/Lipljan.
46. A compelling example of this phenomenon continues to be the Kosovo Serb areas of **Fushe Kosove/Kosovo Polje**. A pattern now appears to be well developed, and numerous cases have been documented by OSCE. The Kosovo Serb community describe their experience as follows: Kosovo Albanian potential buyers visit Kosovo Serb houses and offer them a price. If the Kosovo Serb refuses, the house is almost automatically stoned shortly afterwards, and the prospective buyers appear again with a lower offer. If the owner still refuses, the house is stoned again, and the owner begins to receive threatening telephone calls and may be physically assaulted. In each case, the prospective buyers are young, polite men, who do not necessarily insist on buying but simply make an offer. Prices offered vary between the different areas of the town. The highest prices are paid for houses in the middle of Kosovo Serb streets, and for those on the main roads, which benefit from good access and KFOR patrols. The remaining houses are then likely to be sold for a low price, as their owners become afraid of being surrounded by Kosovo Albanians. As a result of the continuing sale of Kosovo Serb owned property in Fushë Kosovë/Kosovo Polje town, the property on the main roads is now almost entirely Kosovo Albanian-owned and the Kosovo Serbs live in small neighbourhoods, which are now becoming the targets. When there is only one remaining Kosovo Serb house in an area, the tendency is for the house to be stoned by juveniles or

children, possibly to accelerate the sale. The remaining Kosovo Serb community in the town has expressed deep distress at the continuing sales of property. Many Kosovo Serbs state that they are ready to leave, as most are unemployed, do not have freedom of movement, and have little security. They stated that they feel abandoned by the international community. They are afraid of being stoned or having their house burnt down if they refuse a low offer and faced with an increasingly desperate situation they often state that they would be willing to sell no matter what the offer.

47. One notable attempt has been made to address the problem of strategic sales in Lipjan/Lipljan. There, the Municipal Administrator has issued a series of instructions that have the effect that all inter-ethnic sales of properties must be approved by the administration. Although the majority of sales have been approved by the municipality, some have been refused. It appears that plans are well underway to replicate this system across the Prishtina/Pristina region. At present, legal measures at a Kosovo level are also being discussed that could ban or limit inter-ethnic sales of property.
48. However, there are problems with the Lipjan/Lipljan approach, and any possible development of it into a Kosovo-wide law. First, the Lipjan/Lipljan restrictions on sales would appear to have no basis in law (the legal power to prevent such sales having been revoked by UNMIK as part of the discriminatory measures of the immediate past). In addition, the specific system set up in Lipjan/Lipljan does not provide for any appeal to an independent tribunal, which is required in a system interfering with people's property rights to such a significant degree. It also appears to have caused real hardship to some Kosovo Serbs (particularly the elderly) who have been have expressed a desire to leave but worry about being prevented from receiving any money from their attempted sales. Any measures to address the problem of strategic sales through such bans will have to address all of the above problems. In addition it should be recognised that bans on sales would essentially only tackle what is usually just the symptom masking the main problem causing sales, namely a real or perceived lack of security.
49. There are fewer indications of RAE communities being targeted with strategic offers to purchase to the same degree as Kosovo Serbs. However, one potential example of strategic purchases of property affecting a Roma community is in the Halit Ibishi area of Ferizaj/Urosevac town. There have been repeated reports of extensive verbal and physical harassment of community members, culminating in two waves of selling of Roma property in this area, in September and December 2000. The purchasing of Roma property appeared to take place systematically, on a street by street basis. The OSCE has previously received numerous complaints from Roma to this effect. Several complainants suggested the same pattern taking place, in which remaining Roma owners were allegedly harassed by Kosovo Albanians, until they indicated they wished to sell, at which point the persons harassing would give way to other Kosovo Albanian as potential purchasers of the property. As with other cases it has proved impossible to verify these accounts, as the victims are reluctant to testify. As such it is difficult to conclude that there was a clear cut and organised plan to buy up properties with a view to cleansing the area of one particular group. Although the large majority of purchasers of the Roma property were Kosovo Albanians, there were also some Ashkaelia and Roma buyers weakening the argument of one group deliberately trying to run out another. Illegal occupation of Roma and Ashkaelia property in the same area by ethnic Albanian IDPs from other areas of Kosovo and also from the Preshevo valley area of southern Serbia is an additional complicating factor faced by the minority community.
50. The reality in the field is thus often difficult to gauge with numerous inter-linked factors contributing to the ongoing sales of minority properties and the departure of their owners from Kosovo. In Kamenice/Kamenica, for instance, a number of inter-ethnic property sales occurred during this period. In each case the purchasers were Kosovo Albanians and the sellers Kosovo Serb or Roma. These inter-ethnic sales occurred in mixed villages, and members of the minority communities have stated to OSCE that such purchases have followed extensive verbal intimidation of the sellers. Such information has been difficult to verify as victims have been reluctant to make direct complaints due to the fear of increased intimidation. In addition what limited information that is available

often comes from second hand sources, the sellers themselves having already departed for Serbia and thus unavailable for comment. Property sales in Kamenice/Kamenica have tended to be characterised by the now familiar pattern of Serbs remaining and/or "returning" from displacement on a temporary basis simply to finalise the sale of the homes which they were forced to vacate at an earlier stage due to unbearable security conditions. This pattern of sales has been witnessed in Kosovo Serb communities throughout the province but particularly so in eastern Kosovo. It begs the central question of whether such sales can rightly be considered "strategic sales" or rather they are simply the net result of the overall security situation in which Kosovo Serbs and other minorities, fearful of remaining in Kosovo due to the threat against them, want at least to sell their property and salvage something from an otherwise desperate situation.

### **Property Rights**

51. The problem of the lack of a system in Kosovo to adequately protect property rights, with the attendant problems of illegal occupation and construction, was set out in both the previous assessment and in the OSCE's public report on the property problems in Kosovo of September 2000. This problem has a particular resonance for minorities, and without a resolution potential returns of minorities will continue to be blocked in many locations. A crucial issue therefore centres on the degree to which the two main organs tasked to deal with aspects are property rights are actually functioning and how far they are accessible to minorities. The relevant organs are the Housing and Property Directorate (HPD) and the municipal authorities.

### ***Housing and Property Directorate (HPD)***

52. The HPD and the related Housing and Property Claims Commission (HPCC) were established by Regulation 1999/23 of 15 November 1999 and vested with the exclusive mandate for certain residential property disputes. The complexities and legal controversies surrounding property had led UNMIK to conclude that such issues would be best dealt with by a quasi-judicial body outside of the normal judicial system. Resource limitations and the absence of clear rules of procedure hampered initial efforts on the part of the HPD to become operational. The legal framework was completed with the introduction of Regulation 2000/60 of 31 October 2000 setting out the Rules of Procedure and Evidence, but funding difficulties continued to adversely affect the ability of the HPD to do its job. The continuing inability of the HPD to achieve its objectives and reach its full capacity is a source of growing concern.
53. Property issues are of particular importance to minority populations. The fair adjudication of property disputes is a crucial factor in the whole return process and the search for durable solutions. Displaced persons within and beyond the borders of Kosovo anxiously await the opportunity to submit their property-related claims. With the current limited freedom of movement for the great majority of Kosovo Serbs, who for security reasons cannot approach the offices of the HPD, it has been necessary to incorporate a mobile element in the HPD services. An increase in these services is indispensable. Other minority communities also face freedom of movement problems (albeit to a lesser degree) and their needs will have to be considered in developing an extended mobile network capable of responding to demand. The current capacity is clearly not sufficient and as a result long waiting lists are being created.
54. In the same vein, the particular needs of those currently displaced outside Kosovo will have to be met. There is a responsibility on the HPD to facilitate access to the procedure by having a presence outside Kosovo. In the absence of this the only possibility open to IDPs is to travel to Kosovo and visit one of the existing offices to file their claim. This is extremely difficult, if not impossible, in many cases. As a first step towards resolving this problem the HPD mobile teams could travel to IDP communities in Serbia and Montenegro thereby facilitating access for the large number of persons displaced there. It is, however, essential that HPD offices be established outside of Kosovo this year. A suitable mechanism will also have to be found to meet the needs of those persons

displaced beyond the immediate region and who will not be reached even by extending offices and outreach services in FRY.

### ***Municipal Authorities***

55. The role of the municipalities in property matters will grow in importance during 2001. As far as minorities are concerned one area of particular importance relates to the role that municipal authorities can have in the assessment of abandoned property and allocation of this for temporary occupation on humanitarian grounds<sup>10</sup>. This work is crucial, both in assessing the extent of abandoned property, and ensuring that any allocation both preserves the possibility for the owner to return, whilst stabilising any remaining minority population. Despite the fact that a number of municipal authorities have received training from the HPD to guide and facilitate their activities under this delegated power, indications from the field show that very few municipalities have embarked on developing activities in this regard.
56. Following the municipal elections of 28 October 2000 it was envisaged that each municipality would review its housing authority and undertake a review of membership and functions. However, a survey of the municipalities has revealed that few have taken action in this regard, continuing to date to function with the structures in place before the elections. In several cases such bodies were simply the successors of pre-existing self appointed bodies who were absorbed into the municipal structures as reorganised in early 2000. The impartiality of some of these bodies may be called into question. In recognition of the important role played by the local structures at municipal level it would be recommendable for each municipality to take steps to reform the membership of their housing commissions moving towards more representative structures including the participation of minority members.

### ***Reconstruction***

57. The previous assessment highlighted a number of problems with regard to minority access to the official reconstruction assistance programme. In March 2000, the JIAS Department of Reconstruction established **Guidelines for Housing Reconstruction**, providing common guidelines for the identification of beneficiaries, for the rehabilitation and reconstruction standards for damaged and destroyed properties as well as for the implementation procedures and for the general co-ordination of activities and actors. In accordance with the guidelines reconstruction assistance throughout 2000 was allotted through the municipal housing commissions who assumed responsibility to approve the identification of beneficiary villages and families. Given that minority participation in such commissions was minimal this frequently led to allegations of discrimination and unfair distribution of resources. Members of minority communities have complained to the OSCE that they were unaware of the guidelines, of their right to apply for assistance, or, when their application had been rejected, of the reason why. The guidelines explicitly mentioned that 5-10% of committed funds would be set aside for the needs of minority communities, but an end of year review indicated that the actual figure reached was in the region of 2%. As some municipalities did not maintain clear records on the beneficiaries of reconstruction assistance it proved impossible to arrive at a precise figure of exactly how many there were. From the overall assessment of 2% however it is clear that the target figure was not reached. Revised guidelines for 2001 which are close to being finalised, stipulate that the percentage to be set aside for 2001 should be 15%, partly in order to redress some of the shortfall. This however, will be 15% of a much reduced global target. Donors have however recognised the need to maintain flexibility on this as any increase in return will place additional demands on available funds and resources.

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<sup>10</sup> Regulation 1999/23 authorises the HPD to conduct an inventory of abandoned property in Kosovo and to supervise the utilization of this property on a temporary basis for humanitarian purposes. Regulation 2000/60 in turn authorises the HPD to delegate any of its functions to the municipalities of Kosovo, subjected to such supervision arrangements as it finds appropriate. As inventories of abandoned property have yet to be undertaken it remains to be seen what proportion is actually minority owned. However it is reasonable to conclude that this will be an issue of particular relevance to minority communities bearing in mind the scale of their flight from Kosovo.

58. Recognising the problems that had occurred in 2000, the Department of Reconstruction along with key donor committed themselves to a more flexible approach for 2001 and sought the input of informed actors as to how improvements could best be achieved. The revised guidelines have benefited from extensive discussion on the lessons learnt during the past year and they now make specific reference to the need to provide an adequate response to the particular needs of vulnerable minorities in line with overall UNMIK policy of stabilising minority communities and working towards the establishment of conditions conducive to return. In addition, the Department has committed to undertaking a damage assessment of a number of minority locations in order to get a better grasp of the scale of the challenge with minority reconstruction needs. Once finalised it remains to be seen how the revised guidelines will be implemented at municipal level. Whether they will in fact have a positive impact resulting in a more equitable distribution of reconstruction assistance will largely depend on the openness and flexibility of the municipal structures tasked to apply them. The active involvement of minority representatives in the municipal structures, as outlined above, will be another essential factor towards ensuring a more equitable system.
59. It is important to recognise that the reconstruction assistance needs of minority populations differ from those of the majority population. The need to rebuild homes and secure long term shelter is of course a basic human need shared by all. However, the pace and type of assistance required may differ from one community to another. For example the vast majority of reconstruction assistance is provided in kind on the basis of self-help projects, i.e. recipients undertake the building work utilising donated materials. This has proven an effective way of assisting Kosovo Albanian returnees who have been able to draw on family resources, both economic and labour-wise to ensure rapid reconstruction on receipt of the original assistance. In the case of minority beneficiaries the task before is far more daunting. They are faced with fewer sources of supplemental assistance to call upon and the added complication of restrictions on their freedom of movement which impedes their ability to move goods and labour and therefore keep work going at a reasonable pace. In the case of potential returnees this will be particularly relevant. If minority returnees can not rely on quick delivery of building supplies they run a high risk of not being able to complete the work and as a result of having to return to situations of displacement. Existing procedures to access assistance are premised on the fact that beneficiaries must be *in situ* before being considered. Recalling that most assistance is in kind this is a valid practical consideration. However, to make the system more flexible and able to respond more quickly to the needs of returnees various options are under consideration including for example the possibility of submitting an application for assistance during the course of a go and see visit. It is hoped that such modifications will make the system less time consuming and bureaucratic and ultimately more responsive to the needs of beneficiaries.

## Access to Political Structures

60. The last Minorities Assessment, published just prior to the 28 October 2000 municipal elections, noted that the issue of appointing minority members to municipal assemblies would be crucial to ensure the participation of minorities in the new structures. The power to make such appointments rests with the SRSG under Section 47 of Regulation 2000/45.<sup>11</sup> As there are no official figures available on the number of minorities in any given location representation in strict proportion to the number of members of a minority in any given Municipality is not possible. Therefore, it is difficult to assess with absolute accuracy whether or not a community is 'under-represented' and as such deserving of co-opted representatives. In any case it is arguable that strict adherence to the concept of proportionality may not be the best means of achieving effective minority representation.

<sup>11</sup> 47.3 The Special Representative of the Secretary-General may co-opt additional members to the Municipal Assembly if he considers it necessary to do so in order to ensure representation of all communities pursuant to United Nations Security Council Resolution 1244.

61. Under Regulation 2000/45 certain **special mechanisms** in the form of committee structures were stipulated for each municipality to ensure that minorities' interests were monitored and addressed. Therefore, a crucial step for minorities in the implementation of the new municipalities has been the creation (and membership of) the Communities Committees and Mediation Committees, (which Assemblies were obliged to set up under Section 21 of the Regulation), and the opening and staffing of Community Offices in municipalities where a minority forms a substantial part of the population. There is nothing in the Regulation that precludes the inclusion of minority representatives in other municipal structures. Indeed, an assessment of the inclusion of members of minorities on bodies such as the Policy and Finance Committees and Boards of Directors provides a good indication of the tendency, or lack thereof, to include minorities even where there is no obligation to do so. Inclusion in the 'mainstream' of the Municipal Assemblies places minorities not only in special structures, but also at the heart of decision making. How much meaningful participation or influence any such inclusion brings remains to be seen.
62. It should be noted that the **process of co-option of members of minorities onto Municipal Assemblies is not yet complete**. Seats remain unfilled in a few municipalities, or, whilst minorities have been co-opted, they are currently not participating. Strpce/Shterpce is one example of the latter case, where the Municipal Assembly has split following the events of 13-16 February.
63. Members of minorities were elected in some municipalities. Though small, a **number of minority parties did gain elected seats** in the Assemblies. In Dragash/Dragas, the Gorani Citizens' Initiative (GIG) won three seats and the Bosniak SDA two seats. The Ashkaelia party (PDASHK) won one seat in Fushe Kosove/Kosovo Polje. The SDA also won a seat in Istog/Istok, and another in Peje/Pec. Finally, in Prizren, the Bosnian Party of Democratic Action (BSDAK) won two seats and another Muslim party, the DRSM, one seat. In addition in all of these municipalities with the exception of Dragash/Dragas, the SRSG also exercised his powers of co-option.
64. **Appointments by the SRSG to the Municipal Assemblies** were made following extensive consultations with local and international actors and for all but 6 municipalities, minority representatives were appointed.<sup>12</sup> Overall, as of 15 February, of a total of XX elected and XXX appointed representatives or seats set aside in Municipalities where the election results were certified, 49 are Kosovo Serb, 8 Muslim Slav, 7 Ashkalia, 9 Roma, 4 Turks, 4 Egyptians and 1 Croat. A different type of appointment system was used for the three northern municipalities of Leposavic/Leposaviq, Zubin Potok, and Zvecan where elections were held but the results were not certified as the majority Kosovo Serb population neither registered nor voted. Co-options in these municipalities have included Kosovo Albanians, who constitute a numerical minority.<sup>13</sup>
65. There is ongoing debate over the **formula for appointing representatives** and the perception of some minority communities over how the power of co-option has been exercised to date. The very small Turkish community in Vucitri/Vucitrn, for example, did not benefit from co-option and in December 2000, the community submitted a petition to the SRSG requesting this; to date, no such co-option has been made. Generally, the procedure as applied has not resulted in a representative being appointed from every minority group in each municipality; rather, the more significant (in number) groups were favoured. This may have impacted negatively on some communities, particularly on scattered, small communities of Roma, and also on Ashkaelia and Egyptians. There are arguably two different approaches to how the minorities should be represented in the municipal assemblies. First, given the vulnerability of minority groups and the fears that without representation of its own, the needs and perspectives of a given community cannot be heard, it may be considered indispensable that every community in each

<sup>12</sup> No appointments were made in the overwhelmingly Kosovo Albanian populated municipalities of Decani/Decan, Glogovac/Glogovc, Kacanik/Kacanik, Malisheve/Malisevo, and Suhareke/Suva Reka, nor in Dragash/Dragas, where five minority representatives were elected to the Assembly (three from the Gorani party, GIG, and two from the Bosniak SDA).

<sup>13</sup> Two Kosovo Albanians were appointed in Zubin Potok; appointments of two Kosovo Albanians to Leposavic/Leposaviq and Zvecan (a municipality questioned by Kosovo Albanians) are outstanding.

municipality is represented in the Assembly. Alternatively, it can be argued that insisting on representation for every community instils and cements the perception that only members of a community can properly represent that community, and works against the aim of representatives taking the views of all communities into account. The degree to which elected and co-opted representatives demonstrate a willingness to transcend the interests of their respective ethnic groups in favour of more inclusive representation remains to be seen. Whether they do indeed limit their actions and interventions for the exclusive benefit of their own communities, or reach out to consult with and work for all residents of their municipality will prove a litmus test for democracy. It does seem that members of some minority communities did not restrict their vote along purely ethnic lines but it is impossible to say to what extent this happened and to what degree their expectations will be satisfied by the mainstream parties who thus benefited from their votes.

66. The insistence, in Regulation 2000/45, on each Municipality appointing a **Communities Committee** and a **Mediation Committee** suggests that there were concerns that without special bodies, minority groups would be sidelined within the Assemblies. The composition of these two special committees requires significant minority representation. Communities Committees must, under Section 23.3, include members (elected or co-opted) of the Assembly, and must also include representatives of each minority – at least one representative for each minority group. The Communities Committee has somewhat limited powers to endeavour to ensure non-discriminatory practices by public officials, respect for human rights, fair and equal employment opportunities, and that the municipal civil service reflects a fair proportion of all communities. These are primarily oversight and promotion functions – a matter of influence rather than power – and where the Committee concludes that an action taken or about to be taken would violate human rights or equal opportunities, it can refer the case to the Mediation Committee. It should be noted that such oversight responsibility with respect to equal opportunity is not confined to minority-related concerns; equality of opportunity should include consideration of discrimination on any grounds, including gender and political opinion.
67. Not every Municipality has yet appointed its **Communities Committee**. In the period to 15 February 2001, 16 Municipalities had not appointed these committees. This is particularly unfortunate given that one of the key areas over which the Committee has oversight – seeking to ensure fair representation and equality of opportunity in the selection of municipal civil servants – is already going ahead in most municipalities (see Employment section). Again, it remains to be seen whether the Communities Committees, once set up, can have real influence over policy and its implementation in the Municipalities, or whether they may be sidelined. Much depends on the functioning of the related Mediation Committees.
68. **Mediation Committees** consist of equal numbers of Municipal Assembly members (not on the Communities Committees), and representatives in fair proportion of minority communities in the municipality. This composition ensures that a broader range of members of the Municipal Assembly is directly involved in the Communities and Mediation Committees. Somewhat oddly, more Municipalities have appointed Mediation than Communities Committees – as of 15 February, 12 Municipalities had yet to appoint Mediation Committees – Decani/Decan, Fushe Kosove/Kosovo Polje, Leposaviq/ Leposaviq, Malisheve/Malisevo, Mitrovice/Mitrovica, Obiliq/Obilic, Peje/Pec, Skenderaj/Srbica, Strpce/Shterpce, Suhareke/Suva Reka, and Viti/Vitina.
69. The Mediation Committee has powers to investigate matters referred from the Communities Committee, in respect of claims that the rights of a community or community member have been or risk being violated and, as the name suggests, to seek to mediate a solution. Within 28 days of a complaint, the Mediation Committee must submit a report with recommendations to the Municipal Assembly, which will then make a decision on action to be taken. That decision can be effectively over-ruled by the Communities Committee, and referred to the Central Authority for review.

70. Again, there is little practice at this time on which to base any assessment of the **functioning** of Mediation Committees where these have been set up. Given that the relationship both of composition and powers of the Municipal Assembly and the special committees make for a potentially, and constructively, mutually reinforcing structure, there is potential that used effectively, the system will work well to protect and promote the rights and interests of all communities. Careful monitoring over the coming months will be required to make such an assessment, and to determine whether or not the special committees can become fully engaged in Municipal decision making, or whether they are sidelined.
71. The final special structure focused on minority communities is the **Community Office**. These offices are a required feature only in those municipalities where a minority community forms a "substantial part" of the population. Little guidance is available on what 'substantial part' means and as we have noted above the lack of clear and reliable figures makes such a determination rather difficult. The Office is responsible for enhancing the protection of community rights and ensuring equal access to services at municipal level; the latter function is crucial in order to ensure that the Municipal Assembly exercises its authority on matters such as healthcare and education in a non-discriminatory manner. However, once again, the powers of the Office are limited; it reports to the Communities Committee and the Head of the Community Office sits as an ex-officio member of the municipal Board of Directors. These officials should not be confused with the Local Community Officers who are international officers employed by UNMIK as part of Pillar II, in the Department of Local Administration. International staff working as Local Communities Officers currently number twenty eight and they are closely involved in the establishment of the Community Offices at municipal providing encouragement and practical support as required.
72. By 15 February, seven Municipalities had set up Community Offices, often with the participation or leadership of the UNMIK Local Community Officer. Offices have been set up in Ferizaj/Urosevac, Gjilan/Gnjilane, Kamenice/Kamenica, Mitrovice/Mitrovica (where neither of the special committees is yet complete), Novo Berde/Novo Brdo, Rahovac/Orahovac and Viti/Vitina. As is to be expected, given their ethnic composition, the south-eastern municipalities are well covered by Community Offices. The very mixed south-west Prizren region, however, has only one such office (Rahovec/Orahovac).
73. One key area in which minorities have secured little representation is in the **Policy and Finance Committees** that are a required feature of every Municipal Assembly. The powers of this body include proposing the municipal budget and researching the future strategic direction of the Municipality. The composition of the committee includes the Municipal President (as Chair). Section 22 is somewhat vague on the mode of participation of the Chairpersons of the Communities Committee and Mediation Committee, saying only that they shall be 'entitled to attend'.
74. Similarly and unsurprisingly, the vast majority of seats on the powerful **Boards of Directors** of the Municipal Assembly, which implements decisions, belong to Kosovo Albanians. The process of agreeing upon the composition of the Board requires that the President of each Municipal Assembly present a proposal which must be approved by the UN Municipal Administrator before being presented for approval, as a package, to the Municipal Assembly. However, minorities are represented only in Dragash/Dragas (one GIG representative), in Gjilan/Gnjilane (one Ashkaelia PDASHK and one Kosovo Serb), Kamenice/Kamenica (two seats for Kosovo Serbs, one currently unfilled), Mitrovice/Mitrovica (three Kosovo Serbs), Podujeve/Podujevo (one Ashkaelia PDASHK, and Prizren (one PDASHK). It appears that Kosovo Serbs and Ashkaelia have fared best in gaining seats of the Boards of Directors as compared to other minority groups and although 15 Municipalities have still to finalise the composition of their Boards, the general ethnic composition of the Assemblies in those Municipalities suggests that minorities will not be seen in any significant numbers. Therefore, while it is encouraging that some minorities are present in the Boards, it also seems that certain minority groups have been left out of these bodies.

75. Overall, the co-option system for minorities has impacted on the composition of the Municipal Assemblies. In many cases, that impact has been significant, although municipalities with small numbers of some minority communities, particularly Roma and Egyptians, are not represented in the sense of every minority having its own representative. The composition of the special committees is not indicative of how far minorities are integrated into the main Assembly structures, since their composition is quite precisely set out and defined; a minimum of 50% minority representation is obligatory on Mediation Committees, for example. The composition of Boards of Directors is interesting in that minorities have made some, albeit very limited, ground. It would be encouraging to see minority representation on those Boards of Directors that have yet to be agreed.
76. As we pointed out in the last assessment the continued role of the UNMIK structure, particularly the Municipal Administrators and the SRSG, remains crucial, for monitoring how the new structures protect minorities, and most importantly, the UN Municipal Administrators and SRSG retain extensive powers to intervene under Regulation 2000/45. The SRSG has the power to set aside any decision of the municipality that "does not take sufficiently into account the rights and interests of the communities which are not in the majority in the territory of the municipality" (section 47.2). The Municipal Administrator "shall intervene so as to ensure that fundamental principles of human rights and equal treatment are respected and that the rights and interests of communities are protected" (section 48.2). And the SRSG, UNMA and municipality are all under a duty to create local conditions for the return of IDPs and refugees (section 48.4). It is important that these powers are used in a constructive and consistent way.

## Employment

77. In the last Minorities Assessment, we indicated that **access to employment** for members of minority communities was crucial to ensure the long-term sustainability of those communities, and of returnees. One possible source of such employment is the municipal civil service in each municipality. Whilst specific measures were put in place and implemented to ensure minority representation in the Municipal Assemblies, no such mandatory system was put in place to ensure minority representation in the municipal civil service. (Although, as we point out below, the municipalities are under a legal obligation to ensure fair representation and the Communities Committee and Mediation Committee discussed above have a role in monitoring progress in this regard). We have therefore focused on this area, looking in particular at any examples of good practice to ensure equality of access to employment opportunities, evidence of the use of a clear and non-discriminatory employment policy, and at any temporary special measures that might have been taken to ensure the employment of minorities. Information gathered indicates that the picture varies widely across Kosovo, each Municipality adopting different employment policies, some having no policy at all, and some having different Departmental policies within the same Municipal structure.<sup>14</sup>
78. The need for a **common employment policy** to prevent discrimination was one of the needs identified in the last Minorities Assessment. Regulation 2000/45 on the Self-Government of the Municipalities in Kosovo sets out basic principles for the Municipal Civil Service, requiring that conditions of service must permit the recruitment of staff on merit and competence.<sup>15</sup> The Regulation also requires that the civil service reflect a 'fair proportion' of qualified representatives of communities at all levels.
79. Regulation 2000/45 does not provide **specific guidance on how these standards are to be achieved**. However, detailed guidance does already exist in the form of a "Toolkit for Jobs" that was prepared in November 2000, after the Municipal Elections. The Toolkit is intended as a guideline on equal opportunity advertising, interviewing and selection of

<sup>14</sup> It is not, at this stage, possible to get a uniform view of municipal employment since each municipality is at a different stage of development. Some are fully up and running, whilst others, for reasons such as delays in finalising membership of the Municipal Board, are at an earlier stage.

<sup>15</sup> Section 34.2

candidates for municipal jobs and contains very detailed, practical guidance, such as an outline of a model interview procedure. Such guidance, properly implemented, ensures that everyone has the opportunity to see job advertisements, apply for jobs, and to be interviewed and selected on the basis of merit. Ensuring such equality of opportunity may additionally require special measures for some target groups, such as use of minority media to ensure job advertisements reach minority communities, and the arrangement of escorts to ensure short-listed applicants can attend interviews. Beyond this, it may also be necessary to put secure escorts or special travel arrangements in place to ensure that selected candidates can reach their place of work. It is also necessary to monitor the implementation and effectiveness of the policy to ensure it is being properly and consistently applied. Recruiting and keeping minority employees does, therefore, carry additional resource implications. However, since minority communities cannot be sustained in the longer term without employment, allocation of such additional resources is clearly essential.

80. Information from the field indicates that the 'Toolkit for Jobs' has not been received by every municipality and has rarely been directly used, although policies approximating to the guidelines it contains are in place in some Municipalities. For example Dragash/Dragas reports that it has implemented the 'Toolkit' in its entirety and is seeking to maintain an appropriate ethnic balance in the municipal civil service. In Kline/Klina, the Municipality did not initially agree a unified employment policy. Officials in Kline/Klina indicated that they had not received the 'Toolkit' in Albanian until after their first round of recruitment in early October 2000, but the municipality has now adopted the 'Toolkit' and is using it for interviews and has also recently set up a Human Resources Committee. In neighbouring Istog/Istok, those interviewed said they had never received a guideline on employment. In Prizren, there is no unified policy and each Department adopts its own measures; this practice is far from ideal since it means that applicants to different Departments may be treated differently, without any legitimate justification for that different treatment. In Lipjan/Lipljan, the municipality has announced its intention of a unified employment policy but it has yet to be finalised.
81. The picture also varies considerably in terms of how Municipalities record data on their employees. It was not possible for example to obtain ethnically disaggregated employment statistics, simply because not every Municipality keeps such statistics. Whilst there is a relatively clear picture of both elected and appointed members of the Municipal Assemblies, no such clear picture is currently obtainable for the civil service. Employment monitoring can assist in identifying a number of important indicators, not only on the relative proportions of different communities employed, but also the types of jobs they do. Such information may reveal, for example, a high level of employment of a particular minority but in very low-paid jobs, or whether certain Departments are employing more minorities than others. In terms of working with these figures to determine whether minority employment is proportionate to the ethnic composition of the municipality itself, such an exercise will not be possible until accurate population figures are available.<sup>16</sup> It would, however, be useful if the Municipalities could as soon as possible start collecting such information so that both the current and future employment balances can be assessed.<sup>17</sup>
82. However, some figures were available from the majority of municipalities. They indicate that most Municipalities do employ workers of different ethnic backgrounds. In Peje/Pec, for example, 2.6% of municipal workers are Bosniaks; 0.9% are Kosovo Serb; 0.3% Egyptian; and 0.001% Roma; no breakdown of grade of employment was available. In Prizren, 11% of municipal staff are Muslim Slavs; 9% Turks; 1.3% Kosovo Serbs and 0.7% are Roma. The figures provided for Rahovec/Orahovac indicate that 24.5% of staff

<sup>16</sup> That is not to say that any Kosovo-wide directive on proportion of minorities to be employed should necessarily match precisely to ethnic composition; it may be determined, in light of limited private sector opportunities for minorities and limited freedom of movement, that any quotas set should exceed proportion of population.

<sup>17</sup> Such an exercise would best be conducted as part of an overall employment monitoring exercise that disaggregated statistics by gender as well as ethnicity.

on the municipal payroll are Kosovo Serbs.<sup>18</sup> In Gjiilan/Gnjilane, 14% of staff are from minority groups, although no Roma are currently employed by the Municipality. Vucitri/Vucitrn reported that 3.2% of the municipal workforce is Kosovo Serb. Overall, whilst most municipalities with minority populations do employ people from those minorities, it would appear that Roma are particularly under-represented. Roma have repeatedly voiced concern about their lack of access to all areas of employment, including with international organisations; meeting the entry criteria may be difficult for Roma who often lack formal education but this explanation can not be applied to all members of the community. Even where they are employed by the municipalities, it tends to be in low-skilled jobs. In Kline/Klina, for example, two Roma women are employed as cleaning staff. In Leposavic/Leposaviq, where Kosovo Serbs constitute the majority, the municipal body reports that it employs three Muslim Slavs but that it has employed no Kosovo Albanians during the post-conflict period.

83. Municipalities have taken quite different views of which jobs they will advertise, whether or not they will re-advertise existing jobs, or whether they will simply retain current staff. In Kamenice/Kosovska Kamenica, when current contracts end, all municipal jobs will be re-advertised based on a yet to be finalised employment policy which will broadly follow the 'Toolkit'. In contrast, in Gjakove/Djakovica, where the Municipal Assembly agreed to reduce the overall number of municipal staff, once redundancies are made, those remaining will be allocated across the different Departments. In Kline/Klina, the majority of municipal posts were re-advertised prior to the 28 October election, new recruitment being based on merit. Unqualified staff, however originally appointed, were not re-hired. Some of the diversity in practice certainly results from the lack of clarity in Regulation 2000/45, Section 52, which says that 'the elections constitute no cause for reconsidering these [municipal civil service] appointments' but does not explicitly prevent reconsideration.
84. If minorities are to take up job opportunities, the first step is to ensure that they are aware of those opportunities. Two issues are critical here; first, that advertisements are produced in minority languages and, second, that those advertisements are then disseminated in the minority communities. Regulation 2000/45 requires that all official documents of a municipality be printed in both Albanian and Serbian, and that in municipalities where a community lives whose language is neither Albanian nor Serbian, all official documents must also be made available in that community's language. Limited freedom of movement for minorities means that additional steps must be taken to ensure that employment information reaches minority areas. Again, practice is very diverse. In Kline/Klina, it appears that advertisements are produced only in English and Albanian. It was also reported from Kline/Klina that jobs are advertised only on notice boards in the Municipal building and other public buildings. Such practice, in itself, is not enough to ensure wide dissemination of the vacancy notice. Similar practice was reported from Prizren, where advertisements are again in English and Albanian; here, municipal officials said that advertisements produced in other languages had been torn down, so clearly alternative methods of dissemination to minorities are needed.
85. Elsewhere, municipalities have also used other methods to advertise posts. In Rahovec/Orahovac, for example, the Municipal Administrator is actively collecting information on those available for employment and their job skills both in Rahovec/Orahovac town and in Velika Hoca/Hoce e Madhe with a view to ensuring that suitable applicants can be made aware of suitable opportunities. Use of the media is also evident in some areas; Gjiilan/Gnjilane, for example, uses a wide range of local media including a local Kosovo Serb radio station, Radio Max, to ensure minorities hear about jobs. However, use of the media does not appear to be widespread. Other methods can be both efficient and cost-effective; most Municipal Administrators have regular meetings with minority communities or their leaders and could hand over information at those meetings. Local Community Officers can also assist to distribute information and to

<sup>18</sup> This is a surprisingly high percentage for a municipality where the number of Serbs has been dramatically reduced and those that remain tend to be confined to enclaves with very limited freedom of movement. Their presence on the payroll does not necessarily mean that they are actually working in the current municipal structures. Security concerns may preclude this but it does appear that these workers are being paid.

collect applications, thus also solving the problem of minorities not being able to submit applications in person; few Municipalities indicated that they used this channel. Indeed, any willing organisation that regularly visits minority communities could be approached to disseminate job information; the Municipality of Lipjan/Lipljan has enlisted the assistance of KFOR.

86. Examples of good practice in recruitment, some of which have been mentioned above, are also evident in certain areas, notably in the south-eastern municipalities. In Gjilan/Gnjilane municipality, 44 of 220 Municipal jobs have been set aside for minorities under the Municipal Assembly's Recruitment of Personnel plan. The municipality reports that it has based its employment policy closely on the Toolkit and has taken specific steps, including use of minority media, to advertise jobs to minorities. Overall, the Municipality employs 24 Kosovo Serbs and two Turks, though it apparently does not employ any Roma. Neighbouring Kamenice/Kosovska Kamenica will also soon adopt a unified employment policy that includes special measures to ensure that all minority communities are aware of opportunities, including specific measures for publication of advertisements in Roma communities. OSCE monitored some interviews by the Municipality and found them to be fair and decisions based on merit.
87. If the requirements of Regulation 2000/45 are to be met, it is essential that all municipalities adopt a **fair and uniform employment policy** that provides opportunities to members of all minority groups and ultimately ensures selection on merit. In order to achieve that, many of the current flaws in municipal employment set out above must be addressed. Special advertising or dissemination so that minorities are aware of opportunities, including use of language, and the use of equal opportunity interviewing practices, as well as regular collection of relevant statistics, should all be common practice. Since trying to correct ethnic imbalance once people are already employed may result in existing workers being sacked or their contracts not renewed, those municipalities that have yet to conduct selection procedures would do well to put a policy in place before recruitment starts. For those municipalities that have already employed municipal staff, the process of correcting any ethnic imbalance may well take a considerable time. Beyond these recruitment measures, if Roma in particular are not to lose out because of lack of qualifications, vocational training initiatives aimed specifically at this group would be one, albeit long term, means of ensuring them equality of opportunity in the municipal civil service. Given that comprehensive recruitment guidelines already exists, much of the above could be quickly and consistently implemented.
88. Whilst clear policies on equal access to municipal employment are necessary, these can only be properly implemented if members of minorities have **effective remedies** against acts of discrimination in employment. Although the Ombudsperson has a major role to play in this area, creating effective remedies means that minorities must also be able to bring employment cases to the courts. Currently there is no comprehensive employment law with full anti-discrimination provisions. A Regulation is currently under preparation to respond to the legal vacuum in the area of employment law. In the meantime the absence of a legal framework greatly hinders effective access to the courts for those who allege discrimination. Neither the OSCE nor the UNHCR is aware of employment cases being raised in the courts with the exception of one case in the Peje/Pec area. Only in one municipality, Prizren, have significant attempts been made by both the majority and minority communities to obtain legal remedies in employment cases. According to the Norwegian Refugee Council (NRC) in Prizren, by early February 2001 they had assisted at least 46 persons, including 14 members of minorities, to pursue cases alleging unfair dismissal or refusal to hire. Although the Administrative Department of Judicial Affairs (DJA) has instructed courts to accept such cases, they have yet to be heard and adjudicated on. It appears that in most Municipal courts no specific labour law chamber yet exists. The Prizren Municipal Court currently states that it requires a specialist "labour judge", although it has acknowledged that it will begin to hear cases in the very near future.

## **Conclusions and Recommendations**

### **SECURITY**

Security remains the issue of primary concern for all minority communities and one that impacts on the exercise of their rights across the board. While responsibility for security rests with KFOR and UNMIK Police it is an issue which demands the input of a wider group of actors. It is therefore recommended that the PDSRSG convenes the planned Inter-Pillar Working Group on Security as a matter of urgency.

### **RETURN**

The issue of return is intrinsically linked with that of security. Ongoing security threats to minority groups continue to preclude the possibility of promotion of return at this stage. Kosovo Serbs and RAE are at particular risk and should not under any circumstances be deported by asylum states. Indications are that most other minority groups are facing comparatively lesser security threats but for them too the situation remains volatile.

### **HEALTHCARE**

The appointment of a **Minorities Officer** within the Department for Health and Social Welfare is to be welcomed. Other Departments should consider making similar appointments, and ensuring that the Minorities Officer is involved from the outset in any policy or decision making so that the needs of minority communities can be fully integrated into planning and implementation.

A full review, in conjunction with relevant Municipal Departments, and local and international NGOs, of current and future primary healthcare provision for minority communities should be conducted under the auspices of the DHSW. The review should aim to identify current and likely future gaps and to plan both to fill those gaps, as well as looking at how the overall aim of an integrated healthcare service might be achieved. The results of the WHO survey should prove a valuable contribution to this exercise.

### **PROPERTY**

Within Kosovo, it is essential that regional HPD offices be opened urgently in all regions and that the use of mobile teams is continued to ensure full and equal access for minorities. Full support must be given to the HPD to ensure a swift and fair conclusion to the process of the opening an office in Belgrade. A similar process is needed to reach a conclusion on the opening of an office in Montenegro.

While funding shortages continue to prevent the HPD from opening all its planned offices, and access to the HPCC claims mechanism therefore remains inequitable, the current deadline for submission of applications to the HPD (31 December 2001) should be kept under review.

### **EMPLOYMENT**

For those Municipalities that have not already done so, a unified employment policy should be adopted; the existing Toolkit for Jobs can be used as an effective model. Once implemented, progress in achieving the aims of the policy should be monitored and, where necessary, adjustments made to advertising, interviewing or selection practices to take full account of the needs of minority applicants.

All Municipalities, perhaps through their Community Committees, should collect and gather disaggregated employment statistics and review these on a regular basis. Such statistics should include not only ethnicity, but also the type of jobs held by minorities and by other groups such as women.

Given that effective remedies to hear cases alleging unfair dismissal from civil service jobs remains lacking in most areas, it may be necessary to determine a policy on dealing with such cases that ensures a fair approach in all Municipalities.

### **POLITICAL STRUCTURES**

While understanding the difficulties facing some Municipalities in reaching agreement on the composition of elected and appointed Municipal bodies, it is essential that the process be finalised as quickly as possible.

Training for Municipal bodies should follow quickly from their appointment to ensure that they can become fully functional in the shortest time possible.

