

22 September 2005

IDPs from Kosovo: stuck between uncertain return prospects and denial of local integration



Map of Serbia and Montenegro



Source: United Nations, June 2004

Table of contents

Summary	4
Key recommendations	6
Background and numbers	9
Patterns of displacement	9
Security and freedom of movement after the March 2004 violence	13
Access to rights in Serbia	14
Access to rights in Montenegro	17
Particular vulnerability of displaced Roma	17
Access to justice	20
Property: persistent resistance against the repossession process	21
Limited returns	24
National and international response	26

This report is based on interviews conducted during a fact-finding mission to Serbia and Montenegro, including Kosovo, in May 2005, as well as numerous other sources. The Global IDP Project wishes to thank all those who kindly accepted to respond to our information requests, in particular the inhabitants of the Avala collective centre in Belgrade and the Zitkovac camp in Mitrovica; IDP associations Unija and Sveti Spas; Serbian Commissariat for Refugees; Roma Secretariat; Ministry for Communities and Returns(Kosovo); the NGOs Civil Rights Programme Kosovo, Group 484, Praxis, Roma and Ashkaeli Documentation Centre, Danish Refugee Council, International Committee of the Red Cross, and Médecins sans Frontières; international organisations: Housing and Property Directorate, Organisation for Security and Cooperation in Europe, United Nations High Commissioner for Refugees, and the United Nations Interim Administration Mission in Kosovo.

Special thanks to NRC Belgrade, Praxis and CRP Kosovo who were of great help in the preparation and facilitation of this mission, as well as for their insight comments and suggestions to this report.

Summary

An estimated 250,000 internally displaced people (IDPs) – mainly ethnic Serbs and Roma who fled within and out of Kosovo when Yugoslav forces withdrew in 1999 – are still unable to go back to their pre-war homes in the now UN-administered province. The overwhelming majority of IDPs live in Serbia, but smaller numbers have also found refuge in Montenegro and parts of Kosovo. An outbreak of ethnic violence in March 2004 newly displaced some 4,200 people, most of them Serbs but also Roma and Ashkaeli, and effectively put a halt to the return momentum which had slowly built up in previous years. The clashes marked a step further in the separation of communities and resulted in a serious loss of confidence in the capacity of local authorities and the international community to rebuild a multi-ethnic Kosovo.

Although most of the displaced are unlikely to be able to go back to their homes in Kosovo in the foreseeable future, little is done by the Serbian and Montenegrin authorities to facilitate integration in their current places of residence until return becomes possible, as required by the Guiding Principles on Internal Displacement. Living conditions and access to rights vary significantly depending on the location of displacement. In Serbia proper, IDPs usually have access to social services if they can provide adequate documentation. However, obtaining some of the necessary documents is severely complicated by burdensome administrative rules, despite recent improvements. In Montenegro, IDPs have access to health services and education but they are not considered citizens, which greatly limits access to employment and certain basic rights, including the right to vote. In Kosovo, Serb IDPs often rely on parallel administrative and legal structures maintained by the Serbian government, as restricted freedom of movement in the province prevents many of them using services provided by local authorities. Generally, the poverty of IDPs in Serbia and Montenegro has increased due to erosion of their assets, the impossibility of disposing of their properties in Kosovo and lack of employment opportunities. An estimated 54 per cent live below the poverty level. Displaced Roma face particular hardships. Often they lack proper documentation and are confronted with widespread discrimination, and most of them live in substandard conditions in informal settlements without water and electricity. Another vulnerable group are the 6,800 IDPs accommodated in collective centres along with Serb refugees from neighbouring countries. While these centres are being closed by the government, IDPs residing there are, unlike refugees, not entitled to assistance for local integration.

The Serbian government, although obliged to ensure the right of IDPs to adequate living conditions, has been reluctant to support local integration, saying that such measures could only be envisaged when the displaced have a genuine opportunity to return to Kosovo. Consequently, the National Strategy for Resolving the Problems of Refugees and IDPs adopted in 2002 focuses on return and considers integration only for refugees. The adoption, in 2004, of a National Strategy for Roma, and in 2005 of national action plans on specific issues which take into account the specific needs of displaced Roma are positive steps which have yet to be backed up by concrete action such as the registration of displaced Roma. The Montenegrin government has published a strategy for resolving the issues of refugees and IDPs in April 2005, but its unclear phrasing leaves doubts about the extent to which the strategy can be

expected to guide a more effective response to the difficulties faced by IDPs in this Republic.

In Kosovo, the Provisional Institutions of Self-Government (PISG) have made progress in implementing the “Standards for Kosovo”, established by the UN Mission in Kosovo (UNMIK) to promote the transition towards a democratic and multi-ethnic province where refugees and IDPs wishing to return can do so in safety and dignity. However, crucial challenges remain in areas such as property repossession, security, employment and freedom of movement. Progress on the implementation of the standards is a precondition for the opening of negotiations on the final status of Kosovo. The political uncertainty surrounding the status question has been a significant source of instability, with Kosovo Albanians fearing the possible return of Serb rule and Serb IDPs hesitating to go back before a final decision is made. Donors are leaving the country, hindering economic development and return prospects. Many analysts saw the March 2004 events as a reaction of frustration in the absence of a clear perspective for the future and an attempt to establish a fait accompli through violence.

In June 2005, the UN Secretary-General appointed a Special Envoy, Kai Eide, with a mandate to carry out a comprehensive review of the current situation and the conditions for launching discussions on final status. Whatever the outcome of this process, any solution will have to be made strictly conditional on full respect for the rights of all communities living in Kosovo to ensure a safe environment conducive to return.

In the meantime, greater efforts are needed to improve the security situation in Kosovo, including through increased inter-ethnic dialogue and the prosecution of perpetrators of ethnic violence. It is also essential to resume systematic monitoring of the human rights situation of returnees as well as populations at risk of displacement, such as minority groups and forcibly returned refugees.

Irrespective of prospects for return, the authorities in Serbia and Montenegro (including Kosovo) should step up efforts, with the support of the international community, to fulfil their responsibility to ensure IDPs’ right to adequate living conditions, access to documents, and freedom from discrimination, in line with the Guiding Principles on Internal Displacement.

Key recommendations

Regarding the situation in Serbia and Montenegro:

To the UN agencies, donors, NGOs

- Increase promotion of the IDP Working Group legal gap analysis document and use its recommendations as both an advocacy tool and means to monitor progress (Analysis of the situation of IDPs from Kosovo in Serbia and Montenegro: law and practice, October 2004)
- Support authorities in developing and implementing social housing programmes and income-generating activities in favour of the most vulnerable, including IDPs, Roma and refugees
- Support catch-up class programmes for Roma children to facilitate their integration into the educational system
- Support projects promoting capacity-building of Roma NGOs
- Maintain support and funding to legal aid assistance NGOs

Regarding the situation in Serbia:

To the government and local authorities

- Implement recommendations of the IDP Working Group legal gap analysis document
- Ensure that the programme of closure of collective centres does not affect the right of IDPs to adequate standards of living including shelter
- Provide adequate standards of living to IDPs living in unofficial collective centres
- Develop programmes of social housing for IDPs and other vulnerable categories such as refugees, local residents and Roma
- Develop programmes to improve IDPs' self-reliance such as income-generating activities and micro-credit schemes
- Implement the city of Belgrade's 2003 plan to build social housing for IDPs and other vulnerable groups currently living in informal settlements
- Provide sufficient resources to implement the four action plans of the Roma National Strategy already adopted on housing, education, employment, and health
- Adopt the action plan on Roma IDPs
- Initiate a registration programme of Roma IDPs
- Exempt IDPs from court fees and fees required to obtain documents
- Inform IDPs about the risks of using courts in exile since their decisions are not enforceable in Kosovo

Regarding the situation in Montenegro

To the government

- Reconsider the legal status of displaced persons from Kosovo and recognise their rights as equal to Montenegrin citizens according to the UN Guiding Principles on Internal Displacement

- Ensure that IDPs benefit from the same rights as Montenegrin citizens such as access to employment, social welfare (health, education, unemployment benefits), access to ownership and commercial activity and voting rights
- Implement the recommendations included in the legal gap analysis document of the IDP Inter-Agency Working Group
- Provide adequate standards of living to IDPs in particular with regard to shelter
- Recognise and implement the Serbia and Montenegro Roma National Strategy, or develop a strategy for addressing the problems faced by Roma for Montenegro

To international organisations, donors, the European Commission

- Make funding and assistance to Montenegrin authorities conditional on the government's willingness to grant IDPs the full range of citizens' rights

Regarding the situation in Kosovo

To PISG, Kosovo Assembly and local authorities

- Show public support towards minority communities and return
- Reach consensus and start implementation of the pilot projects on decentralisation
- Condemn and sanction systematically incidents of ethnic violence, illegal occupation and looting of land or other properties
- Develop initiatives and projects to increase inter-ethnic dialogue between various communities
- Continue programmes on the regularisation of informal settlements

To UNMIK

- Increase efforts to obtain mutual recognition of official documents issued by UNMIK and authorities of Serbia and Montenegro
- Extend the mandate of the Housing and Property Directorate to cover land and commercial property
- Expedite the design of a rental scheme mechanism agreement for properties currently administered by the Housing and Property Directorate

To UNMIK, UNHCR, OSCE

- Establish standard operating procedures to monitor return conditions of returnees, in particular forced returnees and assess risk of secondary displacement. Such procedures could be drafted jointly by UNMIK-ORC, UNHCR and OSCE
- Resume publication of human rights assessment reports such as the joint OSCE-UNHCR reports which stopped in 2003. This is particularly important in view of the expected increase of forced returnees and the possible instability accompanying the discussion on final status
- Designate a lead agency on Roma issues and create a working group (international agencies, NGOs, PISG, and Roma representatives) to develop a strategy on Roma issues and related action plan

- Create a human rights court with jurisdiction over UNMIK acts and decisions and competency to examine violations of the European Conventions for Human Rights

To UNMIK

- Maintain a reasonable notification period in case of forced returns to allow for reliable screening of return conditions

To asylum countries

- Take into account limited absorption capacity of the country of origin as well as lack of reintegration possibilities and unstable security situation, prior to forcibly returning asylum-seekers
- Countries forcibly returning people to Kosovo should support their reintegration through action to promote income-generation activities and inter-ethnic dialogue
- Strictly respect the recommendations included in the March 2005 “UNHCR Position on the Continued International Protection needs of Individuals from Kosovo”

Important sets of recommendations regarding IDPs have been included in the following documents and should be considered:

- [The situation of internally displaced persons in Serbia and Montenegro](#), ICRC, 31 May 2005
- [Human rights of refugees, internally displaced persons, returnees and asylum-seekers in Serbia and Montenegro](#), Group 484, April 2005
- [Analysis of the situation of IDPs from Kosovo in Serbia and Montenegro: law and practice](#), IDP Inter-Agency Working Group, October 2004

Background and numbers

Most of the internally displaced people in Serbia and Montenegro are ethnic Serbs originating from Kosovo. They fled the province for fear of reprisals from the ethnic Albanian population after NATO air strikes in June 1999 had ended years of oppression of the ethnic Albanian majority by the Serbian government and forced Yugoslav and Serb troops to withdraw from Kosovo. A large number of Roma, accused by the Kosovo Albanians of collaborating with the Serbs, also left their homes at the same time and sought refuge in Serbia and Montenegro. Serbia and Montenegro is also home to some 150,000 refugees, mostly Serbs from Bosnia-Herzegovina and Croatia (UNHCR, July 2005).

As of May 2005, the number of IDPs living in Serbia and Montenegro (excluding Kosovo) was 226,000, according to UNHCR. Most of them were in Serbia (208,000), while some 18,000 were living in Montenegro. In addition, Kosovo hosted some 22,000 IDPs (UNHCR, July 2005). While the Montenegro figures are considered reliable since a census was carried out there in 2004, the numbers for Serbia remain a subject of debate. The Serbian Commissariat for Refugees and IDPs estimates 148,000 of the displaced are Serbs. The remaining IDPs belong to some 30 different minorities, of which the Roma are the biggest group with 20,000 registered IDPs, according to the 2000 and 2001 IDP census (ICRC, 31 May 2005, p.5). However, as many Roma have not registered as IDPs for lack of documentation, it is thought that the real number of displaced Roma in Serbia may be much higher, probably between 40,000 and 50,000 (IDP Inter-Agency Working Group, October 2004, p.2). This means that the actual number of IDPs could be higher than the official figure suggests. However, according to a controversial study by the European Stability Initiative, which compares figures from the 1991 census and current estimates of Serbs still living in Kosovo, the number of Serb IDPs could be as low as 65,000, less than half the government figure (ESI, 7 June 2004, p.4). An additional problem regarding the accuracy of numbers is the difficulty of tracking IDPs who commute to Kosovo or return without de-registering.

UNHCR has offered support for the re-registration of IDPs residing in Serbia. However, the Serbian authorities have been reluctant to take up this proposal, apparently fearing that a potential decrease in the official IDP figure could move international attention away from the plight of the displaced and weaken Serbia's position in the upcoming Kosovo status negotiations. The Roma IDP Action Plan envisages the registration of displaced Roma, but the Serbian Commissariat for Refugees and IDPs has been unwilling to carry out a registration of only one category of IDPs (Interview with Serbian Commissioner for Refugees, Belgrade, 27 May 2005).

Patterns of displacement

Internal displacement within and from Kosovo took place in two main waves: a first one in 1999 when over 200,000 people left the province, mainly for Serbia, and a second one with a much lower number of displaced (4,200) following an outbreak of ethnic violence in March 2004. In this latter case, the overwhelming majority of the

displaced remained in Kosovo but moved to Serb-dominated areas. This situation requires measures to ensure adequate living conditions for the displaced population and development of conditions conducive to return.

There are two additional patterns of displacement in the country: members of minority communities who leave their homes in Kosovo because they do not feel safe any more, and secondary displacement of returning refugees, in particular forced returnees from abroad. In these cases, a preventive approach could contribute to limiting further displacement in the country.

In Serbia proper, people initially displaced from Kosovo in 1999 often stayed in southern Serbia close to their places of origin. With years passing and the prospect of return not improving, many of them have moved to central and northern Serbia in search of better employment opportunities (ICRC, April 2005, p.5). In Montenegro, IDPs are clustered in three municipalities: Podgorica, Bar and Berane. Most of them come from Metohija, the poorest part of Kosovo (IDP Inter-Agency Working Group, October 2004, p.3; ICRC, April 2005, p.5). The Montenegrin authorities explain the reduction in the number of IDPs (from 30,000 in 1999 to 18,000 in 2004) by their departure to Serbia in search of social services they cannot receive in Montenegro or by a decrease in humanitarian aid which renders IDP status less attractive (Government of Montenegro, April 2005, p.14).

In Kosovo, the overwhelming majority of urban Serbs left the towns and the few who had remained after 1999 were driven out by the March 2004 violence, the only exception being the majority Serb enclave of North Mitrovica (ESI, 7 June 2004, p.1). On the other hand, Roma displaced within Kosovo have moved closer to town suburbs, joining local Roma communities.

The March 2004 violence

The March 2004 violence – the most serious ethnically-motivated attacks since 1999 – came as a shock to many non-Albanian communities. Even though the number of people displaced was small compared to the numbers who had fled five years earlier, the riots had a strong impact on IDPs, as well as minority communities remaining in Kosovo, who generally perceived the attacks as an attempt to eliminate the Serb presence from Kosovo and discourage further returns.

Over a period of three days, 33 major riots took place throughout Kosovo involving an estimated 51,000 mainly ethnic Albanian assailants. The displaced came mainly from Pristina and South Mitrovica regions (42 per cent and 40 per cent respectively). Eighty-two per cent were Serbs and the rest consisted of Roma and Ashkaeli (Muslim, Albanian-speaking Roma) (AI, 8 July 2005). As of May 2005, over 1,400 of the 4,200 were still displaced within Kosovo and some 170 remained elsewhere in Serbia (UNHCR, Map March IDP locations, 31 May 2005; USDOS, 28 February 2005, p.10).

Attacks were targeted on minority communities who had never left and were living in mixed areas, as well as returnees (UNHCR, June 2004). Houses, schools, health

centres and Christian Orthodox buildings were burnt. The systematic targeting of Serb individual and social properties has generally been seen as an attempt to prevent return, consolidate the separation of the communities and send the message that Serbs were not welcome in Kosovo (UNHCR, 13 August 2004). With a few exceptions such as the then Prime Minister, Bajram Rexhepi, the reaction of Kosovo Albanian politicians, who either supported the violence or waited too long before strongly denouncing it, seemed to confirm that message (HRW, July 2004). The failure of KFOR (the NATO-led military force in Kosovo), CIVPOL (UN Civilian Police) and the Kosovo Police Service (KPS) to protect minority communities seriously undermined the confidence of these groups in agencies responsible for maintaining security. Several reports even mention the involvement of KPS personnel alongside the rioters (AI, 8 July 2004; UNHCR, 30 June 2004).



House destroyed during the
March 2004 violence in
Svinjare (South Mitrovica)
(McCallin, Global IDP Project,
2005)

The March 2004 events underlined the precarious situation of minority communities in Kosovo and the need to protect them and allow them to live a normal life. UNHCR estimates that up to 85,000 people are at risk of displacement (UNHCR, 1 June 2005). Since March 2004, minority communities have faced even more difficulties than before in their freedom of movement and access to essential services. In reaction, minority communities have increased their reliance on parallel structures established by the Serbian government, thus further isolating these communities from the Kosovo administrative and legal system (UNHCR, 30 June 2004). This situation is likely to encourage more members of minority communities to move to areas where they constitute a majority or leave Kosovo altogether (UNHCR, 1 January 2005; HRW, July 2004). Notwithstanding the fragile security situation in the province, the international community has abandoned an important monitoring tool, the regular OSCE/UNHCR Minority Assessment report whose last publication dates from 2003.

Risk of secondary displacement following forced returns

The rising number of refugees or people previously under temporary protection being sent back to Kosovo by asylum countries increases the risk of secondary displacement of returnees facing continuing threats of violence at their places of origin.

In its “Position on the continued international protection needs of individuals from Kosovo” issued in March 2005, UNHCR defines the ethnic minorities and individuals at risk in Kosovo, including Kosovo Serbs, Roma and ethnic Albanians in a minority situation. UNHCR recommends that these groups should only return on a strictly voluntary basis. The situation is considered better for Ashkaeli, Egyptians, Bosniaks and Gorani, although there may be valid individual claims for continued international protection (UNHCR, March 2005).

International organisations such as UNHCR and the Council of Europe have expressed concern that significant returns from abroad could further destabilise the fragile security environment in Kosovo. In addition to the security risk, possibilities of reintegration at this stage are seriously limited, with restricted freedom of movement, poor economic prospects for the returnees and lack of access to public services (UNHCR, March 2005; CoE, 3 June 2005).

However, there is strong pressure on UNHCR and UNMIK to soften their return policies. In a joint letter, Denmark, Sweden, Norway and Iceland criticised the UNHCR position paper, saying that the ban on return of minorities to Kosovo “could unintentionally contribute to ethnic cleansing in Kosovo” (Refugees International, 27 June 2005).

In April 2005, UNMIK agreed with Germany, which hosts the largest number of refugees from Kosovo, to begin returning members of the Ashkaeli and Egyptian communities to Kosovo. Under the agreement, Germany has to notify UNMIK of forced returns 40 days in advance upon which UNMIK will carry out a “thorough screening”. UNMIK claims that this agreement is in line with the UNHCR March 2005 position paper. However, it is not clear whether the screening entails the review of each individual case, which may be necessary to guarantee the safety of the returnees but unrealistic in terms of capacity, or just a general assessment of the overall situation in the municipality of return. According to information received by the Global IDP Project, there have been cases of the forcible return of refugees about which UNMIK was notified too late or not at all (Interviews with members of the international community in Kosovo, Pristina, 26 May 2005).

An UNMIK draft policy document currently in use sets out a mechanism for dealing with forced returns for the 18 months from April 2005 to September 2006. The paper includes plans for a thorough security assessment and operational provisions to prepare the reception and accommodation of forced returnees. It envisages to review and adapt the policy to the changes every three months on the assumption that the security situation is likely to improve with the implementation of the Standards for Kosovo (the possibility of deterioration is not envisaged). Consequently, the plan is to shorten the notification period to respond to the increasing number of requests for forced return. This raises serious concerns that, in view of the limited screening capacity, some forced returns might occur without adequate security guarantees and increase the risk of secondary displacement. Ultimately, there will be a need to draw the PISG, which currently does not consider itself responsible for forced returnees since the agreement was signed without its involvement, into the process, in particular

in view of the planned downsizing of UNMIK (E-mail correspondence with UNMIK official, 15 July 2005).

Several asylum countries have forcibly returned refugees claiming that even if insecurity prevails in places of origin, refugees could go back safely to other parts of Serbia and Montenegro (“internal flight alternative”). UNHCR condemned this practice, which has resulted in the secondary displacement of returnees from abroad, arguing that it “can appear to condone ethnic cleansing and thus contradict the spirit of Security Council Resolution 1244 of 10 June 1999 which emphasises the safe and unimpeded return of all refugees and displaced persons to their homes” (UNHCR, August 2004, Internal flight alternative).

Security and freedom of movement after the March 2004 violence

Following the March 2004 events, the security situation has improved and, as a result, the number of KFOR checkpoints and police escorts has been reduced. However, minorities remain targets of a range of different forms of harassment and attacks, including stoning of buses, destruction of grave sites and occupation, looting or destruction of properties (UNHCR, March 2005, SG, 23 May 2005). Public condemnation of these incidents by local authorities and prosecutions of the perpetrators have been irregular. However, the February 2005 declaration of Prime Minister Bajram Kosumi and 23 municipalities urging the displaced to return and calling for respect of property rights were seen as steps in the right direction (SG, 23 May 2005). The number of serious crimes against members of minority groups decreased since March 2004, although this can partially be attributed to the fact that there is less and less interaction between groups of different ethnicities (UNHCR, March 2005). Notwithstanding the overall improving security situation, it appears that the number of Serbs who do not feel safe in Kosovo has slightly increased since July 2004 (SG, 23 May 2005). The small number of ongoing returns are almost exclusively taking place to Serb majority areas (UNHCR, Minority voluntary returns, table 1, 30 April 2005) and to rural municipalities which are usually considered safer and where access to land promises better opportunities to become self-sufficient.

Freedom of movement remains severely restricted by the volatile security situation and perceptions of insecurity, which were further reinforced by the killing of two young Serbs on the Urosevac-Strepce road on 28 August 2005. Minorities still travel with specially provided transport or under military escort. These movements usually take place between one minority area and another (SG, 23 May 2005). Kosovo Serb children in Obilic and Mitrovica still need military escorts to go to school (SG, 14 February 2005, par. 35). The limited freedom of movement deprives members of minority groups of access to basic public services and has a negative impact on their ability to sustain their livelihoods due to the risks involved in travelling to and from work and the difficulty of accessing their land. This discourages return and increases the risk of further displacement of minorities out of Kosovo or towards mono-ethnic areas within Kosovo.

Access to rights in Serbia

IDPs from Kosovo are scattered across three different entities (Serbia, Montenegro and Kosovo), each with a different legal and administrative framework. This means that access to public and social services varies significantly depending on where displaced persons have settled. The situation is further complicated by the fact that there is little coordination between the different systems. In Kosovo, most IDPs live in mono-ethnic enclaves where parallel administrative structures financed by the Serbian government provide some services, including health and education, which the displaced otherwise could not access.

Access to documentation and IDP status

In Serbia, IDP status provides access to several social services and benefits such as health care, unemployment benefits and pensions. However, this has often been a complicated task for IDPs. For instance, to prove eligibility for social protection, up to 17 different documents have to be presented (ICRC, 31 May 2005). Many IDPs are not in possession of the required documents because they left them behind or lost them during their flight. Until July 2005, in order to have these documents re-issued, IDPs had to travel to the place where their “municipality in exile”, including the various municipal registries, files and land records brought from Kosovo in 1999, is now located. Since then the situation has improved with registry offices now accepting requests by mail and sending back personal document the same way (email correspondence with Praxis, 15 September 2005). However, IDPs still have to travel to collect their ID card which needs to be picked up in person.

Travel to the municipalities in exile is costly and difficult to afford for the most vulnerable, and their IDP status does not exempt them from paying the fees required to obtain these documents. In addition, no agreement on mutual recognition of documents between Serbia and Montenegro and UNMIK exists. This often results in limiting their access to rights and benefits such as pensions.

Roma IDPs are particularly affected by the requirement to produce personal documents since many of them were not registered prior to their departure from Kosovo (see below).

Since 2003, IDPs have been entitled to register as permanent residents in Serbia, although some municipalities are still reluctant to implement this. Those displaced by the March 2004 violence were initially only given a 45-day temporary status in the hope that they would soon return. But recently the last remaining 170 of them were regularised and they are now entitled to proper IDP status (Group 484, April 2005).

Access to social services

IDPs generally have access to free health care in Serbia, provided they are in possession of an IDP card and a personal identification number (JMBG). However, access to treatment is more difficult in southern and eastern Serbia where certain

specialised medical facilities are not available and referral to the capital would incur costs IDPs can rarely afford.

Access to education is equally free for the displaced population in Serbia. As a result, the enrolment rate of displaced children is 92 per cent, only five per cent below the national average (IDP Interagency Working Group, October 2004). However, the enrolment rate is much lower among Roma children (see below).

IDPs from Kosovo receive pensions on the basis of work books which indicate their employment record. In the absence of such a document, the Serbian Central Pension Fund uses a form on which such information can be included. However, UNMIK does not recognise this form, which creates difficulties for IDPs to obtain their full benefits (IDP Interagency Working Group, October 2004). As a result, many IDPs in Serbia only receive a provisional pension which is lower than what they would be entitled to.

Access to accommodation

Although obliged to ensure adequate living conditions to its displaced citizens, the Serbian government considers the presence of IDPs temporary and has made little effort to provide them with adequate accommodation. The great majority of IDPs are accommodated privately which means that they have to bear costs related to rent and utilities without any financial support by the state.



IDPs from Kosovo in a collective centre near Belgrade (McCallin, Global IDP Project, 2005)

Although obliged to ensure adequate living conditions to its displaced citizens, the Serbian government considers the presence of IDPs temporary and has made little effort to provide them with adequate accommodation. The great majority of IDPs are accommodated privately which means that they have to bear costs related to rent and utilities without any financial support by the state.

Some 6,800 IDPs live in collective centres across Serbia. Initially established to accommodate refugees from Croatia, and Bosnia and Herzegovina, today more than half of the residents in these centres are IDPs. This is the result of a policy of closing collective centres and the lack of integration assistance for IDPs. The number of collective centres fell from 192 in 2003 to 122 in February 2005 and the government was expected to close 52 more by the end of 2005 (UNHCR, 1 June 2004; ICRC, 31 May 2005). While there is a government programme to facilitate the local integration of refugees through rent-free or subsidised housing and cash grants, IDPs do not benefit from such programmes.

Without other options, IDPs are forced to move from one centre to another regularly, which negatively affects the social and economic links they have established in their location of displacement. IDPs generally are not informed when their centre will be

closed or where they will be relocated which makes it hard to organise their lives and plan for the future (Interviews with UNHCR and IDPs from a collective centre in Belgrade, 23 May 2005).

In addition to those accommodated in official collective centres, there are also some 1,700 IDPs living in illegally-occupied buildings or in makeshift dwellings, most of them in Belgrade (1,370) and Kraljevo (301). IDPs living in these conditions are clearly among the most vulnerable and only benefit from ad hoc assistance (IDP Inter-Agency Working Group, October 2004).

In view of the heavy burden carried by Serbia, which in addition to playing host to hundreds of thousands of IDPs and refugees is experiencing a major economic crisis, international organisations such as UNHCR and several NGOs have expressed their readiness to support local integration or solutions improving the housing conditions and self-reliance of IDPs through social housing and income-generating activities. UNHCR recently started to extend its programme of assistance for refugees (PIKAP) to IDPs. PIKAP consists of assistance in rent or household items to help refugees move out of collective centres. As underlined by the Representative of the Secretary-General on the Human Rights of IDPs during his visit to the country in June 2005, local integration and return should not be seen as excluding perspectives, in particular since adequate integration in many cases means that the displaced will be better equipped to go back to their homes and rebuild their lives once return is possible.

Self-reliance

The integration of IDPs into the Serbian economy is severely complicated by the ongoing economic crisis and the country's high unemployment rate. As a result, for many IDPs employment is limited to day-to-day work in the grey economy. This has



IDPs used tractors and caravans to bring along their belongings during their flight (McCallin, Global IDP Project, 2005)

led to increasing poverty among IDPs in Serbia. Reliable data on the level of poverty among IDPs is not available, as the Survey of Living Standards in Serbia conducted in 2003 for the Poverty Reduction Strategy Paper did not consider IDP and refugee populations. An ICRC study published in 2003 estimated that almost 90 per cent of IDPs were living below the poverty level, but this was later found to be inaccurate. Based on figures from Montenegro and assuming that the poverty level is the same, it can be estimated that 54 per cent of IDPs (60 per cent of

Roma IDPs) live below the poverty level. Privately accommodated IDPs tend to be poorer than residents of collective centres who do not have to pay rents and utility charges. On average, IDPs have changed residence four times since they were first displaced, often after being evicted for non-payment of bills. Many IDPs are forced to

sell their belongings to get by. This is compounded by the fact that IDPs generally do not have any possibility of gaining any income from the properties they left behind in Kosovo (ICRC, April 2005).

Access to rights in Montenegro

In Montenegro, IDPs do not enjoy the same status as in Serbia. The Montenegrin government does not recognise IDPs from Kosovo as citizens, which restricts their ability to access a wide range of rights. Article 8 of the Constitution of the State Union states that a citizen of a member state is also a citizen of Serbia and Montenegro and has equal rights and duties. However, the Montenegrin authorities do not recognise the federal citizenship law, arguing that it was amended without the participation of Montenegrin representatives, which according to a 2000 parliamentary resolution on the non-recognition of federal decisions renders it invalid (AI, 22 March 2005). Similarly, the State Union's law on protection of rights and freedoms of national minorities, as well as the Roma National Strategy, have not been recognised by Montenegro, which does not have a law on national minorities.

Since IDPs are not recognised as citizens, their rights in Montenegro are limited to those of refugees. IDPs have access to health and education but it remains difficult to refer to Serbia medical cases which cannot be treated in Montenegro. UNHCR has been assisting such cases (IDP Inter-Agency Working Group, October 2004).

Possibilities for integration in Montenegro are limited. Citizenship requires ten years of permanent residence, but IDPs are only entitled to temporary residence which makes it impossible to meet the basic requirement. This also means that IDPs cannot vote. Similarly, they do not have access to social welfare and unemployment benefits, and are not entitled to start a business or own property. With regard to employment, the current legislation strongly discourages employers from hiring non-residents which directly affect IDPs. A decree on employment of non-residents issued in May 2003 imposes a tax of 2.50 Euro per day on employers hiring non-permanent residents (ICRC, 31 May 2005). IDPs' job prospects are therefore limited to the informal sector. The current situation in Montenegro clearly contravenes the UN Guiding Principles on Internal Displacement. Although a strategy for resolving the issues of refugees and internally displaced persons in Montenegro was adopted in April 2005, the unclear phrasing raises doubts as to whether this document will bring about progress with regard to clarifying the legal status of IDPs and removing the resulting obstacles to accessing their basic rights.

Particular vulnerability of displaced Roma

Among the displaced populations in Serbia and Montenegro (including Kosovo), Roma IDPs generally face the worst conditions, including with regard to housing and access to social welfare and education. Besides the mostly Serbian-speaking Roma, other minority groups, such as the culturally related but generally Albanian-speaking Ashkaeli and Egyptians, are affected in a similar way.

Whether in Serbia, Montenegro or Kosovo, Roma are the poorest of the IDPs. In Montenegro 60 per cent of Roma IDPs live below the poverty level as compared to 48 per cent of non-Roma IDPs (ICRC, 31 May 2005). The social and economic isolation of Roma starts with the absence of basic documents such as birth certificates which are required to get ID cards and are also a proof of citizenship. Without documents, Roma have no access to social welfare services. Many of them did not have documents before they were displaced which increases the difficulty of obtaining new ones. The Serbian Roma IDP Action Plan envisages a registration of Roma in order to help them get personal documentation.

Very few Roma work in the formal sector; they suffer from widespread discrimination and their salaries are 50 per cent lower on average than those of other ethnic groups (ICRC, 31 May 2005).

The educational level of Roma in general and of displaced Roma in particular is low. Largely excluded from mainstream social life and employment, many Roma who themselves have not benefited from education, do not send their children to school. Other factors such as lack of financial means to buy proper clothing play a role as well. As a result, the majority of displaced Roma children do not receive any formal education (Group 484, April 2005). Often Roma children are faced with segregation: they are put in separate classes or, worse, in schools for “educationally handicapped” children, mainly because their level of understanding of the Serbian language is not sufficient to pass the standard school admission test. Amnesty International reports



Roma IDP camp, Zitkovac (North Mitrovica) (McCallin, Global IDP Project, 2005)

that 50 to 80 per cent of children in such schools are Roma. Catch-up classes organised for Roma have helped reduce considerably the number who fail the entry test for regular schools (AI, 22 March 2005). However, only a comprehensive programme of registration and integration of Roma, as reflected in the National Strategy for Roma and the four action plans on housing, education, health and employment adopted by the Serbian government, is expected to bring significant results.

Living conditions of Roma IDPs are appalling; many live in illegal settlements or unofficial collective centres without electricity, water and sewage systems. In the absence of legal status, Roma cannot register their place of residence and are at risk of eviction at any time. The absence of a registered address is an additional element preventing them from accessing their rights.

In 2003, the city of Belgrade adopted a plan to construct 5,000 apartments for 25,000 people living in 29 slums and 64 unsanitary settlements. The intended beneficiaries were Roma, non-Roma refugees from Bosnia and Herzegovina, and Croatia and IDPs

as well as poor local residents and elderly people. However, two years later, the implementation of the plan had not yet started (AI, 22 March 2005).

The situation in the camps of Zitkovac, Kablare and Cesmin Lug in North Mitrovica has received international attention because of the acute health risks the IDPs in these camps face due to the proximity of a mountain of toxic waste. The contamination risk is further increased by camp inhabitants melting batteries to extract lead as a means of generating income.

The World Health Organisation found in 2004 that many children in these camps suffer from potentially mortal levels of lead contamination and recommended immediate evacuation of pregnant women and children and temporary relocation of other displaced until a sustainable solution is found (WHO, July 2004, WHO, October 2004). However, the Roma in the camps do not seem to be fully aware of the consequences of lead contamination (RI, 15 June 2005), and so far all attempts to relocate the camp inhabitants have failed. This is partly due to resistance among the Roma themselves, who fear that they would be separated from their group and relocation would prolong their displacement. But there is also little willingness from Kosovo Serbs or Albanians on either side of Mitrovica to accommodate the Roma. To complicate the matter, Roma from Mitrovica are reportedly under pressure from Roma living abroad not to move to the southern part of the city as they fear this would send a message to host countries that it was now safe to return (Interview with UNMIK and OSCE officials in Mitrovica, 24 and 25 May 2005).

As of mid-2005, there were plans to reconstruct the neighbourhood in South Mitrovica where many of the camp inhabitants lived before their displacement, the so-called Roma Mahala. However, there are concerns that the project lacks funding, will take a long time to be implemented, and does not provide a solution to those not originating from the Mahala and who represent 30 per cent of the population in the camps (Interview with UNMIK and OSCE officials, Mitrovica, 24 and 25 May 2005).

This example illustrates the political and social isolation of Roma. Ethnic Serbs and Albanians have organised communities with their own political systems and groups supporting and defending them. They cannot rely on Belgrade or Pristina to speak



Destroyed Roma Mahala in South Mitrovica (McCallin, Global IDP Project, 2005)

for them. At worst, they can always move to an area where their system is dominant. Roma do not have such support and they have not yet been able to organise

themselves in order to deliver a coherent message and lobby efficiently for their cause.

Access to justice

Since courts in the State Union and in Kosovo are part of two independent judicial systems which do not recognise each others' decisions, IDPs are in effect faced with restrictions to their access to justice. In the absence of agreements between the different justice systems, there is no guarantee that a decision issued by a court on the territory of Serbia and Montenegro will be enforced in Kosovo. For example, property-related adjudications issued by courts in Serbia are not enforced in Kosovo. As a result, there have been cases of IDPs unaware of this practice who have approached courts in exile, spent time and money to obtain reparation in Kosovo and ended up with a decision which will not be enforced there (Group 484, April 2005).

Access to the judicial system of Kosovo, on the other hand, is restricted by the limited freedom of movement which often prevents members of minority groups from travelling to the courts. Serbia has continued to fund a parallel judicial system in Serb enclaves in Kosovo in violation of UN Security Council resolution 1244. These courts hear civil and minor criminal cases but mainly verify civil documentation and handle inheritance procedures (Venice Commission, 11 October 2004). The situation has improved since the end of 2004 with the opening of two new court liaison offices in Prizren and Vitina, and a department of the Pristina municipal court in Gracanica (Serb enclave). The court liaison offices arrange for members of minority communities to be accompanied to court and file documents on their behalf. Kosovo Serbs remain underrepresented among the ranks of judges and prosecutors with 5.2 per cent and 2.3 per cent respectively (SG, 14 February 2005, par.25; USDOS, 28 February 2005).

There have also been concerns that international human rights instruments in force in Serbia and Montenegro do not apply in Kosovo, including with regard to decisions and acts of UNMIK, because of the province's special status as an internationally administered entity. This means that the population of Kosovo, including the displaced, cannot rely on international instruments to remedy violations of their rights once local procedures, which are reported to be plagued by ethnic bias and corruption (USDOS, 28 February 2005), have been exhausted.

To address this situation, UNMIK and the Council of Europe signed two agreements in August 2004 to monitor compliance with the Framework Convention for the Protection of National Minorities, and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. However, no mechanism has been developed so far to monitor compliance with the European Convention for Human Rights. A report of the Venice Commission (Venice Commission, 11 October 2004), followed by resolution 1417 of the Council of Europe on the human rights situation in Kosovo (CoE, 25 January 2005), suggests the establishment of a Human Rights Court in Kosovo which would have jurisdiction to examine complaints alleging violations of the European Convention on Human Rights including decisions and acts by UNMIK.

Property: persistent resistance against the repossession process

After the Yugoslav army left Kosovo in 1999, many of the returning Kosovo Albanians occupied houses and apartments owned by Serb IDPs, often because their own homes had been damaged or destroyed during the conflict which preceded the NATO bombing campaign. Progress in the reconstruction of Albanian homes has not ended the widespread illegal occupation. As the post-conflict period has seen accelerated urbanisation throughout Kosovo, many ethnic Albanians from rural areas now living in larger towns, often in occupied property, find it difficult to return to the countryside (Interview with Civil Rights Programme Kosovo and OSCE, Mitrovica, 24 and 25 May 2005) in particular since local authorities have done little to end the illegal occupation of properties (SG, 14 February 2005). The Ombudsperson of Kosovo has repeatedly reported on the difficulties for members of minority groups, local residents or returnees of accessing their land, either due to illegal occupation or limited freedom of movement preventing the cultivation of land. There are also reports of forced sales of properties belonging to ethnic minorities as a result of intimidation, threats or direct violence (USDOS, 28 February 2005).

In 1999, UNMIK established the Housing and Property Directorate (HPD) and the Housing and Property Claims Commission (HPCC) to resolve disputes over residential properties, including socially-owned properties, and temporarily administer properties at the request of their owners.

The HPD deals with three categories of claims corresponding to the various phases of the long history of violations of property rights in Kosovo. The revocation of Kosovo's status of autonomy in 1989 marked the beginning of widespread discrimination against Kosovo Albanians on property issues. Many ethnic Albanians were dismissed from their positions in public companies and lost their rights to their socially-owned apartments. These flats were mainly given to ethnic Serbs who were entitled to purchase them in 1992. Legislation on limitation of real-estate transactions



Looted house in Vushtri (Kosovo) (McCallin, Global IDP Project, 2005)

was passed in 1991 and applied in a discriminatory manner throughout the 1990s to prevent purchase of properties by ethnic Albanians (Dodson, Heiskanen, 2003). As a result, sales were often made informally without registering the name of the new owner. Also, many property records have been either taken out of Kosovo to municipalities in exile, or destroyed.

The HPD received a total of 29,000 claims before the deadline for the submission of claims expired in July 2003. Of those, some 1,100 are category A claims corresponding to situations where occupancy rights were lost as a result of discriminatory laws. Over 700 claims have

been submitted for voluntary transactions which were not legally registered (category B). The bulk of claims, more than 27,000, are category C claims for individuals who lost physical possession of their residential properties after 24 March 1999. As of 18 June 2005, the HPD had issued 28,000 decisions covering 96 per cent of the claims. Almost 40 of the decisions had been implemented, either through repossession (only four per cent), voluntary settlements or by temporary administration of the property by the HPD until the owner expresses his wish to return.

Where evictions of the temporary occupants are carried out by the authorities, they are often followed by looting – in an estimated third of all cases (Group 484, April 2005) – or immediate re-occupation of the properties. In the latter case, the owner cannot turn back to HPD but has to go through local courts to request a new eviction.

In view of the backlog of cases in the courts (nearly 7,000 property-related cases as of May 2005), this rarely leads to a swift repossession of properties (SG, 23 May 2005). This is why HPD advises owners who are not ready to return immediately to hand over their house for HPD administration. The property can then, in the meantime, be used for social housing. With the HPD terminating its mandate at the end of 2005, there is a need for a mechanism to take over administration of properties currently managed by the Directorate.

HPD and UNMIK are currently studying a rental scheme which would be administered by a local institution, the Kosovo Housing Fund. The Fund would provide social housing to persons in need and pay the owner of the property for the use of it. This would allow the displaced to gain an income from their property while keeping options open for the future (Interview and correspondence with UNMIK ORC Director, 26 May 2005).

Estimates of the number of properties sold by members of minority communities vary as there is no mechanism in place to track such transactions. The Council of Europe's Commissioner for Human Rights, Alvaro Gil-Robles, estimated that approximately one third of IDPs had sold their properties by 2002 (CoE, 16 October 2002). The HPD assumes that applicants withdrawing their claims or not requesting implementation of decisions have usually sold their property. As of 1 July 2005, there were about 3,500 such cases (E-mail correspondence with HPD Director, 1 July 2005). To reverse the trend of IDPs being forced to sell their properties because of their financial situation or bleak return prospects, it is essential that the rental scheme be adopted and announced quickly. There is concern that with the end of the HPD mandate approaching, members of minority groups unaware of future plans will decide to sell, anticipating a fall in price when properties formerly administered by HPD enter the market.

A UNMIK discussion paper of April 2005 makes several proposals to improve housing policy in support of return and communities. In addition to the rental scheme mentioned above, the paper proposes a wide range of ambitious solutions to housing problems: reconstruction of temporary accommodation for returnees (forced or spontaneous) pending reconstruction of their property, social housing, establishment of a return database, and legalisation of informal settlements. In the first phase, it is planned to accelerate the implementation of property-related decisions and reinforce

the responsibility of the Provisional Institutions of Self-Government (PISG) with regard to evictions and security of empty properties. Another suggestion is to include within the code of conduct of the civil service of Kosovo a clear warning against illegal occupation, emphasising the need for civil servants to be an example for other citizens in respect of the law (UNMIK ORC, 7 April 2005). This also applies to members of the international community, which has not always been immune to violations of property rights. KFOR, for example, has been using 37 apartments without compensating the owner in spite of the fact that ownership of the flats has been confirmed by the HPD (Group 484, April 2005). UNMIK, unlike the OSCE missions in Bosnia and Herzegovina and Kosovo, still has no staff accommodation policy to prevent such situations (Interview with a UN official, Pristina, 26 May 2005).

Since the HPD only deals with repossession of residential properties, people wanting to repossess land or commercial properties have to go through local courts, which is a lengthy and uncertain process. And even when a ruling is finally issued, execution of property-related decisions usually takes a long time. Only 22 per cent of rulings awaiting execution were fully enforced in the first half of 2004 while half of the remaining cases had been awaiting execution for more than a year (SG, 14 February 2005, par.62). The resolution of land and commercial property issues is essential for the continuation and sustainability of the return process, as IDPs are unlikely to go back to their repossessed houses if they cannot at the same time use their land or business.

A report commissioned by the European Agency for Reconstruction recommends that the HPD's mandate be expanded to take on responsibility for land and commercial properties, arguing that the Directorate's experience and reputation of impartiality give it an advantage compared to local courts or administrative processes. Also, the HPD would have easier access to missing property records currently located in Serbia (EAR, 13 December 2004). There are concerns that this arrangement would not be in line with the local ownership approach, but this could be countered by HPD working in cooperation with courts to build up their capacity.

Although the repossession of property is an essential pre-condition for return, other factors such as security and access to services and employment also play an important role, as illustrated by the large number of reconstructed houses which have remained empty. Although the PISG reconstructed 90 per cent of the 900 houses destroyed or damaged during March 2004, many are still unoccupied (USDOS, 28 February 2005).

Nevertheless, there is a lack of funds for reconstruction in certain areas, and many IDPs are unaware of the existing mechanisms to apply for reconstruction assistance. A study carried out in municipalities of northern Kosovo by a local NGO shows that 83 per cent of IDPs interviewed had never heard of the Municipal Working Group, the main mechanism examining housing and reconstruction projects (IDP Information Centre, 24 November 2004). Certain groups are underrepresented in reconstruction projects, in particular Roma who often are either unaware of the Municipal Working Group structure or less successful than other ethnic groups in defending their rights. Another reason is the lack of ownership documents among Roma who often live in

informal settlements, an issue that could be addressed through the planned legalisation of such settlements.

Limited returns

Six years after the end of the conflict and out of a total of some 250,000 IDPs, only 12,700 minority returns were registered by April 2005, i.e. returns of IDPs to areas where their ethnic group constitutes a minority or to enclaves where they belong to the majority but are faced with particular protection concerns (UNHCR, Minority voluntary return, table 1, 30 April 2005). The main reasons for this low return figure range from the volatile security situation, whether real or perceived, the limited freedom of movement and access to social services, to the lack of economic prospects and the uncertainty over the final status for Kosovo. Members of ethnic minorities and Serbs in particular cannot be expected to make an informed decision about return without knowing whether the place they will return to will be independent, autonomous or under any other status. It is a widely held view that no substantial returns can be expected before a decision on the status of Kosovo is taken and IDPs have a chance to monitor the political, economic and security developments in the months following the decision.

The March 2004 events dealt a serious blow to the return process and reversed an increasing trend towards return. In 2004 the number of departures from the province was – for the first time since 2000 – superior to the number of returns (SG, 17 November 2004). In 2004, the number of minority returns to Kosovo was around 2,300 which represents a 37 per cent decrease compared to 2003 (UNHCR, June 2005).

Most returns have taken place to rural areas where the majority of the remaining ethnic Serbs are located. This emphasises the need to facilitate access to and repossession of land in order to ensure self-reliance of IDPs. The fact that the first Serb return to a town, Klina, took place in March 2005, and was considered a significant achievement illustrates the obstacles to urban return. UNHCR notes that the overwhelming majority of Serb returns have been to all-Serb communities (enclaves) with minimal interaction with ethnic Albanians. This shows that, not only are the return figures low but they do not indicate real progress towards a multi-ethnic Kosovo, since returnees live almost separately from the rest of Kosovo's society and institutional framework. Such returns have taken place to villages (Grace, Priluzje and Velika Hoca), larger communities (Gracanica, Laplje Selo, Caglavica, Gorazdevac) and the municipality of Strpce (UNHCR, Minority voluntary return to Kosovo, table 1, 31 March 2005).

In terms of ethnic breakdown most returnees are of Serb ethnicity (6,000 returns), followed by Ashkaeli and Egyptians (3,300), Roma (1,400) and Bosniaks (1,150). Almost 600 ethnic Albanians have returned to areas where they represent a minority group (UNHCR, Minority voluntary return, table 2, 31 March 2005).

Return patterns vary greatly between regions, with Mitrovica being the most difficult area while areas such as Gjilan/Gnjilane, Prizren or Peje/Pec have seen significant returns.

In the absence of significant return of minorities to their homes, and in recognition of the fact that most minority returns actually take place to mono-ethnic areas, the current policy of limiting assistance to those going back to their places of origin only has been questioned. Instead, there appears to be increasing support for an expansion of assistance to IDPs who would be willing to return to Kosovo but not necessarily to their homes. This would enable them to begin the return process in the safer environment of mono-ethnic enclaves before they could move on to their places of origin at a later stage. As the Council of Europe's Commissioner on Human Rights, Alvaro Gil-Robles, pointed out, return policies should not lead to a de facto restriction of the freedom of movement. Serb IDPs should be allowed to freely choose their place of residence within Kosovo, as were the Kosovo Albanians who often did not return to the places where they used to live before June 1999 (COE, 16 October 2002, p.25 and 34).

This is a sensitive issue since there is an obvious risk that such support would actually contribute to creating mono-ethnic ghettos instead of promoting mixed areas. Keeping in mind the risk of ethnic engineering, some observers suggest envisaging a certain level of flexibility on a case-by-case basis to support those wishing to return to minority enclaves (Interviews with officials of international organisations in Kosovo, Pristina, 27 May 2005).

Intentions of displaced persons to return are very difficult to assess. In 2002, it was estimated that one third of the displaced would prefer to integrate in Serbia and Montenegro, another third, mostly the elderly and rural populations, were eager to return, while the remainder were undecided (COE, 16 October 2002, p.23). A survey among IDPs in northern Kosovo, where the majority of ethnic Serbs live, showed that local integration was the preferred option for 52 per cent while 22 per cent would like to return to their places of origin in other parts of Kosovo in the long term. Among those who would like to return, 37 per cent were from Mitrovica and 32 per cent from Pristina. This indicates that there is a potential for minority return to South Mitrovica, unless the answers were politically driven. Improved security was indicated by most IDPs as preconditions for return (68 per cent), followed by repossession of property (18 per cent) and employment opportunities (8 per cent). Nearly all IDPs interviewed believed that events similar to the March 2004 riots could occur again (IDP information centre, 24 November 2004).

The future of the return process depends to a large extent on the resolution of the status question, and in particular on the process leading up to the final status decision. While significant improvements have been made with regard to creating an environment more conducive to return in line with the Standards for Kosovo, the imminent final status determination also increases political tensions and instability.

Compared to Bosnia and Herzegovina, which also suffered from ethnic cleansing but managed to return most of its IDPs, Kosovo faces a number of additional obstacles complicating the return process. Although open conflict was relatively short in

Kosovo, ethnic Albanians were faced with discrimination following the revocation of Kosovo's autonomy in 1989, leading to a long build-up of frustration and desire for revenge. In addition, there was always relatively little interaction between the different ethnic communities in Kosovo, partly due to language barriers. While in Bosnia and Herzegovina, the objective was to go back, as much as possible, to the pre-war situation, the Standards for Kosovo aim at the creation of a reconciled multi-ethnic Kosovo which did not exist even before the 1999 conflict. This is illustrated by a comparative study which shows that the level of mutual resentment is far higher in Mitrovica (Kosovo) than it is in Mostar (Bosnia and Herzegovina), although both cities have faced similar ethnic divisions (Jelena Anzujska/British Office Pristina, March 2005).

National and international response

Serbia and Montenegro

In Serbia and Montenegro, the most relevant institutions dealing with IDP issues at the State Union level are the Ministry for Human and Minority Rights (MHMR) and the Roma National Council, both established on the basis of the Law on protection of rights and freedoms of national minorities. The MHMR promotes respect for human rights with particular attention to national minorities. The Roma National Council, which represents Roma on issues related to language, education and culture, adopted a National Strategy on Roma in April 2004, which also reflects the specific problems of the displaced.

Although the strategy was adopted by a State Union institution, Montenegro does not consider itself bound to the document in line with the 2000 Resolution on Non-Recognition of Federal Decisions issued by the Montenegrin Parliament. The Roma National Strategy is therefore only applied in Serbia (AI, 22 March 2005, p.40).

Thematic action plans designed to implement the National Strategy for Roma were adopted in February 2005 by the Serbian government on education, housing, health and employment. Seven more, including one specifically dedicated to IDPs, have been drafted and are awaiting adoption by the Serbian government. These action plans have the potential to improve significantly the conditions of IDPs, provided there is sufficient political will and funding to ensure their implementation (Interviews with UNHCR, OSCE, NRC Belgrade and Roma Secretariat, Belgrade, 23 and 27 May 2005).

In Serbia, the Commissariat for Refugees and the Kosovo Coordination Centre are the two key governmental institutions responsible for IDPs from Kosovo. Initially created for refugees, the Commissariat started to assist IDPs in 1999, including by issuing IDP cards and administering collective centres. The Kosovo Coordination Centre, created in 2001, coordinates the activities of state actors and agencies with regard to Kosovo (IDP Inter-Agency Working Group, October 2004).

The National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons, adopted in May 2002, is the main policy document with regard to

addressing internal displacement in Serbia. However, the Strategy's main focus is on refugees rather than IDPs, and on return rather than local integration. The few provisions relating to local integration envisage long-term housing support and cash grants only for refugees, not for the displaced from Kosovo. According to the Commissariat for Refugees, the government is not planning to support local integration of IDPs before their return to Kosovo becomes realistic (Interview with Serbian Commissioner for Refugees, Belgrade, 27 May 2005).

With regard to Kosovo, the Serbian government claims to be the only legitimate representative of the interests of the local Serb population. It has discouraged Serbs living in Kosovo from participating in elections and in the institutions of Kosovo. It also maintains its own administrative and judicial structures in Serb enclaves. These so-called parallel structures provide essential services to Serbs living in Kosovo, including to IDPs.

In Montenegro, the Commissariat for Displaced Persons, originally created in 1992 to deal with refugees from Bosnia and Herzegovina and Croatia, has been tasked to cover issues related to persons displaced since 1999. The government adopted a strategy on refugees and IDPs in April 2005 (Government of Montenegro, April 2005), but there are doubts over the extent to which this document will address some of the key problems faced by IDPs in Montenegro, including the fact that the displaced are not recognised as citizens and thus do not have access to a number of rights and services. Montenegro does not recognise a number of IDP-relevant State Union laws and policy documents adopted without Montenegrin participation, such as the Law on protection of rights and freedoms of national minorities and the Roma National Strategy.

The international community established an IDP Working Group in 2002 to coordinate its IDP-related activities. Led by the UN Office for the Coordination of Humanitarian Affairs (OCHA) and UNHCR, the Working Group also includes UNDP, OHCHR and non-UN members such as IFRC, Praxis, Danish Refugee Council, Group 484, and more recently OSCE. The legal gap analysis report published by the Working Group in 2004 has become a key document guiding international efforts to assist the authorities in addressing the situation of IDPs in the country (IDP Interagency Working Group, October 2004).

In Serbia proper, international organisations and NGOs are limited in their projects by the "return only" policy of the government. However, a few projects to improve living conditions and access to rights of the displaced, including with regard to housing, are being implemented, despite the lack of a national framework for social housing and micro-credits (UNHCR, 1 June 2005, Global report). Considering that an open local integration policy is too politically sensitive in the current context, an approach focused on access to rights and respect of adequate standards of living is increasingly seen as the way for the authorities to initiate actions in this direction and request international support. In June 2005, the Special Representative for the Human Rights of IDPs, Walter Kälin visited Serbia and Montenegro, including Kosovo, to monitor the situation and the responses given to the situation of IDPs.

Kosovo

The current status of Kosovo demands an essential role from the international community. UN Security Council resolution 1244 tasked the UN Mission in Kosovo (UNMIK) with assuming the legal, executive and legislative powers until provisional institutions of Kosovo can take over. The Kosovo Force (KFOR), the NATO-led military force, is in charge of establishing and maintaining “a secure environment in which refugees and displaced persons can return home in safety”. The Organisation for Security and Cooperation in Europe (OSCE) runs programmes to improve the functioning of democratic institutions, the judiciary and respect for human rights. An international Ombudsperson investigates allegations of human rights abuses in the province. UNHCR is tasked with the supervision of the safe and voluntary return of refugees and displaced persons, and regularly issues position papers on the protection needs of members of minority communities or other vulnerable groups to inform the development of return policies. In view of the current security conditions (and funding limitations), UNHCR only assists individual spontaneous returnees. UNDP has been running since 2003 a return programme, the Rapid Response Returns Facility (RRRF) designed to respond to such returnees through multi-sectoral projects. The RRRF has now been merged with the Government Assistance to Returns to create the Sustainable Partnerships for Assistance to Returns to Kosovo (SPARK) (UNMIK, 4 July 2005).

In addition to the major international organisations mentioned above, UNMIK registered some 2,450 local and 402 international NGOs (USDOS, 28 February 2005), carrying out activities related to reconstruction, legal aid, inter-ethnic dialogue, income-generating activities and micro-credit.

UNMIK has a unit especially devoted to return and minority issues, the Office for Return and Communities (ORC). Since July 2005, the ORC has changed its name to Office of Communities, Returns and Minority Affairs (OCRM) reflecting the merger of ORC with the UNMIK Office for Community Affairs. The current return mechanism, as described in the 2003 Manual for Sustainable Return, is based on municipal and regional working groups which are in charge of assessing the feasibility of returns and screening return projects. The Pristina-based Returns Co-ordination Group (RCG), chaired by the Director of the ORC, then checks the conformity of projects with the return policy set up by UNHCR and UNMIK-ORC. The municipal working groups are the main mechanism through which displaced persons can request assistance for return. The working groups, which provide a forum for all communities to engage in a dialogue on return issues, are comprised of representatives of IDPs, municipal authorities, UNMIK, PISG, UNHCR, and other local and international organisations. As part of the return process, UNHCR organises so-called Go-and-See visits in order to enable IDPs to make an informed decision (UNHCR/UNMIK, 1 January 2003). The security situation and the related small number of returns have prevented the development of significant return projects and many organisations are on their way out because of the lack of interest of donors. But although the number of returnees is limited, there is a need to ensure the sustainability of their return, including through income-generating activities and projects involving both communities to facilitate inter-ethnic dialogue.

A new Strategic Framework on Communities and Returns elaborated jointly by the PISG and the international community was launched on 19 June 2005 to replace in the mid-term the Manual for Sustainable Return. It gives a central role to the (Kosovo) Ministry for Communities and Return (MCR), created in early 2005 and filled by a Kosovo Serb, to assume responsibilities resulting from the progressive transfer of return competencies from UNMIK to the PISG. The MCR's main tasks will be to coordinate its activities with various ministries at central level, to identify multi-sectoral projects facilitating integration of minority communities and enhance the capacity of municipalities to accept and integrate returnees. Overall the new framework emphasises the need for an increased participation of Kosovo society as a whole and IDPs into the development of return activities. The Framework is expected to be followed by a Programme of Action on Communities and Returns to be designed by local and international actors (UNMIK, 19 July 2005, UNMIK/PISG, 18 July 2005).

The "Standards for Kosovo", presented by UNMIK in December 2003, are another framework for improving return conditions. The Standards are aimed at ensuring a democratic and multi-ethnic province where refugees and displaced persons can return in safety and dignity, and Standard 4 is specifically dedicated to sustainable return and rights of communities. Making the transfer of power from UNMIK to the PISG and the opening of final status discussions conditional on progress in



Displaced Serb visiting his house in Svinjare (South Mitrovica) which was destroyed in March 2004 and rebuilt by the PISG (McCallin/Global IDP Project)

implementation of the Standards has given the PISG an incentive to move forward, especially after the setback of the March 2004 events. To avoid the risk of postponing the discussions on the final status, the protection of communities and support for minority return have received more attention from the PISG. Although none of the eight Standards has been fulfilled, significant progress has been made on issues likely to improve the confidence of minority communities and is expected to lead to an increase in returns in the mid-term.

In an effort to show its support for the return process, the Kosovo Prime Minister, Bajram Kosumi, and 23 municipalities adopted a joint declaration in February 2005 "urging the displaced to return, the majority population to accept and implement its special responsibilities towards minority returnees and the protection of property rights and release of illegally-occupied property" (SG,

23 May 2005). In view of the limited condemnations by Kosovo politicians during the March 2004 events, this initiative is seen as a step forward, in particular with regard to the majority population. For 2005, the government maintained the level of its funding for

returnees at 10.5 million Euros, making it the largest contributor to the return process (UNMIK, 27 July 2005).

Improvement on security and freedom of movement has to be made in parallel with increased inter-ethnic dialogue and activities. Progress on the issue of decentralisation could be instrumental in this perspective. In addition to improving democratic mechanisms and citizens' control over institutions governing them, it would contribute to addressing the needs currently met by Serbian parallel structures, and facilitate integration of minority groups into Kosovo society. Although Albanian political parties in the Kosovo Assembly are still slowing the pace of local government reform and decentralisation (SG, 23 May 2005), UNMIK in August 2005 established the territorial delineation of the five pilot municipalities where the new Law on self-government will be tested.

It is crucial now that Kosovo society and its politicians demonstrate that their efforts towards implementation of the standards and return are genuine and not merely a way to obtain a final status agreement on Kosovo. Sporadic security incidents and widespread violations of property and minority rights discourage displaced persons and donors alike. This has negative consequences for the return process, as even in the current situation of limited return, an additional 22 million Euros are required to implement return projects in over 20 municipalities (UNMIK, 27 July 2005). With return being considered one of the key indicators, it will also influence the outcome of the ongoing review carried out by the UN Special Envoy Kai Eide with a view to the opening of final status negotiations. The prospects for the return of the hundreds of thousands of IDPs to Kosovo ultimately depend on the commitment of the Kosovo authorities to improve return conditions, continued donor funding and on the way the results of the final status negotiations are accepted.

Sources:

Amnesty International (AI), 22 March 2005, A wasted year: the continuing failure to fulfil key human rights commitments made to the Council of Europe

Amnesty International (AI), 8 July 2004, Serbia and Montenegro (Kosovo/Kosova): The March Violence: KFOR and UNMIK's failure to protect the rights of the minority communities, AI INDEX: EUR 70/016/2004

Council of Europe (COE), Commissioner for Human Rights, 16 October 2002, Kosovo: The Human Rights Situation and the Fate of Persons Displaced from their Homes, CommDH(2002)11

Council of Europe (COE), Parliamentary Assembly, 25 January 2005, Protection of human rights in Kosovo, Resolution 1417 (2005)

Council of Europe (COE), Parliamentary Assembly, 3 June 2005, Current situation in Kosovo

European Agency for Reconstruction (EAR), 13 December 2004, Feasibility study to assess the scope and nature of work for an alternative dispute resolution mechanism for land and private commercial properties in Kosovo

European Stability Initiative (ESI), 7 June 2004, The Lausanne Principle: Multiethnicity, Territory and the Future of Kosovo's Serbs

Government of the Republic of Montenegro, April 2005, Strategy for resolving the issues of refugees and internally displaced persons in Montenegro

Group 484, April 2005, Human rights of refugees, internally displaced persons, returnees and asylum seekers in Serbia and Montenegro, Report for 2004

Human Rights Watch (HRW), July 2004, Failure to Protect: Anti-minority Violence in Kosovo, March 2004

IDP Information Centre, 24 November 2004, Survey conducted among IDPs in the North of Kosovo

IDP Inter-Agency Working Group, October 2004, Analysis of the situation of IDP from Kosovo in Serbia and Montenegro

International Committee of the Red Cross (ICRC), 31 May 2005, The situation of internally displaced persons in Serbia and Montenegro: issues paper

International Committee of the Red Cross (ICRC), April 2005, Household economy assessment of internally displaced persons in Serbia and Montenegro

International Committee of the Red Cross (ICRC), 31 May 2005, The situation of internally displaced persons in Serbia and Montenegro: issues paper

Jelena Anzujska, February 2005, Is it possible to build trust in war thorn communities? Comparative analysis of Mitrovica and Mostar

Refugees International (RI), 27 June 2005, Kosovo: Roma returns stalled by security concerns, politics and discrimination

Refugees International (RI), 15 June 2005, Kosovo: lead pollution requires immediate evacuation of Roma camps

U.S. Department of State (U.S. DOS), 28 February 2005, Country Report on Human Rights Practices 2004 - Serbia and Montenegro

United Nations High Commissioner for Refugees (UNHCR), July 2005, Estimate of refugees and displaced persons still seeking solutions in South-Eastern Europe

United Nations High Commissioner for Refugees (UNHCR), June 2005, Global report 2004: Serbia and Montenegro

United Nations High Commissioner for Refugees (UNHCR), 13 August 2004, UNHCR Position on the Continued International Protection Needs of Individuals from Kosovo

United Nations High Commissioner for Refugees (UNHCR), June 2005, Global report 2004: Serbia and Montenegro

United Nations High Commissioner for Refugees (UNHCR), 31 March 2005, UNHCR position on the continued international protection needs of individuals from Kosovo

United Nations High Commissioner for Refugees (UNHCR), August 2004, The Possibility of Applying the Internal Flight or Relocation Alternative within Serbia and Montenegro to Certain Persons Originating from Kosovo and Belonging to Ethnic Minorities there

United Nations High Commissioner for Refugees (UNHCR)/United Nations Interim Administration Mission (UNMIK), 2003, Manual for Sustainable Return

United Nations High Commissioner for Refugees Kosovo, 31 May 2005, Map: March IDP locations

United Nations High Commissioner for Refugees Kosovo, 30 April 2005, Minority returns from internal and external displacement by region, table 1

United Nations High Commissioner for Refugees Kosovo, 31 March 2005, Minority voluntary return to Kosovo by municipality of return

United Nations Interim Administration Mission in Kosovo (UNMIK), 19 July 2005, UNMIK, SRSG and the Prime Minister launch the 2005 Strategic Framework on Communities and Returns

United Nations Interim Administration Mission in Kosovo (UNMIK), 4 July 2005, UNMIK, UNMIK, UNDP and the PISG Ministry of Communities and Returns sign Memorandum of Understanding in support of return to Kosovo

United Nations Interim Administration Mission in Kosovo (UNMIK), 27 July 2005, Special press briefing on Strategic Framework on Communities and Returns

United Nations Interim Administration Mission in Kosovo/ Provisional Institutions of Self-Government (UNMIK/PISG), 18 July 2005, Strategic Framework on Communities and Returns

United Nations Secretary-General (UN SG), 23 May 2005, Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, S/2005/335

United Nations Secretary-General (UN SG), 14 February 2005, Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo

UNMIK Office of Returns and Communities, 7 April 2005, Draft discussion paper: Proposed approach and way forward on housing and property issues in support to return and communities

Venice Commission, 11 October 2004, Opinion on human rights in Kosovo: possible establishment of review mechanisms

World Health Organisation (WHO), 22 October 2004, Capillary blood lead confirmation and critical lead-related health situation of te Roma camps children

World Health Organisation (WHO), 11 July 2004, Preliminary report on blood lead levels in North Mitrovica and Zvecan

Note: All documents used in this report are directly accessible on the [List of Sources](#) page of the Serbia & Montenegro country page.

About the Global IDP Project

The Global IDP Project, established by the Norwegian Refugee Council in 1996, is the leading international body monitoring internal displacement worldwide.

Through its work, the Geneva-based Project contributes to protecting and assisting the 25 million people around the globe, who have been displaced within their own country as a result of conflicts or human rights violations.

At the request of the United Nations, the Global IDP Project runs an online database providing comprehensive and frequently updated information and analysis on internal displacement in over 50 countries.

It also carries out training activities to enhance the capacity of local actors to respond to the needs of internally displaced people. In addition, the Project actively advocates for durable solutions to the plight of the internally displaced in line with international standards.

For more information, visit the Global IDP Project website and the database at www.idpproject.org.

Media contact:

Jens-Hagen Eschenbächer

Database / Communication Coordinator

Tel.: +41 (0)22 799 07 03

Email: jens.eschenbaecher@nrc.ch

Global IDP Project

Norwegian Refugee Council

Chemin de Balexert 7-9

1219 Châtelaine (Geneva), Switzerland

www.idpproject.org

Tel: +41 22 799 0700

Fax: +41 22 799 0701