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UNHCR's recent position and update on the situation in Kosovo
The internal flight alternative related to Serbia and Montenegro
International observations on Kosovo

With reference to the statistics (see hand-out), it can be concluded that the number of minority returns to Kosovo, around 10,000 in total from year 2000 until end August 2004, is very small compared to the number of displaced people, which totals more than 220,000 in Serbia and Montenegro alone. It has to be noted that these figures for returns reflect those people that have voluntarily returned to their place of origin.

The key reason given by IDPs for remaining in displacement outside of Kosovo is security and freedom of movement, followed by, unresolved property issues (including agricultural and commercial properties), unemployment, the weak economy, limited integration opportunities and last but not least the unresolved status of Kosovo. Those few, who have returned, complained about the very difficult situation in displacement and being willing to face insecurity and harassment at home rather than displacement. And indeed, the situation for minorities, particularly Serbs, Roma, Ashkaelia and Egyptians is fragile from a security and sustainability point of view, which clearly was evidenced during the civil unrest in March 2004.

Situation in Kosovo before the civil unrest of March 2004

During the last few years, the overall security and freedom of movement situation for minorities was improving, although there was a downward trend regarding the security situation for the Serb minority, the latter being more frequently targeted for violent crimes. A sense of impunity and of an inefficient rule of law prevails as crimes against minorities are not properly followed up by law enforcement authorities. Hence minorities become easy targets and members of minority groups are reluctant to report incidents as they did not feel protected.

Civil unrest March 2004

These riots were not completely unexpected having the upcoming elections (fall 2004) and the deteriorating security situation for Serb communities in mind, although their rapid spreading throughout Kosovo and the intensity definitely took the international community by surprise. During three days of civil unrest, with demonstrators going on rampage against minority communities throughout Kosovo, twenty people were killed, 950 persons wounded and more than 730 houses were damaged or destroyed, as well as a significant number of churches, monasteries and public buildings catering minorities. More than 4,100 persons were driven out of their homes. Most worrying is that 80% of those now targeted had remained in Kosovo in 1999 and thereafter. Their empty properties were looted and/or were set on fire leaving a clear message "Do not return". KFOR, having received reinforcements from abroad, and the police could only bring the situation under control after three days of rioting. The majority of those targeted belonged to the Serb minority community, but also Roma, Ashkaelia, Egyptian and Albanians in a minority situation were attacked. Bosniak and Gorani fled seeing their Serb neighbours

being attacked. Notably the entire Ashkaelia community (259 persons) in Vushtrri/Vucitrn town, save for three families, had to be evacuated to a nearby KFOR base.

Situation after the civil unrest

As a result of the riots freedom of movement drastically decreased, shuttles were suspended, check points set up at entrances to minority areas, military escorts reinstated. However, there are not enough KFOR troops to protect the minorities and maintain such high level of security measures. Hence the measures are slowly withdrawn leaving the minority communities even more isolated and vulnerable. There are only few recorded security incidents, which is probably due to the fact that there is not much movement of people and that many live in isolation, rather than better security. However, the first fatal drive by shooting of a Serb took place less than three months after the riots.

UNHCR's position

This background to UNHCR's position paper on Kosovo (*UNHCR Position on the continued international protection needs of individuals from Kosovo – August 2004*) leads the organization to maintain its position that "...there is a continued need for international protection for members of minority communities". Hence forced or compelled returns of members of Serb, Roma, Ashkaelia and Egyptian communities as well as Albanians in a minority situation should not take place. Moreover, there are categories of Kosovo Albanians and members of minorities other than those highlighted here, who may face even physical danger, were they to return, the most notable one being persons who are perceived to have been associated with the Serbian regime or the Serbian minority or structure, whether past or present. Similarly inadequate standards of health care and social welfare institutions need to be taken into consideration in the context of returns of particularly vulnerable individuals, as well as special attention to be given to claims from traumatized individuals.

Resolution 1244 highlights the safe and unimpeded return of all refugees and displaced to their homes in Kosovo, which in UNHCR's view means that States who forcibly return refugees to secondary displacement, be it in Kosovo or elsewhere in Serbia and Montenegro are undermining the spirit of this resolution. Moreover, UNHCR is of the opinion that forced returns to elsewhere in Serbia and Montenegro, implementing the concept of Internal Flight Alternative, is not a reasonable option considering their inability to register as IDPs be they returned, subsequently impacting on their possibilities to access basic human rights and services in an already stretched society (with 220,000 IDPs and 290,000 refugees) as well as their access to such rights even if earlier registered. The UNHCR paper on *The Possibility of Applying the Internal Flight Alternative or Relocation Alternative within Serbia and Montenegro to Certain Persons originating from Kosovo and Belonging to Ethnic Minorities* provides with a more detailed analysis of the legal status of IDP's in Montenegro and in Serbia and the reasonableness of using such an alternative.

Forced returns of Kosovo minorities have taken place mostly from example Germany, Norway and Switzerland. In total 45 such persons have been returned to Kosovo from the Nordic Countries in 2004 so far. UNHCR, and UNMIK, in Kosovo have faced many

difficulties with this group, as the minorities in most cases could not return home and in addition in many cases had nowhere to go. Also several Kosovars with severe medical problems, as well as from time to time there are persons returned who did not even originate from Kosovo.

There are also actions the Kosovo Provisional Institutions of Self Government have taken, such as completing an implementation plan for the ‘Standards for Kosovo’, including standards on minority rights, freedom of movement, and return of minorities, as well as reconstruction of homes destroyed during the March riots. However, the March riots showed how only a small spark is needed for the Kosovars to go on rampage, and the same may equally happen as long as the underlying reasons for the March riots have not been addressed. The elections now in October and the anticipated discussions about Kosovo’s future next year may also lead to increased ethnic tension.

Government Agencies:

Denmark: In 1999 there were 1682 asylum seekers from Serbia-Montenegro, the majority from Kosovo. 878 were registered refugees under the Kosovo Emergency Law (temporary renewable protection). In 2000, there were 1647 registered from Serbia-Montenegro of which many received residence permits. In 2002 there were only 10 permits given, and in 2003 only 16. In 2003, 45 permits were given on humanitarian grounds (50% from Kosovo). The figure has dropped, as incidents in Kosovo have decreased. The current trend is that few appeals from Kosovars arrive at the Refugee Board and very few permits are given (less than 5 permits were given by the Immigration Service so far in 2004).. Only ethnic Albanians have been returned in 2004.

Finland: In 2004, there were 465 applicants from Serbia-Montenegro which is the largest group in Finland. In 2003, 650 persons from Serbia-Montenegro applied for asylum in Finland, the majority of them were single Kosovo Albanian men. The reasons for claiming asylum were: social conditions, housing, health system, and trauma. Only a few claims were based on fear of persecution, e.g. connections with the Serbian Authorities. In 2004, there were 300 Dublin cases, 24 persons received a residence permit (5 protection, 19 other), and 430 cases were rejected.

In **Norway**, the Directorate of Immigration received 928 applicants from Serbia-Montenegro in 2001; 2460 in 2002; 2180 in 2003; and 480 until August 2004. The majority came from Kosovo. In 2001, 167 cases were granted asylum, 1509 received a residence permit on humanitarian grounds. In 2002: 88 were granted asylum; 480 received a residence permit on humanitarian grounds. In 2003: 55 were granted asylum; 23 protection and 39 received residence permits on humanitarian grounds. 2004 so far: 38 were granted asylum; 5 protection and 13 received a residence permit on humanitarian grounds.

The Norwegian Immigration Appeals Board dealt with 1200 cases in 2003. 140 decisions have been made of which 10% were granted on humanitarian grounds. Between 5 and 10 persons were granted asylum on protection grounds (minorities). In 2004, so far 22

persons have been granted asylum. 51 persons were granted residence permits on humanitarian grounds, mainly large families. The majority of Kosovo-Albanians have been rejected. Gorani and Bosniaks have been rejected. Roma, Ashkaelia and Egyptians have been granted asylum on protection grounds, although internal flight alternatives are being assessed. For Serbs, internal flight alternatives are assessed. The Board visits Kosovo regularly and receives information from the Norwegian Attache based in Belgrade.

In 2003, **Sweden** received 5,300 applicants from Serbia-Montenegro. In 2004, the number was reduced to 2,760. Approximately 60% were from Kosovo. Of this 60%, 40% belong to minority groups. Since March 2004, no negative decisions have been made for minority groups. The Aliens Appeals Board dealt with 900 new cases. 45 of all decisions were granted asylum, all belonging to minority groups. No negative decisions have been taken in relation to minorities since March 2004. A policy review is underway.

Non Governmental Organisations:

In **Denmark**, the Danish Refugee Council has observed that mere membership to the Roma or Ashkaelia minority does not suffice to be granted asylum. Since 2000, 27 cases have been recognized and 87 cases have been rejected. Of the Serbs, 17 have been rejected, and only 1 was granted asylum. In more than 20 cases, the internal flight alternative has been considered. The removal decisions were submitted to UNMIK (including members of minorities). Of the 11 cases that have been considered on humanitarian grounds, 4 were granted a residence permit. It was noted that initially Serbia did not allow removal to Serbia, but due to political reasons decided that they can not refuse entry of their citizens.

FARR in **Sweden** mentioned that citizens of Serbia-Montenegro are still the largest group of asylum seekers, which leads to the conclusion that there are still many reasons for fleeing Kosovo. After the 1999 conflict, temporary protection has been issued. Many asylum seekers have also been granted asylum on humanitarian grounds (trauma, violence). Since 2003, status determinations have taken place for minority members. Currently, Roma are waiting a long time for their decision (more than 18 months). The internal flight alternative position from UNHCR has not been clearly followed. There is an important role for UNMIK in case of removals, particularly in medical cases. The information that is used by Government Agencies in countries of asylum should be assessed very carefully: Government Officials often want to relay "wishful information", but from hospitals for example you will get a more realistic view. It is important to look at all individual circumstances, and not reject cases automatically. FARR also welcomed the reference to UN General Assembly Resolution 1244, but would like to see an early warning system that would trigger reassessments of the policy applied for minority applications.

Landerkommitten, a Swedish NGO with presence in Serbia noted that there may be some possibilities (with the right papers) to register as IDPs, although the official policy is not to register IDPs after the IDP registration in 2001. Moreover, as IDPs are not able to change their residence from Kosovo to Serbia, without the IDP card they have no access

to social allowance. Serbia wants to comply with the Re-admission Agreements, but not all former IDPs are registered in Serbian registers. Only those registered will get travel documents from the Serbian authorities. There are IDP camps in Serbia-Montenegro, but since 2003, the aid programs have stopped. Instead a cash program was introduced in 2004 providing each family unit with 26 Euros per month. The assistance is though irregular, and families have been removed from the beneficiary lists.

Discussion:

The registration as IDP after the registration in 2001 is officially not possible, however there may be local differences in approach and exceptions may have been made. Registration after return from Western Europe is even less possible. Until summer 2003 there was a strict policy that IDPs cannot de-register from Kosovo and take up a new residency in Serbia and Montenegro. Although this policy was relaxed UNHCR is not aware of any such registration, while the Norwegian Asylum Appeals Board recently learned that such registration had indeed been made.

Upon a question from the participants on blood feuds and honour killings, it was noted that they are taboo subjects, and hence their widespreadness is not known, albeit probably they are not very common.

The UNHCR position paper also raises concerns for those, irrespectively of ethnicity who claim a fear of persecution based on a real or perceived association with the former Yugoslav regime. Therefore a case-by-case assessment is necessary for all such claims. In some instances only the association with Serbs can be sufficient for persecution or harassment in Kosovo.

Remittances are very important for the Kosovo economy, (recent media reports indicate 40% of GDP originating from remittances and grants). The real issue is lack of investments, a consequence of insecurity and no clear future status for Kosovo.

The future for Kosovo is uncertain, and reflected in the numbers of voluntary returns of minority members. In 2003, 3,181 returned and in 2004, only 1,300 persons returned by end August, indicating there will be considerably fewer this year than 2003. This is very much a result of the March 2004 riots. More focus must be put on creating conditions for minority groups to return. This includes an effort in facilitating inter-ethnic dialogue and tolerance building. The elections on 23 October are important for the future of Kosovo, but unfortunately most Serbs are expected to boycott the elections. Tensions are expected to rise around the elections, or the final status discussions next year, but it should also be kept in mind that until the underlying reasons for the frustration that resulted in the March riots, such as the final status, unemployment, are addressed tensions may easily erupt again. Forced returns of minority members should therefore not take place, and rather use the position paper to provide for protection based decision as the situation for the minorities does not seem to fundamentally change in the near future. The Nordic

governments can here show their responsibility and example in providing protection to those in need.