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MG-S-ROM (2006) 3

**REPORT OF
THE CHAIR OF THE MG-S-ROM AND THE COUNCIL OF EUROPE
COORDINATOR FOR ROMA AND TRAVELLERS ACTIVITIES
FOLLOWING THEIR MISSION TO KOSOVO (SERBIA AND
MONTENEGRO)**

26 FEBRUARY - 1 MARCH 2006

Introduction

The purpose of our mission was to respond to the request made in the Assembly Recommendation 1708 (2005), namely *"to collect first hand information on the socio-economic conditions of Roma, Ashkali and Egyptian internally displaced population as well as Roma, Ashkali and Egyptian returnees with a view to reporting back to the Committee of Ministers."* The Committee of Ministers, in its reply to the Recommendation (23 November 2005), notes that the Coordinator had already "conducted a preliminary assessment visit" and adds that "a fact-finding mission of the chair of the MG-S-ROM is foreseen in the coming weeks".

Though limited by its terms of reference to collecting information on the socio-economic conditions of the RAE IDPs, the delegation, in its enquiry, had to take into account two important elements:

- the level of security of RAE, which would affect their possibility of education, housing and employment
- the protection of minority rights in a changed political context

The delegation was headed by the chairman of the Group of Specialists on Roma, Gypsies and Travellers, Ian Naysmith (United Kingdom) and included Eleni Tsetsekou, member of the Council of Europe Roma and Travellers Secretariat and Henry Scicluna, Council of Europe Coordinator for Roma and Travellers activities. Representatives of the European Forum for Roma and Travellers joined the delegation in a number of meetings with stakeholders in Pristina.

The delegation expresses its thanks to Mr Zurab Katchkatchishvili , Head of the Council of Europe Office in Kosovo, and to the other officials in the Office for organising the visit and for participating in all the meetings and field visits.

The programme is set out in **Appendix I**.

Background

Roma, Ashkali and Egyptian communities have lived in Kosovo (Serbia and Montenegro) for centuries, although the terminology used to describe these groups has varied over time.

Following the conflict of the 1990s, the term RAE (Roma, Ashkali and Egyptians) started being used by the communities themselves, as well as the international institutions.

The mother tongue of the Roma in Kosovo is Romani, but most are also fluent in Serbian. The Ashkali and Egyptians speak Albanian.

Population data in Kosovo (Serbia and Montenegro), and in particular, their ethnic breakdown are subject to considerable dispute. Even official censuses have been subject to boycotts and any available data are estimates. The estimated number of RAE before the war was about 150,000, of whom about 8,000 lived in Pristina and 5,500 in Prizren. At the end of the war, with the return of much of the Albanian population in June 1999, a large number of Roma, Ashkali and Egyptians took refuge in other parts of the province of Kosovo or fled to other parts of Serbia and Montenegro, becoming internally displaced persons (IDPs). Others left Kosovo (Serbia and Montenegro) and are now living in neighbouring Balkan countries and in some Western European countries, notably Norway, Germany, Switzerland, Sweden, Denmark, France, and the Netherlands, as well as in Canada and Australia.

Some of the Roma that fled were suspected by the Albanian population of collaboration with the Serbs during the conflict and feared revenge. It is estimated that 30,000 Roma, Ashkali and Egyptians currently live in Kosovo (Serbia and Montenegro). None remain in Pristina.

The issue of safety

Fear can be caused by both real and perceived threats. Fear of aggression thrives in a climate of reciprocal suspicion, even if the real danger of aggression might be slim. Inter-ethnic suspicion and distrust is still much alive in Kosovo (Serbia and Montenegro). Memories of the conflict in the 1990s and the more recent violence of March 2004 are still fresh in the minds of communities in Kosovo (Serbia and Montenegro) and, amongst the Roma, the prospect of a new political status has heightened the uncertainty over the future protection of minorities.

On this particular aspect of safety, it is important to distinguish between the Roma and the two other ethnic groups, the Ashkali and the Egyptians. The latter groups are Albanian speaking and so better integrated with their Albanian neighbours. Most Roma, on the other hand, speak Serbian (as well as Romani) and so have tended to be associated with the Serbian minority and, in the eyes of some Albanians, suspected of collaboration with the Serbs during the conflict.

During an interview with Egyptian representatives in the Kosovo Assembly, Besim Hoti and Xhevdet Nexiraj, we were told that the Egyptian community felt safe in Kosovo (Serbia and Montenegro) and had total freedom of movement. According to these same representatives this was also the case for

the Roma community whose safety, they claimed, was not at risk. However, they recognised that the Roma still experienced a certain amount of fear.

This is also the view of the Ombudsman *ad interim*, Hilmi Jashari, who feels that the Roma still fear for their safety, irrespective of whether the threat is real or simply perceived. This is also the view of representatives of the NGOs Roma and Ashkali Documentation Centre (RAD) and Balkan Sunflowers (Culture, Youth and Sport Centre) who work closely with the Roma communities, and who maintained that the situation is relatively safe, but that the Roma were still frightened and felt uneasy at the implications for them of a change in the political status of Kosovo (Serbia and Montenegro).

All our interlocutors expressed similar, though sometimes more optimistic, views. Slavisa Petkovic, Minister of Returns and Communities, who is himself a Serb, claims there is no security problem.

Roma returnees we met in Fushe Kosove, Gjilane, Abdullah Presheva and Viti said they felt reasonably safe and integrated. This situation was due in part to the positive approach of the mayors and other local authorities who had made efforts to promote good community relations and a proper reintegration of returnees. However, even in these areas, there were limits to the extent of integration. For example, in Gjilane, Roma children attended a special Serbian school, rather than the local Albanian school, not only because they were not Albanian speaking, but also because they were frightened of the Albanian children. In Prizren, the Roma community appeared to live peacefully in the centre of town alongside other ethnic groups.

Haxhi Zylfi Merxha, President of the Party of the Roma Union of Kosovo and member of the Kosovo Parliament, who lives in Prizren, explained to us that security was in general not a problem in his town, but advised that this was not necessarily the case everywhere in Kosovo (Serbia and Montenegro).

UNHCR and UNMIK

UNHCR's current position paper requires that members of the Roma communities should continue to benefit from international protection in countries of asylum under the 1951 Convention. The current position of UNHCR is that returns should only take place on a strictly voluntary basis in safety and dignity. The UNHCR Position Paper is set out in **Appendix II**.

The gradual improvement in the security situation has prompted UNMIK to review its repatriation policy which, so far, has been based on the UNHCR position paper. UNMIK officials explained that they no longer see Roma as a category needing special protection and that it is safe for Roma returnees to be assessed on an individual basis. They therefore believe that the UNHCR position paper is outdated and needs to be changed.

UNMIK is faced with considerable pressure from some European countries to speed up the procedure of returns. As part of a new returnees policy adopted by the Provisional Institutions under the Secretary General (PISG), the German government has seconded two officials to help UNMIK screen the proposed returnees and ensure coordination.

UNMIK officials claimed that security and proper shelter are among the criteria followed in the screening of potential returnees. They added that UNMIK was insisting to host countries that there should be no question of building new camps in Kosovo (Serbia and Montenegro) and creating a new internal displacement.

This change in policy by UNMIK could eventually lead to an increase in bilateral agreements on returnees. Countries which currently have bilateral agreements with UNMIK are Germany, Switzerland and Sweden, but other Western European countries as well as Australia, Canada and the United States, also have refugees and asylum-seekers from Kosovo (Serbia and Montenegro) and so might follow suit.

The UNHCR in Kosovo (Serbia and Montenegro) made it clear that it does not intend to change its Position paper at present. In their opinion, the security situation remains volatile, particularly with the prospect of a change in political status that could lead to further inward and outward migration.

It is our general impression that there has been a marked improvement in security and incidents of an ethnic nature have decreased. It was, however, the view of all our interlocutors that in spite of improvements, security was still a problem in many parts of Kosovo (Serbia and Montenegro) and that Roma felt unsafe even in areas which were relatively trouble free. This sense that the situation remains volatile had been exacerbated by the disturbances of March 2004 and is reinforced by the continuing uncertainty over Kosovo's future and what it might mean for its minorities.

Future status

The prevailing environment of fear and suspicion has given the negotiations over the future status of Kosovo (Serbia and Montenegro) a particular importance. There is a feeling amongst the RAE (and presumably other minorities) that the international community has exclusively focused on the relationship between the Serbs and Albanians, and that consequently the negotiations on the future status of Kosovo (Serbia and Montenegro) would not take into account the needs of other various minorities. This could have a

deleterious effect on the future protection of minorities in Kosovo (Serbia and Montenegro), and in particular the Roma who, as described above, still feel unsafe, despite UN protection.

An additional problem is the lack of a common leadership, and hence of a common platform, amongst the RAE both in Kosovo (Serbia and Montenegro) and in host countries.

There are also divergent interests between the Roma, who are wary of a change in status, and the Ashkali and Egyptians who are quite open to a change. And there are conflicting interests between the RAE in the host countries who may not want to return to Kosovo (Serbia and Montenegro) and the RAE who are living in Kosovo (Serbia and Montenegro) and wish to secure their future there.

Indeed there are allegations that the RAE in Kosovo (Serbia and Montenegro) are subject to pressure from both the RAE in host countries and from Serbs in Kosovo (Serbia and Montenegro) to oppose any change in status and not to contribute to a situation that could lead to such change (see below on pressures on the RAE living in Mitrovicë.)

RAE representatives in Kosovo (Serbia and Montenegro) complained to us that they have had a marginal role in the process to resolve the province's future status. However, an encouraging initiative to give a voice to the RAE and other minorities in the negotiations has been taken by Vetton Surroi, member of the Assembly of Kosovo and of the Kosovo Delegation for Status Talks. He is also head of the Consultative Council on Minority Communities (CCC), made up of elected representatives of the different minorities to influence the status process.

Mr Surroi informed us that he had distributed a questionnaire to all the members of the Community Consultative Council on Minority Communities seeking their views on participation in decision-making bodies, language rights, repatriation, the situation in the Mitrovicë camp, the economic situation etc.

The replies would be summarised in a synopsis which will be handed to Mr Ahtisaari, the UN negotiator on the future status of Kosovo (Serbia and Montenegro). In the ensuing month, the CCC would prepare a package on minority rights including the issue of the Romani language, minority rights legislation, and incorporation of minority rights legislation in the Constitution.

Mr Surroi said that minorities, including RAE, will be represented at the status negotiations in Vienna on a roster basis.

A positive note was struck by Torbjorn Sohlstrom, the personal representative of the EU High Representative. Mr Sohlstrom explained that it was likely that the EU would have an enhanced political role in Kosovo (Serbia and Montenegro) in the future, which would go beyond traditional assistance. However, the EU would not take on executive duties in Kosovo (Serbia and Montenegro) and would not be replacing UNMIK. The EU was more likely to be engaged in the post-settlement period to reassure minorities, and assist in ensuring the application of the status settlement and monitoring the police and the judiciary. It was also likely to be in charge of international monitoring in selective areas such as decentralisation and minority rights

It was clear from our discussions that UNMIK is committed to ensuring a multi-ethnic Kosovo (Serbia and Montenegro). This implies the safe return of all the members of minorities who fled to other countries. Apart from the need for infrastructure to receive these returnees, which is discussed below, the protection of minority rights (language, education, culture, citizenship) is a pre-requisite for the creation of a stable and equitable multi-ethnic society. If Kosovo's minorities, and particularly the RAE, are to have confidence in Kosovo's future status, we feel there is a need for a greater involvement of representatives of these minorities in the negotiation process.

The socio-economic situation

The socio-economic situation of the RAE, and particularly of the IDPs in Kosovo (Serbia and Montenegro), has to be seen against the background of the economic situation of the general population. The province has an unemployment rate of 47-60%, the highest in the region.

Haxhi Zylfi Merxha, President of the Party of the Roma Union of Kosovo, described the current social situation as very bad and said that since the end of the conflict there had been no improvement.

He commented that the unemployment rate was very high and that there was an extremely low level of Roma representation in public services. For example, out of 228 police officers only 2 were Roma. The education level among Roma was very low and, seven years after the war, there were no Roma students attending the university. Before the war, there was TV in the Roma language and newspapers in Romani. Today, out of 23 TV stations, the only Romani language provision is a half-hour programme on one of them. Previously, Roma women went to high school; today, only one percent were employed.

Similar views were expressed by returnees in Gjilane and in Abdullah Presheva.

In Gjilane, in spite of a relatively progressive approach by the municipal authorities, no Roma were employed in the municipality and returnees complained that their repeated requests to join the police force had been turned down.

The Egyptian representatives of the Kosovo Assembly also complained that more assistance was given to the Serbs than to them. They said that of 7,000 Egyptians in Jacovo not one had been recruited as a police officer. The same situation prevailed in other municipalities.

Prior to the conflict the RAE community in Kosovo (Serbia and Montenegro) lived in ordinary housing alongside the rest of the population. Shanty towns first made their appearance as a result of the conflict and are inhabited exclusively by IDPs, including returnees. These are situated in Gracanica (600), Plemetina (440) and Mitrovicë (720). The camp in Plemetina is being closed down and the population resettled, thanks to funding by the European Agency for Reconstruction and the government of Kosovo (Serbia and Montenegro).

The situation in Mitrovicë

The situation in the camps around Mitrovicë is a crying example of the obstacles and difficulties in resettling Roma IDPs.

At the time of our visit, 720 Roma were living in four camps around Mitrovicë. Of these, 70% lived in the old Roma mahala in Mitrovicë, which was destroyed following the return of the Albanian population, 25 are IDPs who had been in Montenegro and 5 are IDPs from other parts of Serbia). The whole area, including the town of Mitrovicë, is contaminated by lead from an old lead mine. Three out of these four camps are particularly contaminated, due to their proximity to the lead mine. The situation is exacerbated by the fact that much of the ground area is exposed soil, rather than paved, which increases the exposure of the inhabitants, particularly children, to the contaminants. This, obviously, has serious consequences for the health of those living there. This situation has lasted for six years in spite of the fact that the Roma were only supposed to stay in these camps for a few months.

Conditions continue to deteriorate: a week before our visit, one of the camps (Češmin Lug) had been subject to flooding. Sewage had flooded through dwellings, raising serious health concerns for the residents.

UNMIK has now decontaminated and arranged a camp (Ostrode camp) to receive Roma from the nearby camps. The delegation visited the decontaminated camp, which had previously been occupied by French KFOR

troops, and found it suitable for a temporary relocation and considerably better than the nearby camps where the Roma IDPs currently live. However, despite the abysmal conditions in which they are currently living, the Roma were refusing to move there.

We heard a number of theories to explain this refusal.

In the view of the Ombudsman ad interim, Mr Jashari, the Roma in these camps would like to have a firm commitment on the length of time they would be staying at Ostrode camp before moving to their permanent home in the mahala. He had written to Mr Petersen asking for such a commitment but had received no reply.

He also believed that the population in these camps was being manipulated by the Serbian authorities at Mitrovicë and by their own leaders. In fact a number of persons in the camps claimed to us that they were prepared to move to Ostrode camp but were being threatened by some representatives of the local Serbian authorities not to do so. We also heard that the local Serb majority population and the local Serb political leaders were opposed to the relocation in Ostrode as they planned to turn it into a sports complex. The delegation was not able to confirm rumours that Roma leaders in the host countries were manipulating the Roma in these camps to thwart the reconstruction of the mahala and the relocation in the Ostrode camp.

Since our visit, some 20 families have in fact moved into the Ostrode camp and more will follow.

Meanwhile, UNMIK is trying to rebuild the destroyed mahala. The municipal authorities at Mitrovicë signed an agreement with UNMIK on 13 April 2005, committing themselves to the reconstruction of the destroyed mahala and return of the Roma to it, as well as to the legalisation of informal settlements.

According to UNMIK officials the local authorities are not facilitating the process of reconstruction and have so far failed to issue the building permit or to approve the urban planning. It seems that the municipality wants to recover that part of the mahala close to the river, which has a high market value.

Even if the mahala is rebuilt, the Roma living there risk being isolated and marginalised if they are unable to integrate with the Albanian community in that area. The war has left a considerable legacy of hostility and distrust which represent formidable barriers to such integration. UNMIK plans to build a bridge which would link the mahala with the Serbian side of the town, so minimising the need for the residents to come into contact with the Albanian community.

UNMIK's plans to resettle the Roma in the Mitrovicë camps in other parts of Kosovo (Serbia and Montenegro) have failed because of security reasons.

Another major obstacle to rebuilding the mahala is lack of funds. Some countries have provided financial assistance but not enough to rebuild the whole mahala.

Nonetheless, there are some positive signs: the site has been cleared and the land registers relating to that area have been found. The European Agency for Reconstruction and the Danish Church Council have between them provided funds for reconstructing 57 houses in the mahala. The Roma have, moreover, accepted to participate in the UNMIK Steering Committee for the Reconstruction of the mahala. They had previously refused to support the project.

A detailed report of the Coordinator on the situation in Mitrovicë (22-23 August, 2005) is set out in **Appendix III**

The difficulties in providing civilised living conditions for the Roma in Mitrovicë (and existence of similar shanty towns in Plementina and Gracanica) is a stark illustration of the kinds of problems that would accompany any wholesale return of RAE IDPs to Kosovo (Serbia and Montenegro) without proper preparation of the infrastructure to receive them and a proper programme to support their reintegration.

The delegation was struck by the fact there is no central coordinated reintegration plan or strategy for returnees. Nevertheless we saw some positive examples of how, with the necessary funding, returnees could be resettled and reintegrated. For example, cases of returnees from other parts of Serbia and Montenegro in Giljane, Abdulla Presheva, and Viti had been made possible by the ARC (American Refugee Committee) which funded the reconstruction of their previous homes and provided tools for exercising their trade.

In the Abdulla Presheva Neighbourhood, 61 houses have been completed. 200 individuals will benefit from this reconstruction. 6 houses have been reconstructed with the help of the Gjilane Municipality. Assistance includes income generation projects, delivery of school materials, street lighting, and a cleaning, sewage and water project. The local UNHCR representatives advised us that more Roma wanted to return, but there was no more funding available to continue the reconstruction programme.

These examples indicate that funds and infrastructure would go a long way in reintegrating RAE returnees.

Most of our interlocutors (including Mr Jashari, the a.i. Ombudsman, Thierry Bernard-Guele, Head of the European Agency for Reconstruction (EAR), Slavisa Petkovic, Ministry of Returns and Communities, the Egyptian Representatives in the Kosovo Assembly, and Haxhi Zylfi Merxha, President of the Party of the Roma Union of Kosovo) maintained that the problem with resettling uprooted Roma was mostly the lack of infrastructure and of financial support.

Conclusions and recommendations

1. We note that the UNHCR considers the security situation in Kosovo (Serbia and Montenegro) is still volatile, particular given the uncertainty of its future status pending the outcome of the status negotiations. We also note that the UNHCR maintains the views expressed in its Position Paper on the Security of Persons in Kosovo (Serbia and Montenegro) of March 2005 and recommends that for the time being it would not be opportune for host countries who have signed agreements on returnees with UNMIK to return Roma to Kosovo Serbia and Montenegro).

We recommend that the Council of Europe member states should support and respect the recommendations of the UNHCR, as set out in the Position Paper of March 2005.

2. The socio-economic situation of the Kosovars is difficult, and that of the Roma, Ashkali and Egyptian population, particularly IDPs, is particularly bad, with no imminent signs of improvement. Returning thousands of RAE from host countries without the necessary infrastructure to sustain them would bring considerable risk of a secondary displacement, an added burden on the Kosovar economy and possible political and social destabilisation.

Independently of the security situation, it is our view that RAE in the host countries should not be forcibly returned to Kosovo before the necessary infrastructure is in place to receive them.

Such infrastructure should include not only housing, but also income-generating projects which will make these returns sustainable. We found that, where funding had been available there has been considerable progress in reintegrating Roma returnees, but that there was a notable lack of funding for such reintegration initiatives.

We recommend that the Council of Europe should encourage its member states to provide funding for the necessary infrastructure to ensure a dignified return and resettlement of Kosovar RAE from host countries.

3. The international community should draw up an urgent plan for providing the infrastructure necessary to sustain large numbers of returnees.

The plan should foresee in the first place, the improvement of the situation of IDPs, namely providing them with proper housing, employment and educational facilities.

Once that is achieved the plan could then focus on the gradual return of Kosovar RAE, to ensure their proper reintegration into society.

We recommend that the Council of Europe should, together with other international organisations concerned, take the initiative to develop such a plan.

4 .There is a need for a long-term strategy for the social and economic integration of the Roma, Ashkali and Egyptians on the model of national strategies that have been developed in several European countries. It was very clear that the RAE are under-represented (and often unrepresented) in the political and administrative structure of Kosovo (Serbia and Montenegro), including public services such as the police and had poor access to the education system and media.

We recommend that the Council of Europe should take the initiative in drawing up such a strategy for the integration of Roma in Kosovo (Serbia and Montenegro), building on its experience of helping to develop similar strategies in several Central and Eastern European countries

5. There is a tendency to view the conflict in Kosovo (Serbia and Montenegro) as limited to Serbs and Albanians and negotiations for the future political status of Kosovo (Serbia and Montenegro) are largely taking place on that basis. Participation of other minorities in the negotiations is now taking place on a roster basis. This is welcome, but if all ethnic groups in Kosovo (Serbia and Montenegro) are to have a secure place in its future, then it is essential that representatives of all minorities take a full part in these negotiations.

Though not involved in the negotiations, the Council of Europe should, through its monitoring bodies and mechanisms, continue to monitor carefully the rights of minorities and particularly the implementation of standards relating to the rule of law, protection against discrimination, ethnically-motivated violence and intimidation, freedom of movement, economic and property rights, and integration.

6. There is a need to strengthen the role of the Ombudsman. The present Ombudsman has carried out a number of field visits, and opened a field office in the north of Kosovo (Serbia and Montenegro). He enjoys credibility with the RAE population, but remains constrained in his actions and is not always fully informed of relevant matters by UNMIK. We were informed that the mandate of the new Ombudsman will be limited.

In an environment where minorities feel vulnerable or threatened, the Ombudsman has an important role to play. He must therefore be given the necessary powers to exercise his functions fully and effectively.

We recommend that the Council of Europe Commissioner for Human Rights should take the initiative to assist in enhancing the protective role of the Ombudsman in Kosovo (Serbia and Montenegro).

APPENDIX I

FACT - FINDING MISSION TO KOSOVO (SERBIA AND MONTENEGRO) OF THE CHAIR OF THE MG-S- ROM AND THE COUNCIL OF EUROPE COORDINATOR FOR ROMA AND TRAVELLERS ACTIVITIES

Pristina, 26 February - 01 March 2006

MG-S-ROM: Mr. Ian Naysmith (UK), Chairman of the MG-S-ROM
Council of Europe Secretariat: Mr. Henry Scicluna , Council of Europe
Coordinator for Roma and Travellers Activities;
Eleni Tsetsekou, member of the Roma and Travellers Division Secretariat

Programme

SUNDAY, 26 FEBRUARY 2006

15:45 Arrival of the delegation

MONDAY, 27 FEBRUARY 2006

08:30 Mr.Hilmi Jashari, Acting Ombudsperson (at his office)

09:30 Departure to Mitrovica

10:30 Arrival at UNHCR FO Mitrovica

10:30 - 11:30 Briefing on RAE IDPS at FO.

11:30 - 12:30 Drive through RoMa Mahala, visit to Cesmin Luag and Osterode camps.

- 12:30** Departure to Pristina
- 13:30** Departure from Pristina to FKP
- 14:00** Meeting with Ashkalis and Romas Community
Venue: Community Centre
- Participants:
- Ashkali and Roma (IDPs, returnees)
 - Ashkali Leader, Mr. Qerim Gara
 - Roma Leader, Mr. Fehmi Gashi
- 15:30** Meeting with officials from FKP
Venue: Community Centre
- Participants:
- President Mr Skender Zogaj or Vice-President Mr Sabit Hykolli
 - Municipal Return Officer, Mr Nenad Petkovic
 - Acting Municipal Return Officer, Mr Hysen Sllamniku

Tuesday, 28 February 2006

- 09:00** **Sebastijan Serifovic, Bekim Sylja, Rand Engel** (RAD Center), **Sami Mustafa**, Roma Youth Video Project (Culture, Youth and Sport Center, no.114)
- 10:00** **Tierry Bernard-Guele**, Head of EAR - EAR building, 2nd floor-
- 11:30** **Slavisa Petkovic**, Ministry of Returns and Communities (at his office)-
- 12:30** **Besim Hoti and Xhevdet Nexiraj**, Egyptian representatives in the Kosovo Assembly (CoE Office)
- 14:00** **Killian Kleinschmidt**, Deputy in the Office of Returns and Communities, UNMIK HQ, second floor
Lory Weisberg, Office of Returns and Communities

Gianfranco Deramo, Head of Policy and Research, Office of Returns, Communities and Minority Affairs - UNMIK HQ, second floor, no. 211

- 16:00** **Torbjörn Sohlström**, Personal Representative of the EU High Representative for CFSP - EAR building, small meeting room
- 17:00** **Oliver Schmidt-Gutzat**, Senior Advisor on Minority Rights, OSCE Democratization Department - CoE meeting room
- 19:00** Dinner with Pascal Moreau (Head, UNHCR Office)

Wednesday, 01 March 2006

- 10:00** **Veton Surroi**, Member of the Negotiation team - (at ORA offices in Dragodan)
- 11:15** **Departure to Gjilan/Gnjilane**
- 12:30** Arrival at UNHCR office and briefing by UNHCR Gjilan/Gnjilane
- 13:00** Visits to Roma families in Abdullah Presheva
- 14:00** Meeting with Roma community leaders and Gjilan/Gnjilane municipal representatives (meeting to be held in the Abdullah Presheva neighbourhood)

[After this meeting, if the CoE have no other immediate commitments in the afternoon, they could spend more time talking with individual Roma families in Abdullah Presheva, if they wish. We could also take them to another municipality (Viti/Vitina - 20 minutes away) where they could meet a Roma family (of 16 family members!) who arrived individually under the 'facilitated return' mechanism].

APPENDIX II

UNHCR Position on the Continued International Protection Needs of Individuals from Kosovo (March 2005)

I. Introduction

1. The Office of the United Nations High Commissioner for Refugees (UNHCR) has been mandated by the United Nations Security Council Resolution 1244 (1999)ⁱ to supervise the safe and free return of all refugees and displaced persons to their homes. In exercising this function, UNHCR has during the last five years supported the creation of conditions permitting sustainable return and regularly issued position papers that assess developments and protection needs of ethnic groups and other categories in Kosovo.

2. The purpose of this paper is to update UNHCR's position on the continued international protection needs of individuals from Kosovo in light of the prevailing complex conditions since August 2004.ⁱⁱ The paper first assesses the current situation of ethnic minorities by analyzing empirical data and observations, which come from recently published authoritative reports issued by the UN, international NGOs and UNHCR's monitoring activities in Kosovo. Second, it enumerates the ethnic minority groups and other protection categories with a continuing need of international protection. And, third, it highlights important humanitarian needs of individuals from Kosovo that should be considered before taking a decision on possible return to Kosovo.

II. Situation of Ethnic Minorities

A. *Security*

1. Overall security environment

3. Since the inter-ethnic violence in March 2004, and particularly in the second half of the year, the overall situation in Kosovo has improved. Renewed and effective engagement of the Provisional Institutions of Self-Government (PISG) to implement Kosovo Standards, particularly in areas related to the situation of ethnic minorities, has led to the creation of new windows of opportunity for return in various municipalities. The security situation has improved if measured by the declining trend in serious crimes against members of minority communities. There has been no reported ethnically based killing

since a 16-year old Kosovo Serb died on 6 June 2004 in Gracanica in a drive-by-shooting. Furthermore the elections for the Kosovo Assembly on 23 October 2004 took place in a peaceful manner and were judged to be free and fair. Likewise, no security incidents occurred during the visit of the Serb President Tadic to Kosovo on 13 February 2005. There has also been some progress in prosecuting those responsible for the March violence.ⁱⁱⁱ It should be noted, however, that the decrease in the number of serious crimes against members of minority communities may also be closely related to the fact that freedom of movement of ethnic minorities and thus contacts with majority populations have significantly dropped after the March 2004 events.

4. Nonetheless, the security environment in Kosovo remains highly fragile and volatile. Minorities continue to suffer ethnically motivated incidents in which minority transports are stoned; member of minorities attacked^{iv}, harassed^v or intimidated; property and possessions of minorities looted^{vi}, destroyed or illegally occupied^{vii}; grave sites of minorities vandalized^{viii}; and hate graffiti painted on municipal buildings^{ix}. Many of these incidents remain unreported as the victims fear reprisals from the perpetrators from the majority community.

5. The risk that the fragility and volatility of the current situation may translate during 2005 into renewed violence cannot be excluded.^x If serious inter-ethnic violence were to erupt in one area, it could, as was the case in March 2004, have a “snowball effect” and rapidly spread throughout Kosovo.^{xi} Should that occur, violence is likely to affect once again ethnic minorities.

2. Insecurity – Real and Perceived

6. Members of ethnic minorities continue to perceive the current situation as insecure and dangerous. This is due to a number of factors, including that the March 2004 events seriously destroyed their confidence in law-enforcement authorities and exacerbated their mistrust of the majority population. Perpetrators are still rarely brought to justice and incidents such as those described above are continuing. Therefore the enhanced security measures and initiatives by UNMIK and KFOR^{xii} have not been able to significantly alter that perception.

7. The strong feeling of insecurity and the concrete security incidents have had a major impact on voluntary repatriation movements. In 2004, return movements of ethnic minorities decreased by almost 50 per cent as compared to 2003.^{xiii} Most of the (few) return movements took place to mono-ethnic rural areas or areas where returnees belong to the majority population. The constraints in relation to return perspectives are also illustrated by the situation of the ethnic minority communities that were forcibly displaced during the inter-ethnic

violence in March 2004: one year later, more than half of the IDPs have still not returned to their home communities on security grounds, although their reconstructed houses offer better living conditions than the provisional IDP shelters.

B. Freedom of Movement

8. Freedom of movement, particularly of Kosovo Serbs and Albanians in a minority position, is extremely limited^{xiv} due to insecurity – real and perceived, as described above.

9. Furthermore, while some ethnic minority communities travel on specially-provided transport, or with military escort, usually from one minority area to another, other communities have virtually no access to public transport and thus suffer from limited opportunities for a normal life and sustainable livelihoods.

C. Access to Basic Services and Employment

10. Ethnic minorities continue to face serious obstacles in accessing essential services in the area of health, education, justice and public administration.^{xv} This is first of all a direct result of the above illustrated limitations to freedom of movement. Second, ethnic minorities continue to suffer from discriminatory behavior of public servants. And, third, the public services sector continues to present serious structural problems that negatively impact on the availability of services. For instance, while numerous donors have engaged in the construction or rehabilitation of infrastructure in the area of health and education, the massive population shift from rural to urban areas over the past years has seriously increased demand on already stretched urban resources. In contrast, in rural areas, the decline in population has seen infrastructure close due to decreased demand, resulting in reduced access for those who remain.^{xvi}

11. A particular case in point is the mental health sector which remains very inadequate and unable to cope with levels of demand^{xvii}. Despite continued efforts by the Ministry of Health, NGOs and donor support, large numbers of socially dependent and chronically mentally ill people are unable to receive adequate treatment in Kosovo^{xviii}

12. The problems with freedom of movement have also impacted on the ability of minorities to engage in income generating activities. Apart from an unemployment rate of over 50 percent, access to work places is difficult and risky for minorities, while many owners and/or users of agricultural land are prevented from working on it.^{xix} These constraints significantly prevent many families from meeting basic subsistence needs.

D. Summary

13. Since the inter-ethnic violence in March 2004, the overall security situation has improved if measured by the declining trend in serious crimes against members of minority communities but the situation remains very complex and certain ethnic minorities are particularly vulnerable to physical assaults, harassment and intimidation, and property related crimes. Security concerns – real and perceived – have seriously limited their freedom of movement and thus their access to essential services and employment opportunities. In the current volatile context, a serious ethnically motivated crime against an ethnic community may spark, like in March 2004, a downward spiral towards inter-ethnic violence and civil unrest and lead to other serious ethnically motivated crimes. Kosovo Serbs, Roma, as well as Albanians in a minority situation would be the communities most likely to be affected. In addition Ashkaelia and Egyptians as well as Bosniak and Goranis may be targeted, even if on a more individual basis.

III. Policy Recommendations and Conclusions

1. Ethnic Minorities at Risk

14. Against the described developments and constraints for ethnic minorities UNHCR is concerned in particular for Kosovo Serb and Roma communities as well as for ethnic Albanians in a minority situation. Therefore, the Office maintains and reiterates its position that members of these groups should continue to benefit from international protection in countries of asylum under the 1951 Convention or complementary forms of protection depending on the circumstances of claims. For these groups and individuals return should only take place on a strictly voluntary basis in safety and dignity in a co-ordinated and gradual manner. Such return to be sustainable needs to be supported by re-integration assistance.

15. With regard to Ashkaelia, Egyptian as well as Bosniak and Gorani communities these groups appear to be better tolerated in spite of a single but very serious incident against the Ashkaelian community in Vushtrri/Vucitrn during the March 2004 attacks. In light of that incident, the August 2004 advice from UNHCR included the Ashkaelia and Egyptian communities among those with a continuing general need for international protection. However, in light of the developments since then, UNHCR's position is currently that these groups may have individual valid claims for continued international protection which would need to be assessed in a comprehensive procedure.

2. Other Groups at Risk.

16. In the current complex situation of Kosovo, others groups not detailed above may have a well-founded fear of being persecuted for Convention related reasons. Under these categories may thus fall Kosovo Albanians belonging to the majority population and members of all ethnic minority groups, including those that UNHCR has not mentioned under the above "ethnic minorities at risk". Examples for these categories may include but are not limited to the following:

- Persons in ethnically mixed marriages and persons of mixed ethnicity;
- Persons perceived to have been associated with the Serbian regime after 1990;^{xx} and
- Victims of trafficking.^{xxi}

17. Furthermore asylum-seekers from Kosovo who do not qualify for Convention refugee status may still be protected against return if *non-refoulement* obligations under international or regional human rights law apply. This is the case for example, if their return to Kosovo exposes them to a real risk of torture

or inhuman and degrading treatment and therefore the non-refoulement provision of art 3 CAT or obligations under Art. 3 ECHR do apply.

3. Humanitarian Categories

18. Individuals in a particularly vulnerable situation may have special needs that should be taken into account in the context of return and particularly bearing in mind the inadequate standards of health care and social welfare institutions. The following is a non-exhaustive list of persons falling under this category:

- Chronically or otherwise severely-ill persons whose condition requires specialized medical intervention of a type not yet available in Kosovo;
- Persons with severe and chronic mental illness (including post-traumatic stress disorders) whose condition requires specialized medical intervention of a type not yet available or rarely available in Kosovo;
- Severely handicapped persons (including their caregivers) whose well-being depends on a specialized support system not yet available in Kosovo;
- Unaccompanied elderly persons who have no relatives or any other form of community support in Kosovo; and
- Separated children without relatives or caregivers in Kosovo, and for whom it is found not to be in the best interest to return to Kosovo.

19. In addition, the return of separated children for whom relatives and caregivers have been identified should only take place after appropriate advance notification and arrangements have been made by the repatriating State so that there is no gap in the care and protection provided to the child.

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ⁱ Article 11,(k) and Annex 2, Article 7 of the Security Council Resolution 1244/99 of 10 June 1999

ⁱⁱ UNHCR's last position paper was issued on 13 August 2004 and concluded in particular that Serbs, Roma, Ashkaelia and Egyptians as well as Albanians in an ethnic minority situation should continue to benefit from international protection.

ⁱⁱⁱ See Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo, S/2004/907 (17 November 2004) and Human Rights Watch, "Country Summary: Serbia and Montenegro" (January 2005)

^{iv} e.g. on 28 March 2005, an elderly Kosovo Serb couple from Cerkulez village in Istog/Istok municipality was severely beaten in area where Kosovo Serbs comprise a small minority (assailants have not been founded as yet).

^v e.g. Albanian pupils belonging to the minority population in the municipality of Shterpca have been prevented from attending local schools following harassment by the Serb majority population; see Council for the Defense of Human Rights and Freedoms, "2004 Annual Report on the Situation of the Minority Communities in Kosovo (February 2005)"

^{vi} e.g. looting of reconstructed but still unoccupied houses of those displaced in March 2004 has been prevalent in Obiliq/c, Fushe Kosovo/Kosovo Polje, Vushtrri/Vucitrn and Svinjare/Frasher; see Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo, S/2005/88 (15 February 2005), Annex 1 (Technical Assessment of Progress in Implementation of the Standards for Kosovo by the Special Representative of the Secretary General) paragraph 35

^{vii} see Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo, S/2005/88 (15 February 2005), Annex 1 (Technical Assessment of Progress in Implementation of the Standards for Kosovo by the Special Representative of the Secretary General) paragraph 3

^{viii} e.g. on 17 February 2005 the local Kosovo Serbian community north of Viti/Vitina lodged a complaint regarding the persistent vandalism at several local Kosovo Serbian Orthodox cemeteries in the area

^{ix} Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo, S/2005/88 (15 February 2005), paragraph 11

^x International Crisis Group (ICG), “Kosovo: Towards Final Status”, Crisis Group Report No161 (24 January 2005), which illustrates the political, economic and social reasons behind the potential for renewed violence

^{xi} UNDP/USAID, “Early Warning Report Kosovo (report #7)”, May-August 2004, paragraph 43

^{xii} SRSG address to the OSCE Permanent Council on 10 February 2005

^{xiii} Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo, S/2005/88 (15 February 2005), paragraph 12; it is noteworthy that the return of Kosovo Serbs has dropped by almost 50 percent compared to 2003

^{xiv} Report of the Secretary General on the United Nations Interim Administration Mission in Kosovo, S/2005/88 (15 February 2005), paragraph 10

^{xv} See for example European Commission for Democracy through Law (Venice Commission), “Opinion on Human Rights in Kosovo” (11 October 2004), CDL-AD (2004)033, paragraph 34

^{xvi} UNICEF, “Situation Analysis of Children and Women in Kosovo” (February 2004)

^{xvii} According to the Medical Foundation for the care of victims of torture, “Mental Health Services in Kosovo” (February 2004), prevailing problems compromising Kosovo’s ability to effectively treat mental disorders including Post-Traumatic Stress Disorder (PTSD) include: 1. a general lack of mental health professionals in Kosovo; 2. insufficient financial resources; 3. too few professionals who can assess people with special needs; and 4. inaccessibility of services for those living in rural areas. In particular, it should be noted that mental health services for children have not yet been established

^{xviii} UNMIK (Office of Returns and Communities), Note on the “Availability of Adequate Medical Treatment For Post-Traumatic Stress Disorder (PTSD) in Kosovo” (January 2005); Medical Foundation for the care of victims of torture, “Mental Health Services in Kosovo” (February 2004)

^{xix} See for example European Commission for Democracy through Law (Venice Commission), “Opinion on Human Rights in Kosovo” (11 October 2004), CDL-AD (2004)033, paragraph 34

^{xx} The inter-ethnic violence in March 2004 highlighted the persistent and strong resistance to in Kosovo to persons closely associated with the Kosovo Serbs or with the Serbian structures, whether past or present.

^{xxi} See for example UNICEF, “Trafficking in Children in Kosovo” (June 2004) and Human Rights Watch, “Country Summary: Serbia and Montenegro” (January 2005)

APPENDIX III

REPORT

Field visit to Mitrovica, Kosovo (Serbia and Montenegro) 22-23 August 2005

The purpose of the visit was principally to examine the situation in Mitrovicë/a and see what measures were being taken to avoid further poisoning .

The visit was carried out jointly by Mr Henry Scicluna, Council of Europe Coordinator for Roma and Travellers activities assisted by by Mr. Rudko Kawczynski, Council of Europe expert and. Mr. Nicolae Gheorghe, OSCE Adviser on Roma and Sinti Issues. . Mr. Zurab Katchkatchishvili, Council of Europe Representative in Kosovo (Serbia and Montenegro), participated actively in all the meetings and provided considerable help and advice.

Background

The Roma settlement (mahala) in the south of Mitrovicë/a consisted of 750 dwellings, housing about 8,000 Roma. When this settlement was attacked and eventually destroyed by Albanian extremists in 1999, many of them moved to the northern part of Mitrovicë/a. The four camps – shanty towns – in this part of the town house about 2,000 persons, 30 per cent of whom come from other areas in Kosovo (Serbia and Montenegro).

Lead poisoning

It has been confirmed since the year 2000 that the site occupied by the Roma in northern Mitrovicë/a is heavily contaminated by lead, due to the proximity of a melting factory which has now been closed. The lead content in the blood of the inhabitants is exorbitantly high and one child has died as a result. Children have been sent to Belgrade for treatment and, following an international uproar, the United Nations Interim Administration Mission in Kosovo (UNMIK) has now decided to act.

To put the matter in its right perspective it must be noted that the whole area, including the town, is heavily polluted, although not to the extent of the site which the Roma occupy. It should however be mentioned that the Roma inhabitants have been illegally melting lead in their dwellings, a fact which has probably made things worse.

All of our interlocutors said that the whole town should normally be evacuated immediately. This makes it more incomprehensible as to why the UNMIK did nothing until the international uproar and even now is taking its time in solving the issue.

The solutions being proposed

The UNMIK has now decided to move the population in these camps to a site which is only a few metres away and which is presently occupied by the French forces. The site is better because it is dust-free and has proper sanitation but it is still in the contaminated area.

The UNMIK maintains that they have tried to put them in a settlement in the north of Kosovo but have given up the idea for security reasons..

The UNMIK would like to evacuate the camp before winter sets in.

Simultaneously, the UNMIK is building nine small apartment buildings, each housing 12 families. This would be adequate for housing all the families in the four camps. 107 families have expressed an interest in these apartments. The area is next to the original mahala and belongs to the municipality.

Though this will eventually solve the problem, the question remains that these families, children and pregnant women in particular, will continue to be seriously contaminated until these buildings are constructed. Work has not yet started.

Meanwhile, weekly inter-agency meetings are held on the lead contamination issue. The UNHCR, WHO and OSCE participate. We were invited to attend the meeting on 22nd August in the evening. It was mentioned during the meeting that a medical team was now available in the camps and health education was being given. .

The views of the Roma

We visited one of the four camps, Cesmin Lug, which is a shanty town without any sanitation, and had a meeting with the camp leaders. The meeting, which lasted several hours, was chaotic and the leaders were in a state of great excitement.

The reasons for this are various.

The Roma had just held a remembrance day for the destruction of their mahala and the UNMIK decided to blow up the remaining shells in the mahala during the same period. The Roma felt that they were reliving their original nightmare.

Though the Roma leaders are kept informed of developments and several representatives of the various organisations visit them frequently, there is a lack of genuine dialogue in which they are able to participate. In fact it is quite significant that the Roma are not represented in either the Inter-Agency Meeting on Lead Contamination or in the Steering Committee on the return to the Roma Mahala (see below).

In spite of the chaos, it was possible to find out what the Roma inhabitants actually want.

It was obvious that the Roma are deeply attached to their original mahala and want to go back to it. They are however very frightened of returning to an area which is now inhabited by Albanians. Everybody agrees that their fears are justified. In fact, the harassment of certain ethnic groups is a daily occurrence and eventually these groups are chased out of town. They want compensation for being victims and want to leave their present settlement.

With regard to this last wish, a misunderstanding has however arisen which is making it even more difficult for the Roma to take a decision.

Due to the lack of proper dialogue, as mentioned above, the Roma are confusing two issues which are separate but which the UNMIK has presented as one.

The first issue concerns the urgent evacuation of the present camps, which will eventually, but belatedly, be solved as previously mentioned. The second issue is the reconstruction of the Roma mahala which is a long term process and for which at the moment no funds are available.

The Roma who actually own land in the mahala are worried that if they move to the apartment buildings, they will lose their rights to the property which they originally owned in the mahala. The UNMIK has confirmed to us that this is not the case since those who own property in the mahala will be able to move to their house/flat once the mahala is rebuilt.

The UNMIK maintains that the leaders of the camps are being manipulated by Roma leaders in the so-called diaspora - in Germany, Switzerland and other countries – who are encouraging the Roma not to leave their present settlement. The UNMIK claims that if the Roma refuse to settle in the reconstructed mahala, reconstruction will be hampered and the Roma in the diaspora will remain in the host country due to the lack of housing in Kosovo (Serbia and Montenegro).

Most of all, the Roma living in these camps feel safe as they are amongst Serbians and have freedom of movement. Moreover, they receive pensions and social benefits from the Serbian government. If they move south they will lose their freedom and all of their benefits.

Rebuilding the Roma mahala

The UNMIK insists that the Roma should go back to the original mahala – now in Albanian territory – to prove that the violence did not have the desired effect. . The Roma who wish to go back to the mahala, irrespective of fear, should be free to do so and recover their property; but it is unacceptable that they should be forced to resettle in a hostile environment.

A steering group on the reconstruction of the mahala meets twice a week. We attended the meeting on 22nd August . There were two main conclusions:

- The Roma will be employed as unskilled workers on the construction site
- There was enough money to clear the rubble on the site and to design the settlement, but not to start construction. A donors’ conference was needed.

The UNMIK has considered the possibility that, when rebuilt, no Roma would want to live in the mahala. It is in fact not unlikely that many would prefer to sell it and move elsewhere.

The municipality had originally planned to turn the area into a big park but the UNMIK has insisted that the mahala should be rebuilt and has convinced the municipality to change its plans.

In any case, if funds are not rapidly available and the UNMIK moves out before the mahala is rebuilt, there is no doubt that the Kosovan authorities will never proceed with the project.

The return of “refugees” from Germany and other countries

The UNHCR representatives confirmed that they will not change their Position Paper concerning the return of “refugees” from outside Kosovo (Serbia and Montenegro).

All of the UNMIK officials without exception maintain that the massive return of refugees, be they Roma, Ashkali or Egyptians, would prove disastrous.

The Ombudsman, Mr. Marek Antoni Nowicki, was adamant on this point .

In fact no Roma are being sent back .

The UNHCR has a list of all returnees and has a record of their final destination.

The status of Kosovo (Serbia and Montenegro)

Mr. Craig Jenness, Senior Minority Rights Advisor to SRSG, informed us that multi-ethnicity is no longer a priority for the future status of Kosovo (Serbia and Montenegro) and that there was no reason to believe that the Roma would be forced to return to Kosovo (Roma and Montenegro) to ensure multi-ethnicity.

Mr. Jenness referred to Mr. Kai Eide's mission and said that talks on status could start in the autumn. He guaranteed that all minorities would be invited to participate in the talks.

* * * *

:We recommend:

- **Immediate** evacuation of the camps located in a polluted area. This is an emergency that cannot wait.
- Insist that there should be no forced return of Roma, Ashkali and Egyptians who, in the light of experience, will almost certainly be harassed if they return to Kosovo (Serbia and Montenegro).
- Ensure that the Roma, Ashkali and Egyptians participate fully in the talks on the status of Kosovo (Serbia and Montenegro).
- In view of the justified fear of the Roma of returning to the original mahala, seriously consider that an area in Kosovo (Serbia and Montenegro) be reserved for all the IDPs and returnees to live in security.
