

# Revised Manual for **Sustainable Return**





# **Revised Manual for Sustainable Return**

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# Acronyms

**BoD**

Board of Directors

**CEO**

Chief Executive Officer

**CIC**

Community Information Center

**CIMIC**

KFOR Civil Military Cooperation

**CIVPOL**

UNMIK Civilian Police

**COCG**

Communities' Outreach and Communication Group

**CRM**

Central Review Mechanism

**CP**

Concept Paper

**DMAp**

Deputy Municipal Assembly President

**DRC**

Danish Refugee Council

**ECHR**

European Convention on Human Rights and Fundamental Freedoms

**ESI**

European Stability Initiative

**EPAP**

European Partnership Action Plan

**GAR**

Government Assistance to Return

**GIV**

Go and Inform Visits

**GSV**

Go and See Visits

**HPCC**

Housing & Property Claims Commission

**HPD**

Housing and Property Directorate

**IDP**

Internally Displaced Persons

**KFOR**

Kosovo Force

**KCB**

Kosovo Consolidated Budget

**KOSIP**

Kosovo Source Information Project

**KPA**

Kosovo Property Agency

**KPC**

Kosovo Protection Corps

**KPS**

Kosovo Police Service

**KTA**

Kosovo Trust Agency

**LCO**

UNMIK Local Community Office

**LCPC**

Local Crime Prevention Council

**MAP**

Municipal Assembly President

**MCO**

Municipal Community Officer

**MCR**

Ministry of Communities and Returns

**MFE**

Ministry of Finance and Economy

**MLGA**

Ministry of Local Government Administration

**MLSW**

Ministry of Labor and Social Welfare

**MoU**

Memorandum of Understanding

**MR**

Municipal Representative

**MRO**

Municipal Returns Officer

**MRS**

Municipal Return Strategies

**MWG**

Municipal Working Group

**NATO**

North Atlantic Treaty Organization

**NGO**

Non Governmental Organization

**NRCG**

NGO Return Coordination Group

**OCRM**

Office of Communities, Return and Minority Affairs

**OSCE**

Organization for Security and Co-operation in Europe

**OSRSG**

Office of the Special Representative of the Secretary-General

**OPM**

Office of the Prime Minister

**OHCHR**

Office of High Commissioner for Human Rights

**PDSRSG**

Principal Deputy Special Representative  
of the Secretary-General

**PISG**

Provisional Institutions of Self-Government

**RAE**

Roma, Ashkali and Egyptian communities

**RCG**

Returns Coordination Group

**RCRU**

Regional Communities and Returns Unit

**RR**

Regional Representative

**RRRF**

Rapid Response Returns Facility

**RWG**

Regional Working Group

**SCG**

Serbia & Montenegro

**SPARK**

Sustainable Partnership for  
Assistance to Minority Returns to Kosovo

**SRSG**

Special Representative of the Secretary-General

**TAB**

Technical Advisory Board

**TFR**

Task Force on Returns

**TPA**

Tripartite Agreement

**UNDP**

United Nations Development Program

**UNHCR**

United Nations High Commissioner for Refugees

**UNMIK**

United Nations Interim  
Administration Mission in Kosovo

**UNSCR**

United Nations Security Council Resolution

**WG**

Working Group

## Returns Environment

Seven years have elapsed since the adoption of UNSCR 1244, calling for "establishing a secure environment in which refugees and displaced persons can return home in safety". Unfortunately, returns are lower than expected, and many people are still living away from their home.

The reasons are many: a developing economy with high unemployment still dominates Kosovo, although overall security and freedom of movement has improved there are still strong perceptions to the contrary, surveys conclude there is a lack of confidence by the public in the rule of law and the enforcement of property rights, and mistrust continues to permeate inter-ethnic relations. In addition, many IDPs have chosen integration in their place of displacement and are unlikely to return to their place of origin,

The Manual for Sustainable Return, drafted in 2003, took into account many of these concerns. Since that time however the Provisional Institutions for Self-Government were established, the process to determine the final status of Kosovo has begun, the updated returns policies have been promulgated by PISG, and

the Protocol of Cooperation on Voluntary and Sustainable Return was signed between PISG, Government of Serbia and UNMIK on 6 June 2006, signifying the need for updating return the Manual<sup>1</sup>.

Every displaced person has the right to make his/her own free decision as to where to return. Displaced persons have the fundamental human right under international law and Constitutional Framework of Kosovo to return to their homes of origin. This is always the preferred durable solution for displaced persons. It must however be recognized that some displaced people do not want to return to their homes of origin and instead, they want to integrate into the communities where some have been displaced to and others want to move to another part of Kosovo.

In other words, in Kosovo, as elsewhere in the world, it is for the individual displaced persons to make a free and informed choice about the return options available to them. Such a free choice must be based on the principle that persons are free to choose their own future, and this requires that all conditions are in place for the choice to be truly voluntary and free.





Ensuring restoration of property rights is a pre-requisite to a successful return and integration of the displaced. The uncertainty of property rights in private agricultural and commercial property has presented serious difficulties in building the confidence of the displaced, negatively affecting the economy and returns. However, in March 2006, a regulation was promulgated providing for a comprehensive framework to resolve complex property rights matters in relation to private immovable property, including agricultural and commercial property. The newly established Kosovo Property Agency has begun a claim filing process with regard to commercial and agricultural property. It is expected that up to 11,000 claims may be lodged with this new body. In order to process these claims, displaced persons should be informed on their rights, legal assistance/advice should be provided, free access to courts must be ensured and the judiciary must be built up and trained to deal with this caseload in a timely manner. In addition, more than 29,000 residential property claims have final decisions that must be enforced so the lawful residents can safely and freely reoccupy their homes.

Another factor inhibiting returns is the incomplete reconstruction after the March

2004 events: residential property that has not been properly reconstructed more than two years later; the reconstruction and/or compensation of commercial property has not yet begun; the payment of start-up assistance, as well as compensation for damaged secondary buildings is far from being complete.

The fact that the first Serb return to a town, Klinë/Klina municipality, took place only in March 2005 illustrates the obstacles to urban return but also signals an opening. Urban returns are underway in eleven Municipalities and planned in two more. Successful implementation of the return of several Kosovo Serb families to urban Klinë/a has influenced Lipjan/Lipljan to start developing an urban return project. However, there is an obvious gap in assisting urban and particularly middle class, self-employed returnees, which needs to be addressed. Visible support for returns, and outreach to the displaced and receiving communities continues by all political leaders. Prime Minister Ceku has formed a new Confidence Building Task Force to advise him on strategy towards Kosovo communities. However, much remains to be done to translate such measures into the assumption of responsibilities and genuine acceptance of minority returns at the municipal and grassroots levels.



ments: ensuring safety of returnees; returning property to the displaced and rebuilding their houses; and creating an environment that sustains returns.

The Protocol, while acknowledging that return of IDPs to their place of origin remains the preferred option, recognizes the IDPs right to freely choose their place of residence. It also paves the way for direct dialogue among municipalities (hosting and receiving) and ensures that returnees will enjoy full rights, guaran-

Equally important is the willingness of minorities to participate in the PISG governmental structures and policies. While Roma, Ashkali, Egyptians and Bosniaks have come forward to join the new Kosovo administration, Kosovo Serb participation has been sporadic at best. Kosovo Serbs have little confidence in the current Kosovo administration to protect their rights.

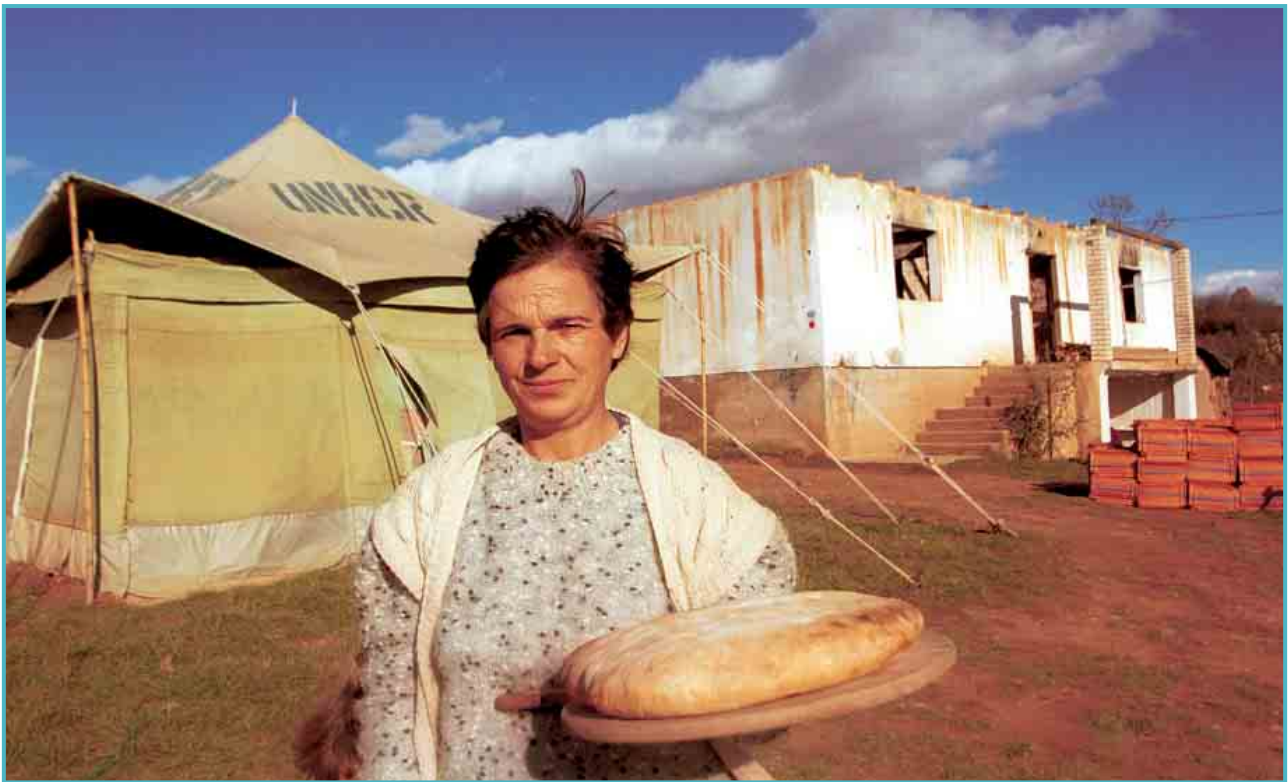
The signing of Protocol of Cooperation on Voluntary and Sustainable Return between PISG, Government of Serbia and UNMIK on 6 June 2006 however reaffirmed the commitment of Pristina and Belgrade to intensify the process of return. The Protocol seeks to improve the conditions for return and enhance capacity for implementation of the return process through provisions that range from providing access to basic services for the returnees to promoting integration of the Internally Displaced Persons (IDPs). The Protocol acknowledges that successful return of IDPs is based on three ele-

mented by PISG.

Substantial further improvements are necessary to enable return of displaced persons, irrespective of their place of origin, place of displacement and their ethnicity. The prospects for returns vary considerably according to region, even within each region, and among different ethnic groups. In some locations IDPs/refugees with a strong desire to return did do so through establishing contacts with the Municipalities and receiving communities. In other locations, such re-establishment of dialogue and obtaining support of receiving communities requires greater efforts and time.

While some Roma, Ashkali and Egyptian (RAE) populations have experienced advances in relations with the majority population, security remains a major concern, especially for Roma who are often grouped by Kosovo Albanians with Kosovo Serbs. In some cases though, opposition to return is motivated by material interests, such as the





occupation of houses or land usurpation.

Opposition towards returns of Kosovo Serbs is particularly widespread and deep-seated, and is expressed in a variety of ways, ranging from demonstrations of outright hostility towards attempts to re-establish inter-ethnic relations, to simple reluctance and foot dragging.

The return of displaced persons is not a simple task and should not be treated as a number game or logistic exercise. Return concerns not only the issue of transporting the people to their homes and providing accommodation. The objective of the returns process is to fulfill all the citizenship rights and needs of those who seek to rebuild their lives in Kosovo. Families need more than just a roof over their heads. They need a way to earn their livelihood. They need access to the education for

their children, as well as access to health care and other public services. They need more than just a chance to return. They need equal opportunities to stay.

This revised manual seeks to reaffirm international standards and best practices as well as incorporate the main objectives of the Protocol of Cooperation on Voluntary and Sustainable Return and updated Returns Policies promulgated by the PISG on 24 May 2006. The updated policies attempt to simplify and streamline the steps for return and the delivery of social services for returnees, increase IDPs/refugees access to assistance for returning to Kosovo, improve protection mechanisms for minority returnees to ensure non-discrimination, and incorporate return needs and concerns in municipal and central development and budget planning.

## Guiding Principles

UNMIK has articulated its policy towards returns in a concept paper on “the Right to Sustainable Returns” dated 3 May 2002. That policy has now been updated by the PISG, which have promulgated the revised policies on 24 May 2006. Below is a summary of the key principles that continue to guide the returns process in Kosovo.

### Rights-based

A rights-based approach to returns, which allows free and informed decisions for all displaced populations of Kosovo, remains the best approach to ensuring voluntary and sustainable returns. Every individual displaced person has a right to make a free and informed choice about the return options available. This approach empowers the most affected people to take decisions best suited to them and de-politicises the returns issue. This right applies to all ethnic communities and all places of displacement, be it within Kosovo, within Serbia and Montenegro, or in other countries.

### Return to place of origin

The primary focus of the return process is to reverse the effect of the conflict-related population movements and to end the situation of displacement while duly respecting the right of the internally displaced to return to their place of origin as well as their right to freely choose their place of residence.

All efforts therefore must be made to remove existing obstacles with regard to the return to the places of origin and to assist IDPs to repossess their real estate and personal property. The internally displaced will be enabled to settle or locally integrate in freely chosen alternative places, if such obstacles to return and reintegration can not be

removed through feasible and reasonable efforts, and therefore the safe, dignified and sustainable return and reintegration is not feasible.

In pursuing such alternative solutions to return, it will be ensured that the decision by internally displaced persons, who avail themselves of such an alternative to return are taken truly voluntarily, individually, without any pressure or undue incentives and upon accessing the objective information on most appropriate durable solution.

### Sustainable

Ensuring social and economic sustainability of returns is crucial. IDPs/refugees’ wish to return and physical ability to do so is achieved only if they are able to live peacefully and participate actively in their community. Four basic conditions are required to ensure sustainability of the returns: (1) security and freedom of movement, (2) access to public services (public utilities, social services, education and health care), (3) access to shelter (i.e. through effective property repossession or housing reconstruction assistance where appropriate) and (4) economic viability through fair and equal access to employment opportunities.

### Bottom-up and IDP-driven

Returns needs are identified and supported based on an expression of interest by the displaced. This approach is

both principled and practical. It reflects a rights-based approach in which individuals are able to be involved in the decisions that affect their future, and to have the objective information necessary to make real choices. Most importantly, returns plans without a strong commitment from the IDPs will not



materialise. It also reflects a pragmatic calculation that processes involving local communities, including locally based IDPs, are most likely to be sustainable. The reverse is equally true: a top-down approach to returns in the Kosovo context is likely to put political aims before individual rights and is also, for many reasons, inherently unstable.

### **Gender and age approach**

Women and men experience both conflict and post-conflict situations differently because of stringent culturally determined gender and age roles. As this differential background determines gaps in the access to and enjoyment of opportunities and resources, it needs to be recognised and incorporated into all returns and reintegration processes from an equal rights angle, as requested by international instruments (UN Security Council Resolution 1325 on Women Peace and Security, Beijing Declaration and Platform for Action).

Sustainability of returns is only possible when a gender and age perspective (men and women of all ages and backgrounds) that incorporates fundamental approaches to physical security, human security, economic and social welfare are included and maintained at all levels of the development, implementation and evaluation of policies, strategies and action plans. Refugee, returnee and IDP women must be afforded the opportunity to articulate their independent and informed opinions on the ensuing programmes around returns, resettlement, reintegration and inter-ethnic dialogue, which can therefore work to mitigate the vulnerabilities and risks faced during displacement and eventual return, and,

above all, set a sustainable basis for equal opportunities in the development framework.

### **Engaging the entire community**

Community based approach is central to enjoyment of the rights of displaced persons since it recognizes their capacities and resources. Inter-community dialogue and community activities are key to sustainable returns. Successful returns projects include specific activities aimed at promoting inter-ethnic dialogue and encouraging tolerance and understanding. It is important to note that such initiatives take time to develop and implement, but that the effort at the early stages in the returns process can forestall difficulties later on. Returns projects that provide some level of benefit for the communities as a whole are more likely to succeed.

### **Participation of displaced and IDP Associations<sup>2</sup>**

Attainment of sustainable durable solutions is a grass-roots, bottom-up process that requires equal access and participation of displaced men and women during the design, implementation, monitoring and evaluation of all stages of projects and activities. Displaced men and women or their legitimate representatives should be able to fully engage with all relevant stakeholders in municipal, central and high-level return mechanisms. Through full engagement in and commitment to the entire returns process, displaced persons will take an active role in developing strategies for addressing their needs and protection of their rights. This will also ensure that displaced persons' take responsibility for their roles and actions.

# Displacement

## Legal Framework

Under international human rights instruments, refugees and internally displaced persons have the fundamental human right to return to their homes, irrespective of their ethnicity, in either a spontaneous or an organised and assisted manner. This is in conformity with United Nations Security Council Resolution 1244 (1999), the Constitutional Framework and international standards for implementation of human rights. These standards form the basis for the Government's framework for minority rights protection and the returns policy for Kosovo.

## Definitions

Internally displaced persons (IDPs) are persons or groups of persons who have been forced or obliged to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border<sup>3</sup>. In Kosovo we refer to those individuals and families living within the boundaries of Serbia and Montenegro as IDPs.

A refugee is "a person who is outside of his/her country of nationality or habitual residence; has a well-founded fear of persecution because of his/her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail himself/herself of the protection of that country, or to return there, for fear of persecution<sup>4</sup>."

## Types of Displacement

IDPs/refugees within and outside Kosovo live in unstable and often unacceptable conditions in locations other than their place of origin. The location of displacement of families and individuals is in large part determined by the families'/individuals' perception of the location's level of security and their ability to sustain a temporary residence due to the pres-

ence of other members of the displaced community that offer support and coping mechanisms (e.g. host families).

Prior to 1999, Kosovo was comprised of both mono-ethnic and mixed villages/towns. Although most of today's IDPs/refugees fled Kosovo in the aftermath of the conflict, a large number of minority community members have remained. Some previously multi-ethnic villages have been abandoned, and many of their inhabitants have moved to neighbouring villages seeking safety in numbers. In many cases persons who lived in cities and larger multi-ethnic towns, such as Prishtinë/Priština, have left to live in mono-ethnic towns where they felt they would find a safer environment. In some cases, these persons have occupied abandoned homes. This may lead to secondary displacement when the original owners wish to return, as they have no place to go. In addition, these persons were often employed in factories or government institutions in the urban areas and may not be able sustain themselves in a more agricultural setting.

The majority of IDPs/refugees live outside Kosovo in neighbouring Serbia, Montenegro and the former Yugoslav Republic of Macedonia, while a smaller number also reside in other European countries. Depending on the absorption capacity of the host community, most IDPs/refugees are living with host families or in collective accommodations. IDPs/refugees' associations have sprung up providing an information and dialogue linkage for agencies engaged in facilitating and managing returns programmes.

Inside Kosovo the situation is not radically different. Host families in urban and rural locations provide accommodation to displaced persons, yet there remain significant numbers of ethnic minority families residing in managed camp facilities (e.g. Serbs in collective centres in Brezovicë/a, Shtërpçë/Štrpce municipality). IDPs/refugees' access to public and social services, freedom of movement and economic livelihood opportunities remain a challenge.

The situation for minorities in both mono-ethnic and multi-ethnic communities in Kosovo, whilst far from satisfactory, has gradually improved over the past three years. However, security and freedom of movement limitations remain substantially problematic in Kosovo influencing access to services and

exercise of rights. In addition, adequate public services and job opportunities have not been sufficiently developed. Members of minority communities continue to be targets of harassment, threats and violence based on their ethnicity, the extent of such pressures does tend to vary within regions.



# The Spectrum of Returns

Three broad categories of returns are often discussed: "organized", "facilitated" and "spontaneous". In fact, these types of returns are different points on the same spectrum, based on the level of forward planning, or facilitation involved. The key is for the operational framework to be sufficiently flexible to provide guidance and respond to every different scenario. The appropriate action is in part determined by where along this spectrum the return sits. The Manual aims to guide the relevant action, with emphasis on the steps and operational structures required by and relating to more organised returns. A comprehensive approach is critical embracing all relevant aspects of a return projects.

Of course, return projects vary from situation to situation. While many projects will follow a more abbreviated process, some may require a much longer term involvement. For example, in some cases, especially with spontaneous or facilitated returns, there is little need for extensive inter-ethnic dialogue, since conditions are already assessed by displaced men and women as conducive for return; the focus would then be more on reintegration support such as reconstruction assistance, income generation, and exercise of other rights. In other cases, in locations not assessed as conducive to sustainable return, extensive facilitated confidence building through dialogue phase might be required.

## Minority returns

Returnees belonging to any ethnic group other than the majority at the place / community of return are considered as minority returns.

Returnees addressed in this Governmental returns policy are defined as persons who have returned either:

- To their original house
- To the house of the family or
- An accommodation near their house and they can access their house location without any security concerns and cannot move in their house because it was destroyed or occupied, or were propertyless.
- Other minority returnees may be either returnees into displacement, or IDPs. Also, majority returnees from within Kosovo or abroad, as well as returnees whose displacement was caused by a natural disaster fall outside of the scope of this Manual.

## Spontaneous Returns

Individuals, families or groups returning with no advance warning and without having received any material assistance prior to return or planned in advance of the movement.

## Facilitated Returns

Upon individual request of the displaced individuals, families or relatively small groups of returnees receive assistance prior to, during and upon return; typically through municipalities and NGOs as part of an already established programme.

## Organised Returns

Planned return movements where comprehensive assistance packages are developed prior to return and factored into project proposals and fund-raising to ensure the full coverage of needs. Typically, the identification, development, implementation, monitoring and evaluation of the sustainability of these return projects are co-ordinated as per the "Manual for Sustainable Return."

# Operational Guidelines

## **Coordination Mechanism**

### **Municipal Working Group**

#### **Role and Functions**

The Municipal Working Group (MWG) is the local coordination and implementation forum for all return related issues, projects and activities. The MWG shall:

- Provide an open forum for different communities to engage in a dialogue on returns issues;
- Act as the main mechanism through which displaced persons (men and women) can access the returns process and request assistance to return;
- Act as the principal local implementation coordination body, with primary responsibility for return project design and activities as well as sustainability of the process;
- Design and facilitate project implementation in full consultation of its members, particularly, the IDPs (men and women) and the receiving community;
- Design in full consultation of its members, particularly, the IDPs (men and women), a Municipal Returns Strategy, which is part of the Municipal Development Strategy;
- Engage in outreach activities, such as Town Hall meetings, to sensitize and inform the public on Municipal efforts in returns, community and development issues.

#### **Chairmanship and Secretariat**

The Municipal Working Group (MWG) is chaired by the Municipal Assembly President (MAP) who is responsible for ensuring the meetings are attended by representatives of the Municipal Board of Directors and Municipal Community Offices (MCOs).

The MAP is responsible for calling the MWG meetings and ensuring all relevant actors are notified in all official languages on time and invited for the meetings.

The Chief Executive Officer (CEO) and Municipal Returns Officers (MRO) shall assist the MAP with the secretarial functions of the MWG.

The MAP, through his/her secretariat, shall notify and invite all relevant actors and ensure that the agenda, minutes and all relevant documents are issued in a timely manner to all participants in all official languages.

MWG meets monthly, during working hours, in the Municipal Building. However, if requested by Task Force/ Project Team, the chair shall call an extraordinary MWG meeting.

#### **Composition**

The MWG is composed of the following core actors: 1) local municipal authorities; 2) KPS; 3) IDP representatives; 4) IDP participants (men and women)<sup>5</sup>; 5) UNMIK; 6) UNHCR; 7) Other UN Agencies; 8) OSCE; 9) relevant NGOs; and 10) members of civil society groups.

The Chairman in consultation with members of the MWG may invite the following actors: 1) Ministry of Communities and Returns (MCR); 2) Ministry of Local Government Administration (MLGA) and other Ministries; 3) or any other office it deems will facilitate its work.

#### **Decision-making**

Decisions within the MWG will preferably be taken by consensus among all participants of the Group. If consensus is not reached, the Chair of the MWG, has the power to adopt a decision for the Group, consistent with applicable policies, that takes into account the consultations and opinions received from the MWG participants.

All decisions shall be taken after full consultation of IDP representatives / Association / Community, including IDPs (men and women).

If a participant of the MWG disagrees with the decision taken, it will be registered in detail in the minutes of the MWG meeting.

Concept Papers (CPs) endorsed by Municipal Working Groups (MWG) will be submitted in all official languages, by the Municipality (MWG) with a cover letter stating the endorsement of MWG to the CRM secretariat. The CRM Secretariat shall acknowledge the receipt of the CPs to the municipality with-

in three (3) working days of receiving the CPs.

The MAP shall ensure that all Municipal organs: 1) Board of Directors; 2) Statutory Committees of the Municipal Assembly and 3) the Municipal Assembly are duly and timely informed of the decisions of the MWG, and ensure follow-up actions and immediate responses are undertaken where necessary.

If issues or matters of concern cannot be solved / addressed at the level of the MWG, the chair shall refer such issues / matters of concerns to the Central Review Mechanism.

### **Operational planning**

- The MWG, through the MAP, can request the creation of a Task Force / Project Team in connection to a specific return project.
- The Task Force / Project Team shall be chaired by the Municipal Returns Officer (MRO) or designated official (by the CEO), and shall also be responsible for the secretarial functions of the Task Force / Project Team.
- The Task Force / Project Team shall report only to the MWG, and meet as proposed by the MRO or designated official, in consultation with all participants.
- Participation in the Task Force / Project Team is reserved to experts only - Municipal legal and technical experts, NGOs, IDP associations, IDP participants (men and women), UNHCR, Kosovo Property Agency (KPA), KPS, and UNMIK.
- The chair shall ensure that the meetings are attended by relevant municipal officials and experts.
- Members of the receiving community and returning community are essential members of the Task Force / Project Team of any specific return project.
- The Task Force / Project Team is responsible for following the implementation of a return project and for providing the implementing partners with all necessary support.



- The Task Force / Project Team shall coordinate with relevant Municipal departments (such as cadastre, civil registration, education, urban planning, health and social welfare, water and sanitation) to assist in the development and implementation of a return project.
- The Task Force / Project Team are not decision-making bodies. If need arises for decision making, the Task Force / Project Team shall request the MAP to call an extraordinary MWG meeting to address a specific issue and take decision.

## Central Review Mechanism

### Role and Functions

The Central Review Mechanism (CRM) shall review all voluntary return projects and other initiatives endorsed by Municipal Working Groups (MWG) in order to ensure consistency with the existing returns policies and overall operational framework.

Noting the strategic position of the CRM, it shall also review Municipal Returns Strategy (MRS) and provide guidance where necessary, including ensuring that the MRS is consistent with Municipal Development Strategies and advise Steering Group on resources allocation.

It shall also act as a donor liaison on returns and reintegration projects and initiatives, and keep the donor community abreast of return initiatives, strategies and developments.

### Chairmanship, Secretariat and Meetings

The CRM shall be chaired by the Ministry of Communities and Returns (MCR). The transfer of responsibility of the chairing of the CRM is in the process of being handed over from the UNMIK Office of Communities, Returns and Minority Affairs (OCRM) to the Ministry of Communities and Returns (MCR).

UNDP shall provide the secretarial functions for so long as needed. The secretariat is obliged to inform all members of upcoming meetings and/or decisions in a timely manner. The MCR will progressively take over the secretarial functions from UNDP. The latter will facilitate the smooth and structural hand-over.

Notes of the meetings will be prepared by the secretariat within seven (7) working days of the meeting and translated in all official languages.

An agenda will be issued in a timely manner before every meeting, notes of the previous meeting are to be adopted at the outset.

A quorum need to convene the CRM must include the minimum presence of MCR, MLGA, UNHCR and UNDP (as long as it holds the secretariat functions). In absence of nominated members, their representatives may attend and participate.

The CRM may propose amendment(s) or

revision(s) of its Terms of Reference by a majority of all members, which shall be forwarded to the Steering Group for approval.

### Composition

The CRM shall comprise of the following members with voting powers, to be officially nominated by the respective institution or organization:

- Ministry of Communities and Returns (MCR),
- Office of the Prime Minister (OPM),
- Ministry of Local Government Administration (MLGA)
- UNMIK
- UNHCR
- UNDP

Other members, with observer status, shall include IDP Associations (men and women), the donor community and civil society in Kosovo.

### Decision-making

The CRM will focus on quality review and compliance of Concept Papers with returns policies and Kosovo wide return aspects, as set forth in the updated Manual for Sustainable Return and subsequent policy revisions and overall return framework.

If consistent with the Manual for Sustainable Returns and overall framework on returns, the CRM shall decide by simple majority vote, which shall be formalized by the signature of the members present.

### Operational planning

The chair of the CRM will be responsible for deciding the date for the upcoming CRM meeting. The CRM secretariat will be informed by the chair at least four working days prior to the meeting.

The development of returns projects and initiatives is primarily done at the municipal level where voluntary returns project and initiatives, including multi-sectoral returns projects shall be prepared and presented, in all official languages to all the MWG members at least five (5) working days prior to the review at the MWG.

Concept Papers (CPs) shall be distributed by the Secretariat to members of the CRM at least

three working days prior to scheduled meeting.

Municipalities and submitting organizations, through MWG, will be informed of the decisions taken by the CRM regarding reviewed projects within ten (10) working days of such a decision by the secretariat.

In case of specific concerns over some aspects of the projects, the MWG as well as the organization submitting the concept paper will be informed of the nature of the concerns and be requested to provide clarifications. In case the Concept Paper is rejected, the CRM secretariat shall inform the MWG as well as the organization submitting the CP about the reasons for rejection and procedures for possible resubmission to CRM.

A rejected CP can be resubmitted twice with the suggested changes. The updated CP has to be endorsed by the MWG for every submission. If CRM establishes for the third time that the CP is not in conformity to the returns policies or sustainability factor is still in question, the CP, in its current character, will not be reviewed further. This provision shall however not preclude the return to this specific location through the development of another CP for this location.

### **Reporting and Evaluation**

The CRM secretariat shall prepare quarterly comprehensive reports on its work and submit to the Steering Group for its consideration.

## **Steering Group**

### **Role and Functions**

- The Steering Group shall be a Policy Guidance body with the role of:
- Reviewing the return process and policy,
- Reviewing and supporting the work of the CRM (and associated functions),
- Acting as the protection mechanism to ensure compliance with applicable policies and overall returns framework,
- Ensuring inter-ministerial coordination.

### **Chairmanship and Secretariat**

The SRSG and Prime Minister (PM) shall co-chair the Steering Group. The Ministry of Communities and Returns shall act as secretariat for the Steering Group and shall be

responsible for arranging meetings of the Steering Group, preparing the agenda, minutes of meetings, and monitoring follow-up activities of the Group.

### **Membership**

Kosovo institutions shall form the core of the Steering Group to include: (1) Ministry of Communities and Returns (MCR), Ministry Local Government Administration (MLGA), Ministry of Public Services (MPS), Ministry of Labour and Social Welfare (MLSW), Ministry of Finance and Economy (MFE), KPS/Police Commissioner and Kosovo Property Agency (KPA). Other line Ministries and Kosovo institutions shall be called upon when required. Other members shall include UNMIK, UNDP, UNHCR, KFOR OSCE and representatives of the displaced communities (representing gender balance and geographical proportionality of displacement).

Consistent with the mandate and coordination role of the Steering Group, all institutions shall be represented at the highest level.

The co-chairs shall in consultation with the members invite any other organization or individual on an ad hoc basis.



## Frequency

The Steering Group shall meet on a quarterly basis, or more frequently as required, at a date to be determined by the co-chairs, in consultation with members.

The Steering Group shall organize its activities to reinforce other processes, such as the Standards Reporting, EPAP and STM, where possible.

## Communities' Outreach and Communication Group (COCG)

### Role and Functions

The main objective of the Communities' Outreach and Communication Group (COCG) is to implement in a coordinated manner the outreach and communication strategy regarding returns related issues, projects and activities with a view to:

- Filling information gaps and increasing understanding of the returns process and the rights of communities.
- Bringing about positive behavioral changes on sustainable returns and respect of minorities' rights.
- Ensuring networking of information providers to IDP's, returnees and minorities
- Coordinating information and outreach activities of the members
- Advising Steering Group on outreach and communication related issues.
- Ensuring that Central Information Management System, to be established and managed by PISG, contains all relevant information in public domain to assist the returnees and minorities.

### Chairmanship and Secretariat

COCG meetings will be organized and chaired by the Ministry of Communities and Returns (MCR). The UNMIK Office of Communities Returns and Minority Affairs (OCRM) is progressively handing over co-chair responsibilities. MCR will act as the secretariat of COCG.

The secretariat shall be responsible for arranging COCG meetings, preparing the agenda and minutes of the meeting in three



languages (English, Albanian, and Serbian) and monitoring follow-up.

### Composition

COCG membership will comprise the different actors involved in returns and communities issues, including the Office of the Prime Minister (OPM), Ministry of Local Government Administration (MLGA), Association of Kosovo Municipalities (AKM), UNMIK, OSCE, Kosovo Property Agency (KPA), UNDP, UNHCR, NRCG (NGO Returns Coordination Group), DRC, UNHCR, IDP Centres in Mitrovicë/Mitrovica, Community Information Centres (CICs), KFOR and KPS.

In addition to the above membership, OHCHR, IDPs associations from Belgrade, IDP Information Centres from SCG, Ministries' representatives, international and local NGOs in Kosovo and Belgrade, and media representatives will be invited as and when required.

### Meeting

The group will meet at least once in a month, or more frequently as required, at a date to be determined by the Chair, in consultation with members.

### Location and logistics

The group will meet in a PISG venue, and translation and interpretation in three languages (English, Albanian, and Serbian) will be made available.

## **Institutional Roles and responsibilities**

### **Provisional Institution of Self Government**

The Provisional Institutions of Self-Government shall be guided in their policy and practice by the need to promote coexistence and support reconciliation between Communities and to create appropriate conditions enabling Communities to preserve, protect and develop their identities. The Institutions also shall promote the preservation of Kosovo's cultural heritage of all Communities without discrimination.

All refugees and displaced persons from Kosovo shall have the right to return to their homes, and to recover their property and personal possessions. The competent institutions and organs in Kosovo shall take all measures necessary to facilitate the safe return of refugees and displaced persons to Kosovo, and shall cooperate fully with all efforts by the United Nations High Commissioner for Refugees and other international and non-governmental organizations concerning the return of refugees and displaced persons.

### **Office of the Prime Minister**

Pursuant to UNSCR 1244 and recalling the development of provisional institutions for democratic governance, including transferring, as these institutions are established, its administrative responsibilities defined in subsequent Regulations<sup>6</sup>.

The Prime Minister shall coordinate and facilitate the work of the Government including:

- Coordinating the planning on the Government's work and the monitoring of the implementation of Government decisions;
- Ensuring the openness and transparency of the work of the Executive Branch through the provision of information and documents to the general public and the media;
- Consulting with community representatives, and develop consultative bodies as needed, to address good governance, human rights, equal opportunity and gender issues;
- Reviewing Executive Branch policies, proce-

dures and practices for consistency with applicable human rights standards, practices of good governance and equal opportunity; including the development and implementation of public information campaigns and other promotional schemes to promote public awareness of international human rights standards, transparency in governance, gender equality, equal opportunity and other principles basic to democratic governance;

- Ensuring the proper functioning of line Ministries and Municipalities, particularly returns, reintegration, community stabilization and development functions.

### **Ministry of Communities and Returns (MCR)**

The Ministry of Communities and Returns (MCR) shall coordinate with Municipalities, Ministries, other local and international institutions to ensure proper and timely implementation of the return operational framework and policies. It shall monitor that the operational framework is responsive to the needs and requirements of IDPs and refugees, in particular women, children and other groups with specific needs. It shall also monitor implementation to ensure rights based and bottom up approach is utilized and that humanitarian needs are met by responsible Municipality and/or Ministry. The MCR will also function as the secretariat of the Central Review Mechanism and Steering Group. The MCR shall fulfill other responsibilities defined by applicable regulations, laws and administrative direction.

### **Responsibilities of MCR**

The Ministry of Communities and Returns shall:

- Provide timely policy guidance and assistance on the returns process, policies and overall framework to municipalities and ministries and promote the establishment of conducive conditions for return and ensure a rights-based approach to return.
- Monitor, in cooperation with MLGA where

necessary, the implementation of the returns process, policies and overall framework to municipalities and ministries to ensure a rights based and bottom up approach in all its aspects,

- Develop effective capacity to assume the secretarial functions of the Central Review Mechanism, Steering Group and other central government coordination initiative on returns and reintegration,
- Provide, in cooperation with MLGA, a platform for Municipal Returns Officers to exchange best practices and enhance organizational learning.

### **Ministry of Local Government Administration (MLGA)**

Consistent with its mandate, the MLGA shall develop policies and implement legislation for effective municipal self- government and shall promote and affirm the right to self-government of local bodies in conformity with the European Charter on Local Self-Government. The MLGA shall ensure that Municipalities develop policies that are consistent with the operational framework and international norms on returns, IDPs, refugees and reintegration. The MLGA shall support the MCR in its coordination to ensure a rights' based and bottom up approach to implementation of the operational framework on returns and reintegration. The MCR shall fulfill other responsibilities defined by applicable regulations, laws and administrative direction.

### **Responsibilities of MLGA**

The Ministry of Local Government Administration shall:

- Ensure that Municipalities have the requisite resources to facilitate the returns and reintegration of all displaced persons, including access and availability of social and public services and monitor equal access to that effect.
- Ensure that Municipalities comply with the Manual for Sustainable Returns and overall return framework, including timely preparation and submission of Municipal Returns Strategies, and its integration to the Municipal Development Plan of Action.

- Ensure the proper functioning of the Municipal Working Group (MWG) and effective implementation of returns project.

- The MLGA shall also support the Ministry of Communities and Returns with its work with the Municipalities and ensure Municipal compliance to return policies and overall framework.

### **Local Municipal Administration**

Pursuant to its responsibilities as stipulated by the Regulation on Self Government in Kosovo (2000/45), All organs and bodies of a municipality shall ensure that inhabitants of the municipality enjoy all rights and freedoms without distinction of any kind, such as race, ethnicity, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and that they have fair and equal employment opportunities in municipality service at all levels. Municipalities shall incorporate in their policies and practices the need to promote coexistence among their inhabitants and to create appropriate conditions enabling all communities to express, preserve and develop their ethnic, cultural, religious and linguistic identities. In the present regulation, the term "communities" means communities of inhabitants belonging to the same ethnic or religious or linguistic group.

### **Responsibilities of the Municipality**

In addition to stated responsibilities in the charring and the work of the Municipal Working Group, the Municipal Assembly President (MAP) shall ensure a conducive environment within the Municipality for all aspects of return and reintegration.

The MAP is responsible for ensuring the Municipal Assembly and its committees are kept abreast of returns and reintegration projects and initiatives.

The Chief Executive Officer (CEO) shall be responsible to ensure access to all social and public services provided by the Municipality and engage with relevant service provider to ensure access and availability of services.

The CEO shall ensure that the Board of Directors are informed and actively engaged

in returns and reintegration projects and initiatives.

The CEO shall also ensure timely preparation of the Municipal Returns Strategy (MRS) in consultation with all stakeholders and ensure that infrastructure social economic development projects associated with multi-sectoral returns becomes an integral part of the Municipal development plan of action.

The CEO is responsible for ensuring that all necessary resources are made available to the Board of Directors, and in particular the Municipal Returns Officers, to strengthen their roles and effectively perform their task(s).

Municipal Returns Officer (MRO) shall be the main focal point within the Municipality for all return-related issues and undertake day-to-day responsibilities in the returns and reintegration process on behalf of the CEO.

### **United Nations Interim Administration Mission in Kosovo (UNMIK)**

Pursuant to United Nations Security Council Resolution 1244, UNMIK, among other broader functions, is mandated to:

- Assure the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo, including encouraging and coordinating international organizations to contribute to economic and social reconstruction as well as to the safe return of refugees and displaced persons.
- Establish a secure environment in which refugees and displaced persons can return home in safety, the international civil presence can operate, a transitional administration can be established, and humanitarian aid can be delivered.
- Maintain civil law and order, including establishing local police forces, ensuring the protection and freedom of movement for the IDPs, returnees and members of minority community of itself, as well as, the protection and promotion of Human Rights.
- Organize and oversee the development of provisional institutions for democratic governance, including transferring, as these institutions are established, its administrative responsibilities while overseeing and supporting the

consolidation of Kosovo's local provisional institutions and other peace-building activities<sup>7</sup>.

### **Operational Context / Policy**

UNMIK has and shall initiate, develop, support and monitor policies and activities that will provide citizens and communities of Kosovo free and equal access to civil, economic and political rights, including the right to return and equal opportunity for all Kosovars. These activities shall be undertaken within the central Standards and EPAP processes as well as through the concerted and effective action of all concerned parties, under the leadership of the PISG.

UNMIK shall be an active participant in all the central level coordination mechanism and shall provide effective support to the PISG, particularly the Ministries of Returns and Community; and Local Government Administration. Other UNMIK support on policy includes:

1. Provide support and policy guidance for the returns processes at all levels, including facilitating the proper functioning of the Central Review Mechanism and Steering Group.
2. Support the CRM and PISG in order to coordinate fundraising efforts and issue timely updates of prioritised funding requirements and contact point for donors to facilitate access to information and returns structure.
3. Facilitate direct links across boundaries to displaced communities and contribute to public information efforts, in conjunction with IDP associations and representatives, UNHCR, UNDP and UN Liaison Office, Belgrade.
4. Ensure IDP/refugee concerns and interests are voiced at all levels of the returns process and coordination mechanisms.
5. Facilitate cross-training and best practices among municipalities and across regions.
6. Provide policy support to the PISG, in particular MCR and MLGA.
7. Participate actively in other community-

related for a, such as Standards and European Partnership Action Plan (EPAP) processes and promote coordination of initiatives.

8. Actively participate in all future arrangement planning.

### Monitoring

UNMIK has and shall monitor and have an oversight of the operational issues in the returns process: to include programme and project implementation; and functioning of the returns and reintegration structures and mechanisms at the local level as well as within Ministries. OSCE will progressively take over the monitoring functions of UNMIK and UNHCR shall continue to perform its supervisory role.

UNMIK will also continue to monitor, advise, liaise and facilitate activities within the ministries, including effective inter-ministerial coordination, with a focus on the good governance and protecting minority rights within the central government institutions. Other UNMIK support for monitoring includes:

1. Monitor proper function of the MWG, in all its aspects.

2. Ensure IDP/refugee concerns and interests are voiced in the Municipality.

3. Play an active role in supporting planning processes, ensuring needs are met upon return and support integration of returnees as with other members of minority communities.

4. Facilitate inter-ethnic dialogue, community integration and confidence building between returning and receiving communities through the participation of local PISG officials, representatives of majority, minority and IDP communities.

5. Facilitate identification of project needs, and development of operational responses resulting in return projects in the municipality.

6. Facilitate the development of the Municipal Returns Strategy (MRS) with the participation of

all stakeholders and ensuring that the MRS is part of the Municipal Development Strategy.

7. Proactive monitoring of returns, reintegration, inter-ethnic dialogue, community stabilization and development projects and programmes.

8. Facilitate identification of project needs, and development of operational responses resulting in return projects in the municipality and ministries, including adequate and timely inter-ministerial coordination.

9. Keep abreast of, and oversee where appropriate, the implementation of all return activities in the municipality and ministries.

10. Monitor adequate and timely functioning of vital protection tools such as Fair Share Financing, and other good governance issues.

11. Keep abreast of, and oversee where appropriate, the implementation of all return activities in the municipality.

12. Monitor and record IDP interest to return and create linkages with field research related to locations of origin (e.g. assessments/activities, Rapid Location Profiles, IDP Mapping, Security Assessments etc.).

13. Provide effective support to the displaced communities, MRO, CEO and MAP to undertake the development and implementation of return projects and initiatives.

14. Actively participate in all future arrangement planning.

### Intervention

UNMIK, through the Directorate of Civil Administration (DCA) and Office of Communities, Returns, and Minority Affairs (OCRM) in their monitoring and policy guidance roles, shall work with the relevant PISG structure to intervene where necessary to ensure effective implementation of returns policy and practices.

Consistent to with the reserved powers of the

SMSG under the Constitutional Framework and powers within UNSCR 1244 (1999), the SMSG retains full authority to ensure that the rights and interests of Communities are fully protected. Notwithstanding the establishment of the PISG, nothing shall diminish the authority of the SMSG to ensure full implementation of UNSCR 1244, including overseeing the Provisional Institutions of Self-Government, its officials and its agencies, and taking appropriate measures whenever their actions are inconsistent with UNSCR 1244. UNMIK shall intervene where necessary to ensure effective implementation and adherence to all returns, reintegration and rights based policies and practices. The competencies of UNMIK highlighted above shall be subsumed by any future arrangements.

### **United Nations High Commissioner for Refugees (UNHCR)**

UNHCR's general mandate is to protect refugees and to find durable solutions to refugee situations<sup>8</sup>. UNHCR is also mandated to work towards the prevention and reduction of statelessness<sup>9</sup>. In addition, safe and free return of all refugees and displaced persons should be conducted under the supervision of UNHCR<sup>10</sup>. As a member of the International Community in Kosovo, UNHCR also works within its resources toward the creation of conditions conducive to returns. Depending on the situational development in Kosovo and related future arrangement, UNHCR might have to review its role in line with its traditional mandate.

### **Operational Context**

UNHCR plays a central role in making and implementing returns policy and process and is an active player throughout all levels - local, central as well as regional - of the process.

### **UNHCR Responsibilities within Kosovo include**

1. Provides policy and strategic direction to Governmental actors, in line with international standards applicable to refugees, statelessness, and IDP situations as mandated by international instruments.

2. Supervises return related activities in accordance with its mandate. UNHCR is one of the Principals of the Steering Group, Central Review Mechanism and Municipal Working Groups.

3. Collects and disseminates relevant information notably through its extensive field presence in Kosovo, SCG and FYROM, enabling refugees and IDPs (men and women) to make an informed decision.

4. Coordinates Go and See Visits and Go and Inform Visits with the relevant international actors and local authorities. This includes the creation of conditions for inter-ethnic dialogue between minority communities and receiving community, notably but not exclusively with regards to return.

5. Maintains statistical and other information on refugees, voluntary returns (spontaneous, facilitated and organized return movements), IDPs and needs of returnees. Issues regular reports.

6. Contributes to the development and enhancement of a fair and efficient asylum system and strengthens capacities of the central and local authorities and other key stakeholders in the field of IDPs and asylum/refugee protection.

7. Provides limited assistance to spontaneous minority returnees. This assistance includes food, non-food humanitarian assistance, minor shelter repair, self-reliance and income generating projects as well as support to community initiatives conducive to positive impact on dialogue and reintegration. UNHCR focuses particularly on vulnerable RAE spontaneous returnees.

8. Provides, through implementing partners, legal assistance counselling and information to refugees, returnees, IDPs, and minorities at risk on various legal issues, including personal documentation and property related matters.

9. Performs returnee monitoring and ensures



solutions are found for protection-related concerns and problems of those persons.

**10.** Chairs the Direct Dialogue Working Group on Returns between SCG and Kosovo.

#### **UNHCR responsibilities within Serbia and Montenegro include**

**1.** Maintains contacts with the IDP and refugee population, through its network of field offices, and links with IDP associations, international and local NGOs and Governmental institutions, and determines their most urgent needs, not only humanitarian, but also with respect to information and expectations of return.

**2.** Supports government entities to engage in dialogue with the IDP/refugee organisations and population to understand and respond to information requirements, return expectations and humanitarian needs of the most vulnerable.

**3.** Supports the government and relevant NGOs to identify and assist persons who seek advice or assistance with regard to either Go and See Visits or actual return, or arrange for the provision of such advice or assistance through NGOs who engage in return-related activities.

**4.** Assists in the dissemination of objective information about the situation in Kosovo to the IDPs with special emphasis on developments related to minorities and returns. This is done in cooperation with the UNHCR Kosovo office, other agencies including UNMIK as well as with the hosting authorities.

**5.** Maintains and updates a registration database of IDPs/refugees including listing by municipality of origin in Kosovo, family composition and de-registration of returnees.

**6.** Actively seeks to provide a coordination mechanism for all international and local organisations including concerned authorities, which are involved in the returns process to Kosovo.

**7.** Organises regional meetings and consultations on return with all relevant parties as may be required to enhance the progress of returns activities by enabling and supporting voluntary, safe and substantial returns for those wishing/able to return.

**8.** Provides IDPs access to legal services to obtain documents and information regarding rights and responsibilities in SCG, as well as in Kosovo.

#### UNHCR responsibilities within FYROM include

1. Assists in the facilitation of voluntary repatriation of refugees to Kosovo, in cooperation with UNHCR Kosovo, the FYROM authorities and other agencies.
2. Counsels and provides refugees with accurate/updated information about developments in Kosovo, particularly as regard their places of origin and possibilities of return in safety and dignity.
3. Organises Go and See Visits and Go and Inform Visits in coordination with all concerned actors.
4. Facilitates the provision of legal assistance to refugees particularly with regard to unresolved property claims and lack of personal documentation. The FYROM Legal Network, a group of NGO's providing pro bono legal assistance to refugees and asylum seekers, often acts as an intermediary in such procedures.
5. Channels refugees' interest as potential beneficiaries of larger community projects in Kosovo, and liaises in this respect with responsible authorities and implementing Agencies/NGOs operating in FYROM.

#### United Nations Development Programme (UNDP)

The United Nations Development Programme has a global mandate attributed to it by the Inter-Agency Standing Committee to support the long term rehabilitation and recovery of IDPs. The UNDP sustainable human development role begins to grow wherever the target ability of IDPs fades and the humanitarian situation begins to transition gradually to one of development. UNDP implements this approach by facilitating joint planning of different interventions well beforehand to ensure that development activities are sufficiently synchronized with relief and by supporting development of the communities that the displaced have rejoined. In the post status Kosovo context, this role is expected to increase and build upon the three years of work already achieved by the UNDP Returns Programme with local partners.

#### Operational Context

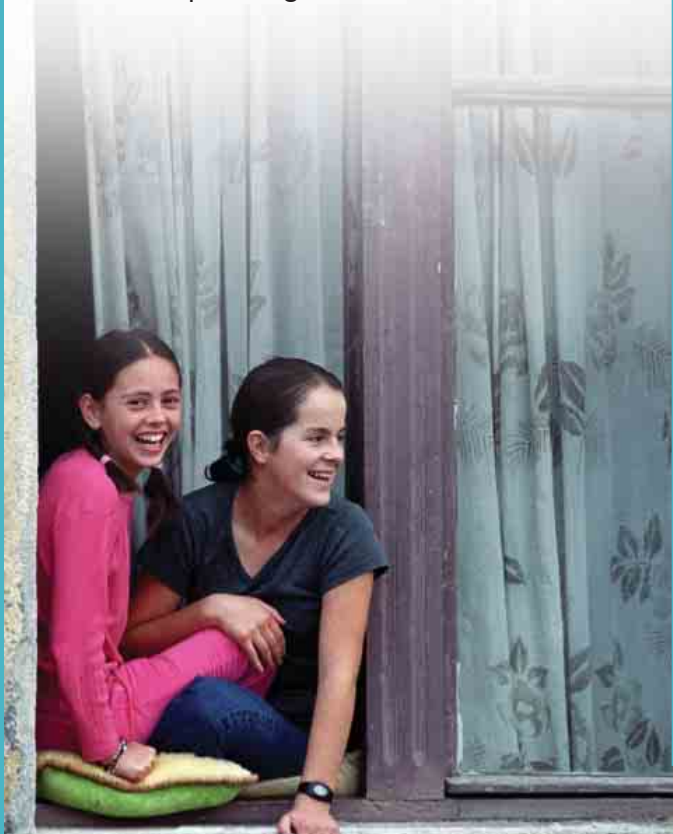
UNDP's current returns - related responsibilities within Kosovo include:

#### SPARK Individual Returns Facility

Since 2003, UNDP has been responsible for managing the only facility in Kosovo providing tailor made support to Individual Spontaneous minority returnees (IDPs) to their place of origin. This was initially done through the Rapid Response Returns Facility ( RRRF) which developed in to the Sustainable Partnerships and Assistance to Minority Returns SPARK IR Facility in October 2005. Support is rendered to beneficiaries through three service lines which includes a) housing assistance b) socio-economic support and c) community development.

#### SPARK Organized Returns Facility

UNDP in close cooperation with the Ministry of Communities and Returns is managing a facility for the implementation of organized minority returns project throughout Kosovo. This facility is entirely funded by the Government of Kosovo and is complimented by the Government Assistance to Returns (GAR) Project which has been operational since 2003 in Kosovo.



## Kosovo Property Agency

The establishment of the Kosovo Property Agency (KPA) in March 2006 represented a significant step in creating an environment conducive to sustainable return. Further it built on the significant contribution of the HPD<sup>11</sup> (Housing and Property Directorate) in promoting return through the resolution of some 29,000 residential property claims Kosovo wide. The Kosovo Property Agency will address one of the main obstacles to return as identified in the 2005 Report of the Special Envoy on Standards (Kai Eide Report) by addressing the illegal occupation of agricultural land and commercial property.

Pursuant to UNMIK Regulation 2006/10 on the Resolution of Claims relating to private immovable property, including agricultural and commercial property, the KPA is mandated to resolve private immovable property claims arising out of the 1999 armed conflict, including disputes over agricultural land and commercial property. Thus it aims at restoring property rights to persons displaced by the 1999 conflict who have not been able to return and regain possession of their properties. The process reaffirms not only the right to return of refugees and internally displaced persons but also the right to restitution in accordance with the generally recognized principles of international law.

It will function as an independent body pursuant to Chapter 11.2 of the Constitutional Framework. It is composed of a Supervisory Board, an Executive Secretariat and a quasi-judicial organ, namely the Property Claims Commission.

The responsibilities of the KPA will include:

- The processing and referral of claims to the Property Claims Commission which will reach findings and conclusions on the claims;
- The referral of the conclusions of the Property Claims Commission to the competent court which will reach a decision on the claim;
- Rendering assistance to parties to the claim in instituting appeals before the Supreme Court of Kosovo;
- Enforce decisions of the Property Claims Commission or the competent courts and

secure possession of property to the lawful property right holder;

- Administer a rental scheme for all properties under its administration.

## Police and Justice

UNMIK Police and the Kosovo Police Service (KPS) are the law enforcement authorities in Kosovo. Pursuant to Security Council resolution 1244, UNMIK has provided temporary law enforcement by maintaining an international police presence and establishing a professional, independent, and multi-ethnic local police force, the Kosovo Police Service (KPS). UNMIK Police and the KPS focus on maintaining public order, crime prevention, border and immigration controls. The Judicial Integration Section within the Ministry of Justice, in close partnership with UNMIK's Department of Justice, ensures unfettered and fair access to the justice system for minorities, including returnees. To ensure impartiality and independence, international judges and prosecutors have been entrusted with the task of handling sensitive cases involving inter-ethnic crimes or cases in which there is a serious risk of bias.

## Operational Context

### Police

The KPS plays a role in maintaining effective security for returnees and visiting IDPs/refugees, enforcing the restitution of residential property rights, and helping to ensure freedom of movement for minorities.

### Responsibilities of the KPS include:

1. Provide security for returnees.
2. Provide security and enhancing community confidence in rule of law with regard to the protection of existing minority communities and returnees.
3. Support inter-community dialogue and confidence building steps where appropriate, such as including KPS involvement in returns process.

4. Enforce other existing measures protecting minority and returnee interests, such as assisting the Kosovo Property Agency in implementation of decisions regarding property within its mandate.

5. Participate in MWG.

6. Participate in GIVs and GSVs, including providing security for GSV participants when necessary and briefing potential returnees when necessary.

### **Justice**

The Ministry of Justice and the Kosovo Judicial Council are responsible for the administration of Justice throughout Kosovo. Both work in close partnership with (and are overseen by) UNMIK's Department of Justice. Their ability to provide impartial delivery of justice is key to building community and returnee confidence in the judicial processes.

**Responsibilities of the Judiciary (judges and prosecutors) include:**

1. Ensure access to the justice system for minorities, including returnees.

2. Continue to work toward ensuring impartiality and independence in the judiciary through international judges and prosecutors to oversee sensitive cases involving inter-ethnic communities or cases in which there is a serious risk of bias.

### **Kosovo Force (KFOR)**

KFOR is the NATO-led international force responsible for establishing and maintaining a "secure environment in which refugees and displaced persons can return home in safety" as per UN Security Council Resolution 1244, Article 9 (c). Under this mandate, KFOR has primary responsibility for all security matters which arise in the returns process. It also plays an active role within each level of the planning and coordination mechanism.

### **UNMIK Pillar IV**

Pillar IV of UNMIK (also referred to as the UNMIK EU Pillar) is engaged in modernising

the economic framework of Kosovo by developing the structures and instruments that form the basis of a competitive market economy. UNMIK Pillar IV bears responsibility for areas ranging from Customs and fiscal affairs, to privatisation, economic regulators, and banking. UNMIK Pillar IV is also active with respect to a number of transferred competencies, and provides capacity building through regular cooperation and joint initiatives with a number of ministries engaged in economic development, such as the Ministry of Finance and Economy (MFE), the Ministry of Trade and Industry (MTI), the Ministry of Transport and Communications (MTC), and the Ministry of Energy and Mining (MEM). UNMIK Pillar IV also plays a prominent role in promoting the integration of Kosovo into various regional and European economic structures.

### **Organization for Security and Co-operation in Europe (OSCE)**

As UNMIK's Institution-Building Pillar, the Organization for Security and Co-operation in Europe (OSCE) plays a key role in creating an environment in which sustainable returns can occur. Primarily, the OSCE Department of Human Rights and Rule of Law and Department of Democratization act to ensure that the existing governmental, judicial, and democratic structures operate according to international human rights standards and that legislation in place in Kosovo, allow access to services without discrimination, and promote the sustainability of returnees in Kosovo.

### **Operational Context**

The OSCE has committed human resources to support community interests, including support to activities which contribute to improving the environment for enabling returns. Its role of institution building, monitoring of media standards, and protecting and promoting human rights and rule of law makes it ideally situated to support efforts in the returns field, both operationally and through monitoring, advising and intervening when appropriate.

Moreover with its strengthened field presence, the OSCE could assume a greater role in the coordination of actors evolved in the

returns process. It is expected that in post-status period, OSCE will assume more of the field and monitoring tasks currently performed by UNMIK. Transition planning for these functions is underway.

### **Responsibilities of the OSCE include**

1. Support of inter-ethnic dialogue and tolerance-building activities before and after actual returns take place.

2. Monitoring, reporting and follow up on human rights violations and rule of law concerns, with specific focus on areas mostly affecting the rights to return (such as housing and property rights, non discriminatory access to public services and employment opportunities, use of official languages, access to justice).

3. Advising authorities on measures to address shortcomings in the area of human rights and rule of law.

4. Institution-building on the municipal level, where return takes place, through OSCE Municipal Teams.

5. Conducting outreach and public awareness activities in the area of human rights and rule of law.

### **NGO Returns Coordination Group (NRCG)**

NGO Returns Coordination Group (NRCG) is a central body intended to address relevant issues that arise in the returns process and to ensure coordination and transparency of approaches among NGOs engaged in return

programming as well as in peace-building initiatives. NRCG is a membership based forum that meets monthly. The NRCG membership is open to all local and international NGOs with Public Benefit Status involved in return and peace-building programming in Kosovo. Its Executive Committee (5 elected NGOs members) is responsible for setting the overall direction of the NRCG and for ensuring that the NRCG achieves its goals.

### **The NGO Returns Coordination Group will**

- Facilitate information exchange about the progress of returns and peace-building efforts including identification of and action on issues that have policy and programming implications;
- Work to ensure transparency and coordination among NGOs regarding returns and peace-building policies, processes and issues;
- Provide a forum for prompt and frank discussion of return and peace-building related issues or concerns;
- Serve as an NGO point of contact for other key actors in the returns process
- Meet monthly
- Not be a substitute for the RWGs and MWGs, but a forum for the NGOs involved in return and peace-building programming in Kosovo

The MCR, OCRM, UNHCR, UNDP, EAR, and KFOR are regular participants in NRCG meetings. Other institutions, agencies, organizations are welcome to attend NRCG meetings as observers on an occasional basis. Local NGOs registered outside Kosovo and IDP associations are also welcome as observers.

## Components of the Returns Process

The purpose of this Section is to underline one of the main components considered fundamental to the overall return process. It is not intended to be either exhaustive or sequential. Interethnic dialogue, tolerance between communities and the overall conditions for minorities in Kosovo should in this regard be seen as an integral part of the returns process.

### Inter-ethnic dialogue and community relations

**A**lthough the right to return is a non-negotiable fundamental right, simply asserting this right will not inevitably create an environment conducive to returns. Efforts directed towards tolerance, co-existence and development of an integrated multi-ethnic society constitute the foundation of any returns programme. Seeking consensus for the principle of return is relatively trouble-free. There are

very few majority leaders who would oppose return in principle. The challenge lies in bringing this principle to fruition in practice.

Confidence building and consensus in favour of return needs to be developed on three levels: 1) Kosovo-wide political level; 2) Municipalities; 3) The communities level, including majority communities, existing minority communities and IDPs/refugees.

#### 1) Kosovo-wide political level

Kosovo leaders of all ethnic groups are in a unique position to exert considerable influence over their respective communities and are therefore ideally placed to improve attitudes towards inter-ethnic tolerance and co-operation. Positive statements from leaders, followed by strong concrete actions, can have a powerful impact on marginalising negative messages from more extreme sectors of soci-



ety. Substantial advances can only be expected when PISG and local civil society adopt a pivotal role in the process. Progress at this level provides the framework in which return can be pursued at the Municipal and local levels. Prominent political leaders can be drawn on to give increasing prominence to minority concerns, particularly returns.

## **2) The Municipal Level**

Municipal Working Groups will promote a public discourse between the displaced and their community of origin. These working groups - led by the Municipal Assembly President (MAP) and consisting of local representatives, IDP participants/Associations, representatives of international organizations and ethnic groups - are open forum in which discussions about the right to return and the best way in which it can be implemented take place amongst the concerned parties. The process of consensus building over returns should be as wide as possible, including a broad range of civil society initiatives as well. In addition, Municipal Assemblies have the duty to represent IDPs/refugees and their interests, as do their specific Committees. Minority representatives in the Assemblies and in the Committees should also assume a full role in voicing the concerns and needs of IDPs/refugees. Although every interaction between the majority community and IDPs/refugees has the potential to improve reconciliation objectives, it can also reinforce division if not prepared carefully. The subject of conversation should be kept local, with an emphasis on identifying possible common interests. At the same time, if interactions between these groups are too tightly controlled, the onset of the reconciliation process may be severely hampered. If initial resistance arises, referring to progress in some Municipalities to highlight the way forward in others can encourage further developments in the process.

## **3) Community level**

Although influenced by developments at the political and municipal levels, engaging former neighbours within a given community has its own particular dynamics, largely dependant

on the pre-war relations between ethnic groups and the experience of the community during the conflict, and demographic changes after 1999.

Local communities often have their own mechanisms for managing conflict and resolving disputes, which should be incorporated into the process where possible. Relying on village councils and involving respected families are two ways in which the community will be empowered by the returns process, rather than feeling as if it is imposed upon them. Contact between majority community and IDPs/refugees at the community level can be established through talks initiated simultaneously with local municipal authorities and with majority community villagers in the proposed return site. Such contacts can take place within the MWG; or within specific task force / project teams that report to MWGs and involve representatives of local communities. The joint planning of specific returns provides a vehicle for interaction between returnees and the host communities in perspective of return and overall community development.

Discussions can focus on points of connection, which emphasise common interests. This should help to lower resentment and foster an atmosphere of trust, co-operation and integration. The way in which activities are designed can also increase long term integration by ensuring that services create links between communities. While this is a duty of the PISG, central and municipal, the provision of health care, primary education, social services and the distribution of humanitarian aid should also focus on the links between communities. The way in which the activities are implemented can also provide tools for encouraging integration. For example, making reconstruction of returnee houses as a multi-ethnic endeavor (employing Kosovo-Albanian villagers to work on non-Kosovo-Albanian community returnee houses and involve returnees to work on community integration projects) is one way of improving ties between the returnees and host communities as well as laying the groundwork for greater co-operation.



### **Overcoming obstacles to dialogue at the local level**

There are many different reasons for opposing return at the local level: some may be relatively legitimate (e.g. feeling of insecurity, war-related trauma), others may not be (e.g. property usurpation). Fear of and resentment at exclusion from decision-making circles connected with return are also increasingly apparent. Similarly, a host of conditions are often attached to returns: "returns can only take place as long as..." These objections and conditions should not be legitimised, but the reasons that give rise to them must be explored and tackled as appropriate. Exploring these more complicated issues, and addressing legitimate concerns will help to smooth the process of inter-ethnic dialogue.

One of the most widely heard statements on return is anyone can return, provided that they have not committed any war crimes. It should be stressed that there is functioning law and order system in Kosovo, with the jurisdiction to try war crimes. Moreover, crimes are committed by individuals, not by ethnic groups, and innocent people cannot be punished simply because of their ethnicity. All evidence should be given to the police, who in turn will put into place a proper investigation, which if the evidence is sufficient will result in criminal trials. All actors involved in the returns process should underline their commitment to the prosecution of war crimes, and all efforts to link the two issues to prevent return must be rejected. When unforeseen problems arise, the

involvement of law and order (KPS, CIVPOL, KFOR) is appropriate, should the implementation of a return project be threatened. In other circumstances, mediation and persuasion are more effective.

### **Importance of Outreach in achieving dialogue and co-existence**

The political and municipal leadership should undertake regular outreach activities to specific return locations and Kosovo-wide to communicate the right to return in safety and the right of communities to live in dignity. Outreach activities by key officials demystifies the multiethnic challenge: to the receiving community and majority community, it clarifies directly that the leadership supports returns and that IDPs/refugees have a right to return and live in dignity; and to the IDPs/refugees, returnees and local minority communities, it communicates that the leadership and the majority community is committed to their return and reintegration with equal access. To all communities it attaches a human approach to their concerns. Outreach activities by the political and municipal leaders are a powerful tool that should be utilized as an integral part of the return process.

### **Assessment and Information Gathering**

This section identifies planning tools and resources available to assist parties engaged in the returns process. These tools do not necessarily need to be taken and implemented in

a sequential fashion. Rather they can be drawn upon at any stage in the process, as the local circumstances dictate. They should also be understood as actions which would enable better information on displaced communities (e.g. location of displacement, living conditions, livelihood sustainability) as well as situational overview in the place of origin. This would help the MWGs to keep track of the needs of the displaced and to respond as efficiently as possible to requests arising from IDPs/refugees interested in gathering first-hand information, making a free and informed decision on preferred durable solution and requesting assistance to do so. Possible actions are as follows:

### **Identification of IDP Locations of Displacement**

Information on the current locations of displaced persons is gathered from different sources. In particular, MROs gather and compile information from their field visits and meetings with IDP Associations, IDP representatives, UNHCR and its partners, NGOs and other relevant actors. MROs prepare and present the Displacement Mapping data to the MWG. Particular emphasis should be paid to the right to confidentiality and protection of personal data.

### **Assessment of Pre-conflict Minority Inhabited Locations**

Assessment of locations where minorities used to live prior to the conflict will provide a relatively objective basis to be used when planning a transparent and de-politicised return process once interest on the side of IDPs/refugees to return to a specific location is identified.

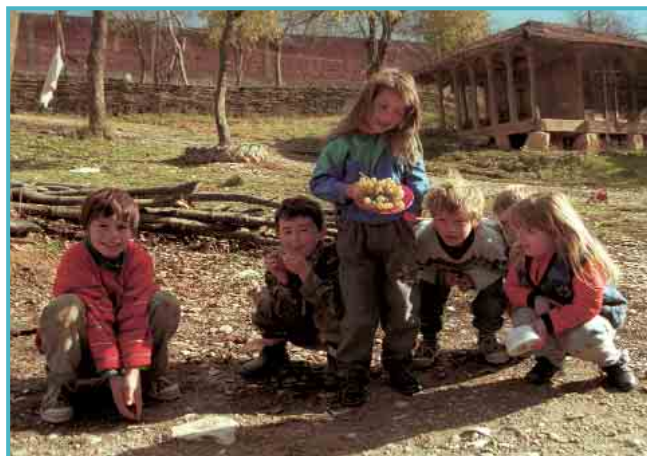
The Chair of the MWG forms a team under the leadership of the MRO who, with the assistance of UNHCR and other relevant MWG actors, compiles the required information. The team should use the "Return Location Profile Format /Summary" (as proposed in the Annexe 6) to compile and present the information to the MWG and its Chair.

### **Security Assessment of Potential Returns Locations**

Village Security Assessments of potential returns locations provide guidance later in the process for decisions related to site prioritisation. At the request of the MWG Chair, KFOR and KPS carry out these assessments (see Annex 7 for Format) of each pre-conflict minority inhabited village and neighbourhood to which an interest to return is identified. KFOR and KPS then present their conclusions by location to the MWG. This process is undertaken with the knowledge that the relevance of a security assessment remains temporary and should be used as broad guidance only (for example a security assessment can give clearance to a GSV in a specific location, but also recommend that more work be done with the receiving community before returns can take place). The conclusions of an assessment are only one factor in the decision-making process when assessing the conditions for return to a certain area.

### **GIV and GSV**

Go and Inform Visits (GIV) and Go and See Visits (GSV) are two key ways of establishing links between majority communities and the displaced. Both kinds of initiatives must be carefully planned. Go and Inform Visits should include members of the majority community, who are prepared to speak openly and honestly with IDPs/refugees about return. The symbolism of such visits to IDPs/refugees can be considerable. Similarly, Go and See Visits, when carefully arranged, can make significant contributions to confidence building. They should aim to allow maximum interaction



between visiting IDPs/refugees and the majority community, incorporating at least two types of meetings: official reception of IDPs/refugees in the Municipality, welcomed by Municipal Officials; and meetings with former neighbors in potential return locations. Majority participants in these meetings need to be carefully prepared, with full knowledge of planned visits and their objectives. In addition, organising GSVs with the participation of KPS reinforces the perception that Kosovo's current institutions are here to protect all Kosovo's citizens, including IDPs/refugees.



key player of this process. Each participating MWG member should prepare a brief in advance and the presentations should be shared and discussed with the other members prior to the GIV. MRO in coordination with UNHCR and its partners or relevant NGO will prepare and share a report of the GIV to the MWG at the next meeting.

GIVs should also include members of the majority community, who are pre-

pared to speak constructively with displaced persons. It is also practical if they include members of the minority community who have remained at the concerned location, or locally based IDPs (men and women) from the community of concern. They enjoy the highest degree of credibility when briefing IDPs on living conditions of their ethnic community in place of origin.

### Go and Inform Visits

In response to the IDPs and refugees interest and need for information on their places of origin and on return possibilities, UNHCR and its partners in close coordination with PISG, and through the MWG coordination, will organize "Go and Inform Visits" (GIVs). GIVs are intended to brief displaced men and women, in their location of displacement, on the current situation of their municipality, village or neighbourhood of origin and hence intended to enable displaced persons to make a more informed decision on the possibility of returning.

GIVs are conducted at locations where displaced communities currently reside. Usually, these locations are identified upon received requests and invitation from an IDP community itself. Through MWG coordination UNHCR and local authorities, in cooperation with other actors, shall prioritize GIV locations as per IDP and Refugee requests and demands.

Once the locations for GIVs are determined, GIV will be conducted and the meetings with displaced families will be co-chaired by local authorities and UNHCR and relevant MWG members will be invited in order to present a briefing and answer questions. PISG participation is critically important and they should be

### Go and See Visits

Go and See Visit (GSV) is IDP and refugee driven activity which should assist displaced men and women to make a free and informed decision on preferred durable solution, whether to return or integrate in the place of displacement and that is consistent with the overall context of promoting the creation of conditions conducive to voluntary return in safety and in dignity.

The objectives of the GSVs include the provision of the opportunity for the displaced persons to gather first-hand information on conditions in their place of origin and creation of the conditions for inter-ethnic dialogue to take place between the IDPs, refugees and majority community.

Displaced persons are invited to visit their pre-conflict homes as part of an organised tour where all necessary logistical and security arrangements are provided for the time required to complete the objectives of the visit. Through this process, the displaced families will be better able to assess their possibilities to

return in light of the current situation in their municipality.

The level of complexity of a proposed GSV will determine the preparatory work required for its implementation. GSVs to some locations still encounter a degree of hostility. The risk can be reduced through careful preparation and provision of requisite security. The demand of the displaced persons for a GSV, the safety of a GSV operation and the willingness/capacity of the receiving communities are key factors determining whether and when a GSV should take place. Preparation should involve the local authorities, majority community, and the IDPs and refugees. Local authorities should accompany displaced persons throughout the GSV and have active involvement during the debriefing session providing effective, pertinent and necessary information to the displaced persons. Fair and equal access of displaced persons as well as gender and age balance should be ensured.

A security assessment by KPS prior to the actual conduct of a GSV is required to ensure the safety of all participants. Involvement of KPS sends important messages to both local communities and displaced persons about the provision of law and order as well as local involvement and responsibility for the return process. The KPS tasks/operations should be carefully planned in advance, taking into account the security and freedom of movement situation on the ground, possible provision of security support in the GSV process (provided if and when necessary upon the security assessment). KFOR, however, retains overall responsibility for security assessment and should be ready to intervene if necessary. KPS shall coordinate closely with KFOR in this regard.

UNHCR, its partners and PISG will call GSV coordination meetings, plan and follow-up GSV implementation. During this meeting concerns that may arise

with regard to individual participation will be addressed together with local authorities while upholding the principle that everyone has the right to visit their place of origin. The UNHCR and its partners, MROs and NGOs will ensure that the concerned displaced persons are duly informed about raised issues enabling them to make an individual well-informed decision about participation.

While there is a variety mechanisms available to support GSV type activities, they should all follow the recommendations outlined here.

### Step 1.

Displaced persons should be encouraged to participate in the GSV process. If such interest is shown, the interview and initial assessment with the individual is conducted prior to the visit according to Annex 5. The coordination meeting in the municipality of origin will be held for planning and implementation purposes. UNHCR and/or its partners, MROs, NGOs will contact the individual participants taking part in the GSV and organize their transport from the place of displacement to the place of visit. KPS is responsible for providing escorts when necessary. Together with other MWG members, local authorities should be in contact with the majority community well in advance. Additionally, the emotional stress of visiting homes should not be underestimated. Accordingly, local authorities, and relevant MWG members should give special attention to the sensitivities of the displaced persons.



### Step 2.

The visits to individual participants' homes will be conducted and this will be an opportunity for IDPs and refugees to visit former neighbours and re-establish links with their old community. Local authority's involvement in all stages of the process reduces potential public disturbances and possible community destabilization. On arrival in the municipality, local authori-

ties should greet and brief the participants. In this meeting, co-chaired by UNHCR and local authorities, GSV participants shall be informed on the current situation in their pre-conflict place of residence. Issues of particular interest to the IDPs and refugees, such as housing reconstruction opportunities, KPA, former employment and income generating opportunities, security and freedom of movement, social welfare and pensions, education and the structure and management of the Municipality, should be covered

as part of the briefings.

### **Step 3.**

De-briefing with individual participants of the GSVs, are held upon return to the place of displacement by UNHCR and/or its partners, NGOs. Such sessions are conducted on voluntary basis. The outcome of the follow-up is shared in the MWG by MRO, UNHCR and its partners or NGOs.



## Summary Returns Procedures

### Returns Process

A well designed Returns Process is the cornerstone for success. The following section of the Manual provides a summary of the return process and coordination mechanisms that should form the basis for the development of future return projects and draws from lessons learnt since the publication of the first Manual in 2003. The fundamental difference is that it puts Kosovo institutions at the centre of the returns process while building upon good practice. The approach outlined in this revision of the Manual, improves return process by streamlining the coordination mechanisms with Kosovo institutions at the core of facilitating and implementing returns, fostering a strong partnership approach with displaced persons and their Associations and promoting a rigorous rights based approach to return, reintegration and subsequent community development. The components outlined in this process are neither exhaustive nor necessarily sequential.

### Linking IDPs/refugees with their municipality of origin

The appointment of Municipal Returns Officers (MRO) in Municipalities provides displaced persons and all organizations involved in the returns process with a full time Municipal official to establish links, undertake and follow up the initiatives to assist IDPs/refugees in reaching the most sustainable durable solution. The MRO is also a key official in facilitating all return related activities and in establishing and sustaining links with IDPs/refugees through GSVs and GIVs, among other activities. The MROs should lean on expertise from UNHCR, NGOs and other stakeholders including IDP associations. IDPs/refugees can also establish links to the Municipality through the participation in the Municipal Working Groups (MWGs), through GIVs of municipal officials organized by Municipalities, UNHCR or NGOs, including IDP Associations. In addition, municipalities are encouraged to support and engage with the displaced individually or

through IDP Associations providing cross-boundary/ cross-border links between displaced persons and their place of origin.

### Linking IDPs/refugees with their community of origin

Links between the IDPs/refugees and their community of origin can be established in parallel with dialogue initiatives with their municipality of origin. The Municipal Assembly President (MAP), as chair of the Municipal Working Group (MWG), and his officials, primarily the Chief Executive Officer (CEO), MRO and Municipal Community Officers (MCOs) bear primary responsibility for encouraging and facilitating effective links between the IDPs and their community of origin.

Other ways that links can be established are through GSVs and GIVs and associated dialogue activities, including meetings with former neighbours. These mechanisms are tool to enhance dialogue between the IDPs/refugees and the majority communities and should provide a basis for majority communities to participate at the preparatory phase of returns. Dialogue is a fundamental element towards confidence building between potential returning community and the majority community. The GSVs and GIVs, in addition to providing IDPs with objective and accurate information, should be used as tools to establish communication and interaction between the displaced persons and majority community. Links between IDPs/refugees and their former neighbours should be sustained by engaging MRO and MCO into associated Task Force / Project Team for the successful implementation of the returns and reintegration of the IDPs/refugees. Municipalities can lead and "sponsor" the thematic IED/confidence building fora that are not necessarily and exclusively linked to the concrete organized return location.

### Identifying material and situational challenges for returns

A core of the whole process is the individual

IDP/refugee's informed decision to return voluntarily to her/his home which is not the result of pressure from or to a group. Analysis of conditions for the return of displaced persons to a given location are most effective when undertaken by all national and International partners engaged in the returns process. In identifying returns needs and obstacles, municipal authorities, IDPs/refugees, NGOs, including IDP associations, and all those involved in the returns process must engage in a comprehensive situational analysis. UNHCR expertise, community profiles and similar information from NGOs are important tools, where available. Municipal Working Groups should undertake the relevant analysis to amend existing profiles and establish new profiles where necessary. Particular emphasis should be made on the right to confidentiality on personal data. Security assessment of the return location is an essential element of the process, which should be conducted by KPS in cooperation with KFOR. Also, the return environment changes over time, therefore flexibility in analysis and re-assessment is needed. Two broad types of obstacles to returns can arise:

### ***Material obstacles***

Such as lack of or poor infrastructure; housing reconstruction or rehabilitation needs; lack of own resources by returnees; unresolved resi-

dential, agricultural and commercial property issues; unemployment and poor opportunities for economic livelihood; lack of structural investment and development.

### ***Situational challenges***

Such as security; level of freedom of movement and level of access to agricultural land; access to public and social services due to a discriminating environment; need for confidence building both for the majority and returning communities; lack of strategic and practical engagement of all stakeholders; lack of technical competencies and attitude problems among others.

The identification of obstacles at this stage in a Return Process helps devise the best strategy for a sustainable return. It is essential at this juncture that Municipal authority take the lead in addressing identified obstacles, or coordinating strategies in order to develop the best means for a returns process to be sustainable.

### ***Existing tools to overcome material and situational obstacles***

The appropriate tools to remove obstacles to returns depend on the type of challenges identified. Material obstacles require a different type of action than challenges related to the specific circumstances or situation facing a particular community. Situational challenges require a pro-active and effective engagement



of PISG, displaced persons and majority community expressed inter-alia through a confidence building process. They require engaging both communities simultaneously, through dialogue. Confidentiality on personal data should be respected throughout the returns process by all actors. In addition to dialogue and clarification of understandings and interests, opportunities for rapprochement might be found by identifying common needs and mutual interests among both returning and receiving communities (e.g. discussion of needs might reveal a mutual interest in improvement of the water network).

Material obstacles require the development of different types of projects that are addressing the needs identified. Addressing material obstacles in the return process can also be an opportunity for overcoming situational challenges. While underlining the importance in addressing such obstacles through community development component, all actors must be careful not to use it as a tool that will in effect condition and/or even prevent the IDPs return. An approach that addresses material needs while also stimulating inter-ethnic dialogue and joint community activities can yield fruitful results. Obstacles may themselves provide opportunities to build confidence for the sustainable return of IDPs/refugees, for their engagement and integration into their community of origin. The collaborative efforts of all relevant actors in the return process (IDPs/refugees, majority communities, international and local actors), in the identification of challenges and of the opportunities to overcome these are a pre-requisite for the success and sustainability of the returns process.

### **Municipal Returns Strategy**

The Municipal Returns Strategy (MRS) should be developed and effectively implemented by Municipalities, enabling Municipal authorities to assume responsibility for overall returns. The MRS should provide a return framework with clear objectives and activities. The MRS should facilitate transparency and consistency in all return related activities through enhancing coordination of efforts by all actors, particularly through direct engagement with the dis-

placed men and women in order to map obstacles and identify ways to overcome them with the engagement of other relevant stakeholders. The MRS is a proactive tool to analyze the return environment/ situation, identify the challenges, determine areas of focus, propose actions, and allocate or seek requisite resources to effectively facilitate and implement returns. This process necessarily includes, among other factors, all the material and situational challenges highlighted above and need to be effectively linked with the Municipal Development Strategy as many integrated needs require long term and structural interventions.

### **Project Development**

Once the return willingness is assessed and the needs are identified, the next step in the Return Projects Process is the development of concept papers that outline return projects that respond to identified needs. Kosovo actors, including Municipal authorities, local NGOs but also IDP Associations are encouraged to undertake the design and implementation of concept papers. The development of concept paper must be grass-root based and incorporate strategic involvement of IDPs themselves. In requesting concept papers, Municipal Working Groups will identify the broad needs to be met by the project (including those of the majority community) within the following possible project "sectors":

- 1) housing reconstruction/property repossession assistance;
- 2) limited infrastructure;
- 3) employment and income generation;
- 4) access to and strengthening of public and social services (e.g. health, social services, education);
- and 5) inter-ethnic dialogue and community integration and development.

The completed concept papers will be submitted to the Central Review Mechanism and referred to funding mechanisms.

As stated above, Municipal authorities are also encouraged to situate concept papers and Municipal Returns Strategies within the context of their broader development plans by integrating the Municipal Returns Strategy into the Municipal Development Strategy. Additionally, municipalities are encouraged to

increasingly get involved in proactive mobilization of resources relevant to returns and receiving communities as well as for wider community based projects.

### **Project Implementation**

Municipalities and civil society have primary responsibility for the facilitation and implementation of the returns project. Where other implementing partners (NGO/Agency) are utilized, the Municipal Working Group will provide support for the project implementation process, including facilitating coordination among the parties involved in the returns process. While the donor is primarily responsible for oversight of the project, the Municipal Working Group will monitor project implementation, and support the implementing partner to address unforeseen obstacles in project implementation if necessary. Municipal authorities and implementing partners are responsible for keeping the Municipal Working Group informed of their work through periodic reporting and participation in Municipal Working Group meetings.

### **Post-return socio-economic integration**

The municipal administration will ensure the administrative integration of the returnees into the municipality. Once displaced persons return to their municipality, they must be able to fully exercise their rights and obligations, regardless of their sex, age and ethnicity. Moreover, they may require specialised support to effectively reintegrate. Accordingly, the municipality must ensure full implementation and enforcement of existing legislation, protecting minority rights and equal access to public and social services, as well as civil service employment opportunities. If necessary, for the most vulnerable groups an affirmative action approach could be adopted.

### **SPARK Individual Returns Facility**

The Sustainable Partnership for Assistance to minority Returns to Kosovo<sup>12</sup> (SPARK) was established on 4 July 2005 as part of a joint PISG, UNDP and UNMIK initiative. The project is managed by UNDP and jointly implement-

ed by UNDP and the Ministry of Communities and Returns and it encompasses both a facility for organised returns as well as a facility for individual spontaneous returns.

The Individual Returns component of the SPARK project (SPARK IR) is essentially a continuation of the UNDP managed Rapid Response Returns Facility (RRRF) established in 2003. The individual returns assistance provided under SPARK IR<sup>13</sup> caters for direct assistance to small-scale, individual returns of minority displaced persons who have chosen to spontaneously return to Kosovo. The support to beneficiaries is tailored to suit local circumstances and individual needs through the provision of three service lines: Housing Assistance, Socio-Economic Assistance and Community Development.

SPARK IR has a particularly close working relationship with the municipal authorities throughout Kosovo, especially with Municipal Returns Officers (MROs) and Community Gender Officers (CGOs). It is also closely networked in terms of referrals with the UNHCR, lead NGO agency, IDP associations in Serbia and Montenegro as well as with local NGOs.

The SPARK Individual Returns Facility offers three service lines to support both returnees as well as a balancing component in terms of community development for the receiving and returning community. The three service lines are:

**Housing Assistance:** Once a beneficiary/family has been approved for housing assistance, the house is either repaired if it is only partly destroyed or newly reconstructed if fully destroyed. In other words only houses which fall into the category 3, 4 or 5 classification<sup>14</sup> would be rehabilitated or reconstructed fully.

**Socio-Economic Assistance:** Support to the beneficiary in helping him/her achieve a sustainable livelihood which the returnee could live from is a key support component of every return. Following an assessment of the beneficiaries' skills, interests and local market demand, tailor-made assistance is rendered to the returnee in several ways including agricultural income generation grants, vocational

skills training and tools for small handiwork businesses and contribution in kind of cattle or poultry. This service line is now transitioning to a more area based approach, and MRO and MCO will be expected to explore other job opportunities for minorities returning to their municipalities with the KTA, local infrastructural schemes and so forth.

### **Community Development Voucher Scheme**

For mixed communities where returns take place, SPARK IR facility has a scheme which directly support a mixed public service facility such as a school, clinic or community centre. This scheme is realized through the contribution of two vouchers worth 500 euros each (1,000 euros in total) by each returnee and funded by the PISG under SPARK IR to two separate public services in the mixed village of return.

### **Referral Process**

Potential beneficiaries are referred to SPARK IR by the Ministry of Community and Returns, Municipalities, IDP Associations, UNHCR, NGOs and UNMIK regional Communities and Returns Unit (RCRU).

### **Beneficiary Assessment**

Once a beneficiary is referred to the SPARK IR facility, an assessment of the eligibility factor of the beneficiary against the criteria outlined above commences.

- a) Socio-economic Assessment by Regional Officer, SPARK IR with local MRO's
- b) Technical Assessment & Legal Assessment of property documents by local NGO partner
- c) Approval/Rejection along eligibility criteria by Facility Coordinator, SPARK IR in close consultation with Head of Returns, Ministry of Communities and Returns.

### **Signing of Tripartite Agreement (TPA)**

Once the beneficiary is approved for housing assistance, he/she is obliged to sign a Tripartite agreement (TPA) with UNDP and the municipality to where the beneficiary is returning to. Construction work on the beneficiaries' home, cannot commence until the three relevant parties have signed it.

### **Construction and Rehabilitation of beneficiary houses**

Once the TPA is signed by all three signatories, construction begins by a commercial contractor who has been selected in accordance



with the Kosovo Procurement Law and Rules and Regulation. UNDP and a designated representative from the Ministry of Communities and Returns are present throughout the tendering and evaluation process to ensure compliance with the procedures set out under the Kosovo Procurement Law.

Once a contractor has been selected and works begin on the house, the beneficiary (usually the Head of Household) is required to be present throughout the construction up to point of completion. When repair work or full construction is finished (depending on the category of the house) the beneficiary is requested to sign a document which would indicate his satisfaction with the completed works from the technical viewpoint. The municipality is also requested to sign its acceptance of the works. An engineer is dispatched by UNDP to ensure final technical inspection of the works.

### **Monitoring of technical works**

UNDP engineers, along with site engineers designated by the local NGO responsible for housing assistance, continuously monitor the execution of housing works and are supported in their efforts by frequent site visits by the SPARK IR Facility Coordinator and UNDP Programme Portfolio Manager for Returns.

### **Role of the MCR and municipalities**

Municipal staff and in particular MROs, MCOs and MGOs are an important local partner for SPARK IR. The MROs, the first point of contact in many cases for receiving referrals, work closely with the SPARK IR regional associate from the outset of the referral, through the socio-economic assessment process and follows, along with the MCO, the process right through to the acceptance of keys by the beneficiary for his/her new home.

The Ministry for Communities and Returns (MCR) is an operational partner in all aspects of the implementation of Sub-Projects and Service Lines to support Organized and Individual Returns, including project design, planning, tendering and evaluation, implementation and monitoring. The MCR have designated focal points for direct cooperation with UNDP concerning

both Individual and Organized Returns.

The MCR is involved in screening and prioritizing requests for support to returns along the established eligibility criteria for Individual Returns, and is directly responsible for referrals, assessments, approval and provision of assistance (tendering procedures, inspection of construction, etc.).

The MCR is also directly involved in technical aspects of the Sub-Projects being implemented under Organized Returns, reviewing technical documents and actively working alongside UNDP engineers in the field. MCR expert staff is also lending their insights and expertise in designing economic sustainability strategies for the group returns.

### **Reporting on return activities**

During the implementation process, Task Force/ Project Team report to MWG, MWGs report to the CRM and to the donor, where required, concerning return activities and the progress of returns projects. The quality of such reports is of critical importance for Kosovo wide evaluation and future return strategy shaping. When a returns project comes to an end the MWG, through its secretariat, shall produce a thorough report on the project, including a "lessons learned" section. The CRM, through its secretariat, on the basis of a different Completed Returns Project Reports, and the general return experience prepares comparative quarterly Returns Projects Reports and a comprehensive annual report at the end of each return season. These documents should consist not only of lessons learned, but also trends, best practices and shall provide a forecast for the next year (projected financial needs). The reports of the CRM shall be submitted to the Steering Group for its consideration and shall form the core report on returns activities, completed returns projects, and highlight remaining needs. This report shall also form the basis of addressing all challenges and obstacles identified over the return cycle by the PISG, through the Ministry of Returns and Communities (MCR) and Ministry of Local Government Administration (MLGA).

Consistent with its obligation to publish Annual reports on its activities, Municipalities

shall submit concise and qualitative Annual Reports to the Ministry of Local Government Administration (MLGA) by 1 June in the following year. The MLGA shall be responsible for producing a report on Municipal initiatives in planning facilitating coexistence, reintegration and provision of equal services to its minority communities. These reports shall be shared with the MCR and both the MLGA and MCR

shall coordinate line Ministry responsibilities associated with the reports and provide further guidance to Municipalities in addition to facilitating a platform to share best practices across Ministries and Municipalities.

The MCR shall be the final custodian of all PISG reports on Returns and Communities and shall make them available to the Office of the Prime Minister and UNHCR.



## Footnotes

1. In early 2005, two new Ministries - Ministry of Communities and Returns and Ministry of Local Government Administration - were created, which were mandated to take over most of the competencies on returns from UNMIK. The end of 2005 saw the formation of two more Ministries - Ministry of Internal Affairs and Ministry of Justice. (Page 4)
2. The distinction between IDP participant, age, men and women, and IDP Associations should always be considered. Both participants and Associations should be empowered to actively engage in the process where applicable. (Page 9)
3. UN Guiding Principles in Internal Displacement, point 2, Introduction - Scope and Purpose. (Page 10)
4. According to Article 1 of the 1951 Geneva Refugee Convention. (Page 10)
5. IDP representatives are local NGOs and IDP participants are individuals (men and women) representing themselves in the process of their return. (Page 13)
6. UNMIK Regulations 2000/45, 2001/9, 2005/15 and all applicable regulations. (Page 18)
7. Note that UNMIK has already transferred significant operational and policy development competencies to the PISG, particularly the Ministries of Communities and Returns; and Local Government Administration. (Page 20)
8. 1951 Convention relating to the Status of Refugees and 1967 Protocol relating to the Status of Refugees. (Page 22)
9. 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. (Page 22)
10. United Nations Security Council Resolution 1244, Annex 2. (Page 22)
11. Under the UNMIK Regulation the KPA subsumed the HPD. The KPA therefore has assumed responsibility for the implementation of all residential property claims pending with the HPD on 4 March 2006. The Housing and Property Claims Commission (HPCCC) will continue to decide the limited number of remaining claims that are currently pending before it. This approach ensures an orderly completion of the HPD's residential property mandate. The KPA assumed responsibility for the administration of all properties under HPD-Administration on 4 March 2006, it will continue to administer these properties - both abandoned and those placed under administration on the basis of a claimant's request. (Page 25)
12. The beneficiary selection criteria for individual returns are listed in Annex VIII. (Page 38)
13. At this point of time, SPARK IR is entirely funded by the Kosovo Consolidated Budget. (Page 38)
14. Houses are classified in accordance with the damage sustained by the conflict. Hence a 'Category 3' houses is one which has foundations and some walls intact, but perhaps the roof, doors and windows need full rehabilitation. On the other hand a 'Category 5' house, is one which has been razed to the ground, and nothing but the foundations exist and this obviously requires the full construction of a new house. (Page 38)

# Annex 1

## Provisional Institutions of Self-Government Recommendations to Updating Return Policies and Procedures

Pursuant to an eight month consultative process involving experts from the PISG, political party representatives, international organizations, IDP Associations, minority and civil society representatives, including displaced persons, the following updated policy recommendations are submitted for your consideration and promulgation. The recommendations seek to (1) simplify and streamline the steps for return and the delivery of social services for returnees, (2) increase IDP access to assistance for returning to Kosovo, (3) improve conditions and strengthen protection mechanisms for minority returnees to ensure non-discrimination, and (4) incorporate return needs and concerns in municipal and central development and budget planning.

### 1) Process and mechanisms for the return of displaced persons

**a)** Coordination mechanisms that facilitate returns to Kosovo will be streamlined to be more effective and efficient. Three key PISG structures will manage the returns processes, enhance stakeholder accountability, ensure meaningful IDP representation, support the transfer of competencies to the PISG and ensure minority protection. The Municipal Working Group (MWG), Central Review Mechanism (CRM) and a High Level Steering Group are tasked with guaranteeing the integrity of the returns process, ensuring effective coordination and the successful implementation of activities that support returns and the reintegration of all displaced persons.

**b)** The MWG remains an important local forum for dialogue, return and reintegration initiatives, and should be transitioned to the PISG, under the leadership of the Municipal Assembly President. Planning which involves the relevant stakeholders should occur to transfer the chairmanship of the MWG to the Municipal Assembly President. This includes plans to transfer all administrative and secretarial functions for the MWG, to Municipal Officials, the Chief Executive Officer and Municipal Returns Officer. Participation in the MWG shall continue to include IDP representatives and/or IDP associations, KPS, UNHCR, OSCE, UNMIK and other stakeholders.

**c)** Central mechanisms and platforms will be consolidated into a more robust Central Review Mechanism (CRM), which is strengthened to provide greater substantive support to the return process. The CRM membership may include the Office of the Prime Minister, the Ministry of Communities and Returns, the Ministry of Local Government Administration, UNHCR, UNDP, UNMIK, a donor representative and an IDP representative. Line Ministries may join on an *ad hoc* and “as required” basis. The terms of reference for the CRM shall be updated to include the following additional tasks: ensure “best practices” are being used in the selection and implementation of projects that facilitate returns; identify resource allocation strategies; update and lead donor coordination; review and provide guidance on the development and implementation of Municipal Returns Strategies; and produce quarterly reports on the activities and gaps relating to the return of displaced persons. Such reports shall be submitted to and made public by the High Level Steering Group.

**d)** Recognizing that the Task Force on Returns (co-chaired by the SRSG and COMKFOR) was established prior to the PISG formation, it will be replaced by a High Level Steering Group that will be co-chaired by the Prime Minister and the SRSG. The Steering Group shall meet quarterly and be in-sync with the Standards and STM processes when possible. All line Ministries with direct or implied responsibilities in the return process will be Members, in addition to one IDP representative from each of the

Republic of Serbia, the Republic of Montenegro and the Former Yugoslav Republic of Macedonia, UNHCR, UNDP, OSCE and UNMIK. The core mandate of this Group will be to review the return process and policy, review and support the work of the CRM, and act as the protection mechanism to ensure compliance with applicable policies.

## **2) IDP access to assistance for returning to Kosovo**

**a)** Recognizing the need to update the beneficiary selection criteria for assistance to returnees, the PISG reaffirms each displaced individual's right to return to their place of origin. Returning to the place of origin remains the preferred durable solutions for all displaced. Assistance may also be provided to support the displaced person's free and informed choice. The vulnerability criteria for assistance under returns programs shall be broadened to include IDPs who can contribute to the community's economic and social development. The Manual on Sustainable Returns shall be updated to reflect these policy updates. The same definitions contained in the Manual shall apply herein.

Exclusions in the basic practice can be made only on individual basis and after the individuals have had the chance to be informed thoroughly prior to taking a decision. These exclusions cannot be made for groups or on collective basis.

**b)** The beneficiary selection criteria for individual and spontaneous returns programmes shall be revised as follows:

- 1.** Construction assistance may be provided on land owned by the displaced prior to 1 January 2006;
- 2.** Reconstruction assistance may be provided for a pre-1999 secondary residential property.

**c)** Beneficiary selection criteria shall be revised to disallow housing reconstruction assistance under the following criteria:

- 1.** A member of the household owns an enterprise of more than nine non-family member employees;
- 2.** A member of the household owns a residential property in Kosovo which the members of the household can freely access;
- 3.** A member of the household owns a residential property in the Republic of Serbia or the Republic of Montenegro;
- 4.** The household has previously received significant housing assistance (repair and/or reconstruction) particularly for Category III housing damage;
- 5.** The return was forced (deportation) as this issue is dealt with under separate modalities.

**d)** The tripartite agreement used for reconstruction assistance projects may be amended to provide for the administration of reconstructed property that remains unoccupied for 90 days. Such administration will fall under the sole responsibility of the Kosovo Property Agency and will not prejudice the ownership rights of the beneficiary.

**e)** Housing reconstructions standards\*, given their technical nature, can be updated as agreed during the consultation and workshop process directly by the PISG line Ministries and key stakeholders.

**f)** The Ministry of Communities and Returns, the Ministry of Local Government Administration, the Office of the Prime Minister, UNMIK, UNHCR, UNDP and an IDP representative are asked to update the Manual on Sustainable Return (with input from the Steering Group guiding this strategic process), and to submit an "Updated Manual on Sustainable Return" to the Prime Minister and SRSB by 31 May

\* A technical working group composed of MCR, MLGA, UNDP, IOM, UNHCR, NRCG and UNMIK was constituted and issued a set of formal recommendations for the upgrading of UNMIK housing standards which included the raising of the financial threshold for a 75 sq meter house from 14,000 euros to include an additional 10% cost to support inclusion of gutters, option of PVC windows and doors, sidewalk and other small improvements.

2006 consistent with but not limited to the Policies herein.

**3) Protection mechanisms for minorities/returnees to ensure non-discrimination.**

**a)** As UNMIK prepares to transfer additional competencies in the management of returns processes, the PISG renews its commitment to the non-discriminatory return and re/integration of all displaced persons and refugees of Kosovo. All PISG structures are reminded of their duty to ensure the meaningful access and participation of minorities, IDPs, and their associations in all municipal and central processes. IDP associations are encouraged to register in Kosovo and comply with “best practices,” to conduct their work in good faith, and to act with accountability to their constituency.

**b)** Recognizing that freedom of movement is a factor for displaced persons returning to Kosovo and for minorities in particular, the PISG will adopt protection mechanisms to facilitate the transfer of the “freedom of movement train” and the humanitarian bus lines from UNMIK. On-going joint UNMIK-PISG planning on the transfer of this competency shall be made public when completed. Finalization of the transfer of the minority transport competencies still retained by UNMIK should be completed by September 2006, assuming capacity exists within the Ministry of Transportation (MoT) and minority protection/budget mechanisms are in place. Kosovo authorities will further ensure that transport services are provided in line with the European Partnership action Plan (EPAP) and any such future arrangements. The MoT should adopt a non-discriminatory code of conduct for all bus drivers and service staff.

**c)** Recognizing there is a backlog of requests for civil registration documentation, municipalities are instructed to ensure that pending registration requests for Roma, Ashkali, and Egyptians are completed in the next six months. No late fees for these administrative services shall apply to these groups.

**d)** In order to facilitate greater access to the property claims process of the Kosovo Property Agency (KPA), civil society and legal organizations are encouraged to consider the provision of free legal aid for displaced persons and minorities. The KPA is asked to present recommendations to strengthen inter-ministerial and inter-governmental coordination of activities to support the KPA mandate (including public information) to the Office of the Prime Minister in two months.

**e)** Inter-ethnic dialogue strategies under the coordination of the Office of Prime Minister shall continue to be developed for all PISG structures. The Ministry of Local Government Administration shall develop recommendations to municipalities for tolerance-building and activities that encourage inter-ethnic communication within three months. The development, organization and support for inter-ethnic sports, civic initiatives and cultural activities are particularly encouraged and can be included in municipal budget development.

**f)** To ensure that displaced persons have accurate and complete information to make informed choices, the Communities Outreach and Communication Group (COCG) should conduct public surveys every four months among minority groups/IDPs. The aim of the surveys will be to assess the information needs of IDPs, refugees and receiving communities and identify obstacles to return. The results of the survey should be made public. Media and non-media channels, including IDP associations and NGOs, should be used to disseminate accurate and comprehensive information to the displaced persons. Recommendations to further strengthen the COCG and its activities should be submitted to the Office of the Prime Minister in three months.

**g)** The Ministry of Communities and Returns is asked to evaluate the costs and benefits of a free telephone hotline for displaced persons that would provide all relevant information about returning and reintegrating into communities in Kosovo. Recommendations shall be submitted to the Office of the Prime

Minister within three months.

**4) Incorporation into municipal and central development and budget planning**

Municipalities are encouraged to incorporate municipal returns strategies into their Municipal Development Strategy to promote a community development and “rights based approach” to return and reintegration. Consideration should be given to infrastructure, educational, health and other social service needs that returnees may require from the municipality and community in all budgetary preparations. Such considerations (including balancing components), however, cannot limit or condition the right of displaced persons to return.

**5) All PISG Institutions are asked to promulgate and implement administrative instructions consistent with these updated policies.**

*Submitted 21 April 2006*

## **Annex 2**

### **Direct Dialogue Working Group on Returns**

#### **Protocol on Voluntary and Sustainable Return**

Between

**United Nations Interim Administration Mission in Kosovo and  
Provisional Institutions of Self-Government in Kosovo and Government of Serbia**

Taking into consideration the United Nations Charter (hereinafter “UN”), the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the ensuing Protocols, the International Covenant on Economic, Social and Cultural Rights, the International Convention on Elimination of all Forms of Racial Discrimination, the UN Convention on the Rights of the Child, the European Convention on Protection of Human Rights and Fundamental Freedoms, UN Security Council Resolution 1244 (1999), the UN Guiding Principles on Internal Displacement, and other relevant principles contained in internationally recognized legal instruments,

In observance of the Chapter 3 - Human Rights, and particularly item 3.4 of the Constitutional Framework for Provisional Self-Government in Kosovo,

Recognizing the right of each individual to make a decision on their place of residence,

Confirming the obligation of all parties to ensure a safe and unimpeded return of internally displaced persons to their places of origin in safety and dignity, return of their property rights and the obligation to create conditions for free movement of all persons,

Considering that the number of internally displaced persons who returned has so far remained low and that to achieve real progress substantial additional efforts need to be undertaken,

Recognizing the importance to establish active technical cooperation between the parties and to identify respective responsibilities, duly taking into account that UNMIK has the main responsibility for assuring the safe and unimpeded return of all refugees and displaced persons in accordance with UN Security Council Resolution 1244 (1999).

With a view to intensifying the process of return, the United Nations Interim Administration Mission in Kosovo (UNMIK), the Government of Kosovo - PISG and the Government of the Republic of Serbia (hereinafter: the Parties) adopt the following:

#### **Article 1**

The Parties shall, within their respective competencies, ensure the following basic preconditions for the voluntary and sustainable return of internally displaced persons irrespective of their ethnic background in safety and dignity:

- Physical and material security and freedom of movement,
- Vacation of occupied real estate, protection of such property and repossession thereof by the rightful owners,
- Reconstruction of the damaged and destroyed buildings,
- Access to social, economic and communal infrastructure and services,
- Equal employment opportunities for returnees and practice positive discrimination wherever possible;
- Humanitarian assistance as necessary,
- Better overall climate for returns and decrease of distrust and negative propaganda;
- Up-to-date and correct information about the conditions of return, to allow for informed decisions on

the part of the internally displaced;

- Other, flowing from the specificities of individual places of return.

## **Article 2**

The primary focus of the return process is to reverse the effect of the conflict-related population movements and to end the situation of displacement while duly respecting the right of the internally displaced to return to their homes as well as their right to freely choose their places of residence.

The Parties are committed to undertake all efforts to remove existing obstacles with regard to the voluntary return to the places of origin and the repossession of real estate and personal property.

The Parties are also committed to enable the internally displaced to settle or locally integrate in freely chosen alternative places within Kosovo.

In pursuing alternative solutions to return, Parties are committed to ensure that the decision by internally displaced persons who avail themselves of such an alternative to return home are taken truly voluntarily, on an individual basis and without any pressure.

The Parties will jointly ensure that the internally displaced will have access to full and objective information on local return so that they ultimately can take an informed choice with regard to their preferred durable solution, if they are unwilling or unable to return to their place of origin or habitual residence.

During the identification and implementation of such alternative durable solutions to the return home, the Parties will ensure that they will not impact negatively on the efforts to create conditions for allowing those internally displaced who continue to wish to return voluntarily to their homes to do so.

The Parties will also during the identification and implementation of such alternative durable solutions in places other than home that the property rights of internally displaced persons and refugees at the place of origin or the property rights of other persons in the chosen alternative area of settlement and local integration are not affected.

## **Article 3**

In an effort to overcome the unsatisfactory results and delays in the return of internally displaced persons, and in order to enhance the procedures of the return process, the Parties agree to pursue the following complementary procedures and activities:

A registration to return procedure shall be established whereby returnees can register in the municipality to which they intend to return. They may also submit an application via relevant institutions of the Republic of Serbia and Montenegro who will forward the application to the relevant UNMIK and municipality structures.

The information provided will comprise all essential data required on persons and families who have opted for voluntary return to enable the PISG and UNMIK to clearly identify the potential returnee and his relatives, his place of origin and to make the agreed on necessary preparations for the return. Therefore, such information includes, but it is not limited to:

- Full names and composition of returning family;
- Date of birth or age, place of birth, copies of birth certificates or other valid and legitimate identification;
- Place and address of origin or habitual residence in Kosovo or choice of alternative place of residence in accordance to Article 2;
- Data on relevant land and property records including cadastral records relevant to this specific case (if available copies of the same), and HPD/KPA/court decisions (if available copies of the same);
- Indication of particular vulnerabilities and related particular assistance requirements;
- Date and authority/agency of registration of application for voluntary return to home.

Recognizing that internally displaced persons have the right to spontaneous return at any stage, voluntary organized returns may start 60 days from the date of submission of such information to the above-

mentioned competent authorities.

Within those 60 days, starting with the date of receipt of the request municipalities, within their competencies, shall finalize preparations and activities with a view to ensuring administrative, material, safety, communal, infrastructure and other conditions for return, including in particular:

- Provision of temporary accommodation in the place of return where available;
- Provision of the necessary administrative, technical and other conditions and permits for reconstruction of damaged and destroyed buildings;
- Equitable access to transport, health, education, police and other social and public services;
- Other necessary conditions, depending on the specificities of the place of return will be identified and follow-up determined jointly.

In municipalities, areas or cases where despite best efforts unavoidable delays arise, a special mechanism involving each of the parties to the protocol will be established to identify and address the problems. The capacity of municipal administrations will be enhanced to enable municipal administrations to respond effectively to the provisions outlined above. Standard operating procedures will be developed and implemented at the municipal level to ensure consistent and rapid assistance to returnees in all aspects of their reintegration needs.

UNMIK and the PISG shall take all the necessary measures, within their competences, in order to ensure that the property rights of internally displaced persons are expeditiously restored, protected and preserved.

The Parties shall have access to cadastre registries and the related data on a case by case basis, whenever these are related to returns, and copies of the records will be made available to the potential returnee in the place of origin and the authorities of the municipality to which a displaced person wishes to return;

#### **Article 4**

The competent authorities involving the municipal agencies shall, in cooperation with UNMIK and within 60 days from the date of receipt of information about the planned voluntary return, provide the necessary administrative permits and approvals for beginning of reconstruction of damaged and destroyed buildings.

The Parties shall facilitate reconstruction and its completion within the shortest possible time.

The Parties intend to jointly examine the possibility of joint efforts, after prior consensus, to mobilize additional funds from potential donors required to address uncovered reconstruction needs with regard to specific return and local settlement projects to ensure early completion.

#### **Article 5**

Internally displaced persons, crossing the administrative line to Kosovo, will be granted exemptions from all taxes.

The goods and equipment required for return projects in Kosovo will be certified by the relevant UNMIK Department as humanitarian aid and therefore exempted from UNMIK duties and taxes. UNMIK Certificates must accompany the goods and equipment when crossing the administrative line. None of the foregoing will prevent UNMIK Customs from carrying out the necessary checks to ensure that the goods and equipment being brought into Kosovo conform to those authorized by UNMIK.

All parties to this agreement will endeavor to facilitate the speedy movement of all goods and equipment and the accompanying personnel so that the boundary line can be crossed without delay.

#### **Article 6**

The Parties agree within their capacities to facilitate humanitarian assistance to returnees until the conditions are met for them to reach a minimum Kosovo living standard.

#### **Article 7**

The Parties agree that should the process of reconstruction, repossession and return be conditioned by completion of administrative or judicial proceedings, these proceedings shall be considered as priority cases.

#### **Article 8**

The Parties agree that, should it be deemed necessary and following the consensus thereon, *ad hoc* task forces may and should be established to facilitate execution of specific projects in given locations.

#### **Article 9**

This Protocol shall come into effect on the date of signing. The Protocol should be kept under regular review and may be modified at anytime by mutual agreement of all parties.

*Signed in Pristina, on the 6<sup>th</sup> of June 2006*

*UNMIK*

## **Annex 3**

### **Terms of Reference**

#### **Ministry of Local Government Administration**

The Ministry shall:

- (i) Develop policies and implement legislation for effective municipal self- government;
- (ii) Promote and affirm the right to self-government of local bodies in conformity with the European Charter on Local Self-Government;
- (iii) Perform functions in the field of local administration as are specified in paragraph 5.2 of the Constitutional Framework for Provisional Self- Government in Kosovo, namely:
  - (a) Supporting inter-municipal co-operation;
  - (b) Promoting the development of a professional municipal civil service, taking into account responsibilities of the Ministry of Public Services;
  - (c) Assisting the municipalities in the development of their own budgets and financial management systems;
  - (d) Monitoring the quality of municipal services;
  - (e) Identifying the ways and means for training activities for the municipalities;
  - (f) Assisting the municipalities in making their activities transparent to the public;
  - (g) Providing legal guidance and advice to the municipalities;
  - (h) Coordinating the activities of international agencies and non- governmental organizations pertaining to the municipalities; and
  - (i) Overseeing compliance of municipalities with responsibilities and powers delegated to the municipalities based on organizational structures that emerged from the municipal elections in October 2000, as well as responsibilities and powers transferred in the meantime;
- (iv) Coordinate with the concerned sectoral ministries for the effective provision of centrally co trolled public services, including human and financial resources, to meet the needs for and ensure the access of all communities to essential basic goods and services;
- (v) Coordinate with the Ministry of Finance to ensure that municipal administrations receive the financial allocations to exercise their own responsibilities, including public investment;
- (vi) Contribute to the implementation of the Law on Gender Equality at the local level, allocate adequate financial and human resources for supporting Municipal Gender Officers, address gender inequalities and integrate a gender perspective in local governance policy-making and delivery of services.
- (vii) In coordination with the SRSQ, address matters related to the composition of local government units and boundaries thereof;
- (viii) Develop policies regarding the form of decision-making and undertaking of free initiatives on issues of special interest for residents of a certain municipal location; and
- (ix) Perform other tasks defined under the legislation in force.

## Ministry of Communities and Returns

### The Ministry shall:

- (i) Develop policies and promote and implement legislation for the promotion and protection of the rights of Communities and their members, including the right to return, in conformity with Chapters 3 and 4 of the Constitutional Framework;
- (ii) Promote the establishment of conducive conditions for return and ensure a rights-based approach to return;
- (iii) Provide the lead in confidence building, dialogue and reconciliation activities among communities and support the implementation of these activities;
- (iv) Develop and oversee implementation of a Government outreach strategy relating to communities and returns, and support the development and implementation of such strategies in all municipalities;
- (v) Develop and/or manage programmes and mechanisms to facilitate equitable integration of all Communities and their members currently residing in Kosovo, as well as to ensure the sustainable return of the displaced and refugees;
- (vi) Ensure that policy at central and municipal level includes provisions for the protection of Community rights, human rights and the interests of returnees, including in the areas of freedom of movement, use of languages, freedom of expression, fair representation, education, employment, and equitable access to justice, housing, and public utilities and services;
- (vii) Make recommendations to, and coordinate and monitor the activities of Ministries, municipalities and other authorities in respect of the promotion and protection of the rights and interests of Communities and their members including the right to return, as well as review where appropriate the practices, files and documents of these bodies, subject to authorization by the Prime Minister;
- (viii) Monitor and support municipal efforts to address community issues and returns, including the work of Mediation Committees, Communities Committees, Municipal Community Offices, and the development and implementation of Municipal Returns Strategies;
- (ix) Review, and provide assistance to other ministries in respect of, existing procedures and practices, as well as proposed policies and draft legislation, to ensure that the rights and interests of communities and their members and of displaced persons are fully respected and that PISG legislative acts and municipal regulations are compliant with the relevant international standards and provisions contained in the Constitutional Framework;
- (x) Coordinate with ministries, municipalities and other authorities to develop responses to displacement and to the humanitarian needs of communities and their members;
- (xi) Co-ordinate with other Ministries, municipalities and other authorities on the implementation of a human rights strategy with a view to ensuring that the rights of members of all communities, displaced persons and returnees are promoted and protected, with particular attention to the needs of women, children, elderly persons and any other vulnerable groups;
- (xii) Monitor and support the operational framework for returns to ensure a rights-based approach that is responsive to the needs of displaced persons, and work with other Ministries, agencies and NGOs in this process;
- (xiii) Monitor compliance of the legislative acts and policies of other Ministries and local authorities with the Standards for Kosovo and the Kosovo Standards Implementation Plan, and take the lead in implementing actions under that plan attributed to the Ministry by the Government;
- (xiv) Assist in the development and implementation of measures in the field of public information and other promotional projects for increasing public awareness of the rights and interests of Communities and their members including the right to return; and
- (xv) Perform other tasks defined under the legislation in force.

## **Annex 4**

UNMIK/REG/2006/10

4 March 2006

### **REGULATION NO. 2006/10 ON THE RESOLUTION OF CLAIMS RELATING TO PRIVATE IMMOVABLE PROPERTY, INCLUDING AGRICULTURAL AND COMMERCIAL PROPERTY**

The Special Representative of the Secretary-General,  
Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,  
For the purpose of achieving efficient and effective resolution of claims relating to private immovable property, including agricultural and commercial property,

Hereby promulgates the following:

#### **Chapter I The Kosovo Property Agency**

##### **Section 1**

##### **Establishment of the Kosovo Property Agency**

The Kosovo Property Agency shall be established as an administrative agency which shall function as an independent body pursuant to Chapter 11.2 of the Constitutional Framework. Decisions on the findings and conclusions of the Kosovo Property Agency shall be made under the authority of the courts of Kosovo.

##### **Section 2**

##### **Responsibilities of the Kosovo Property Agency**

2.1 The Kosovo Property Agency shall have the competence to receive, register and assist the courts in resolving the following categories of conflict-related claims resulting from the armed conflict that occurred between 27 February 1998 and 20 June 1999:

- (a) Ownership claims with respect to private immovable property, including agricultural and commercial property, and
- (b) Claims involving property use rights in respect of private immovable property, including agricultural and commercial property,

Where the claimant is not now able to exercise such property rights.

2.2 Nothing in this section shall prejudice the rights of claimants to pursue before courts of competent jurisdiction claims that do not involve the claims described in section 2.1.

#### **Chapter II The Kosovo Property Agency**

##### **Section 3**

##### **Organization of the Kosovo Property Agency**

The Kosovo Property Agency shall be composed of a Supervisory Board, an Executive Secretariat and a Property Claims Commission (the Commission).

## Section 4

### The Supervisory Board of the Kosovo Property Agency

4.1 A Supervisory Board shall supervise the work of the Kosovo Property Agency and provide administrative oversight, overall direction and policy guidance. It will not participate in the process by which the Commission adopts findings and conclusions on individual claims.

4.2 The Supervisory Board shall be composed of five (5) members. Within a month of the entry into force of the present Regulation, the Special Representative of the Secretary-General shall appoint the five members of the Supervisory Board, two of whom shall be nominated by the Prime Minister. The Special Representative of the Secretary-General shall designate as the Chairperson one of the three (3) members of the Supervisory Board who has not been nominated by the Prime Minister.

4.3 If the Special Representative of the Secretary-General determines that it would be appropriate, six (6) months after the entry into force of the present Regulation he shall appoint a further two (2) members to the Supervisory Board on the nomination of the Prime Minister who shall replace the two members other than the Chairperson who were not nominated by the Prime Minister.

4.4 Members of the Supervisory Board shall serve for a term of one year, which may be renewed.

4.5 No person may become or remain a member of the Supervisory Board if such person:

- (a) Has been convicted, after due process and in accordance with international standards, to imprisonment of one year or more;
- (b) Has been excluded or suspended for professional misconduct from the exercise of his or her profession; or
- (c) Has interests conflicting with his or her responsibilities under the present Regulation.

4.6 A member of the Supervisory Board may be removed from office by the Special Representative of the Secretary-General if he or she:

- (a) Becomes ineligible to serve as a member of the Supervisory Board under section 4.5;
- (b) Uses his or her office in a manner that is not consistent with the official duties and responsibilities set out in the present Regulation; or
- (a) Grossly neglects his or her duties under the present Regulation.

## Section 5

### Executive Secretariat

5.1 The Executive Secretariat shall have a Director and a Deputy Director who will be appointed by the Special Representative of the Secretary-General. The Deputy Director shall be nominated by the Prime Minister.

5.2 The responsibilities of the Executive Secretariat shall include the registration of claims and replies to claims, the notification of parties and the preparation of claims and replies to claims for the consideration of the Commission. The duties and responsibilities of the Executive Secretariat may be set out in detail in an Administrative Direction issued by the Special Representative of the Secretary-General.

## Section 6

### Property Claims Commission

6.1 The Special Representative of the Secretary-General shall appoint the members of the Commission and shall designate one member as the chairperson. Members of the Commission shall be experts in the field of housing and property law and competent to hold judicial office.

6.2 The Commission shall be composed of two (2) international members and one local member. The local member shall be appointed by the Special Representative of the Secretary-General on the nomination of the President of the Supreme Court of Kosovo.

6.3 Six (6) months after the entry into force of the present Regulation, if the Special Representative of the Secretary-General deems it appropriate, he may appoint a further local member of the Commission who shall replace the international member who is not the chairperson.

Section 7  
Appointment and Removal from Office of Members of the  
Property Claims Commission

7.1 Members of the Commission shall be appointed by the Special Representative of the Secretary-General for an initial term of one year and they may be re-appointed for one or more additional terms.

7.2 A member of the Commission may be removed from office by the Special Representative of the Secretary-General on the recommendation of a majority of the members of the Commission for failure to meet the qualifications for office or for persistent and unjustified failure to perform the duties of office.

Section 8  
Submission of claims

8.1 A person may submit a claim referred to in section 2.1 to the Executive Secretariat.

8.2 On receipt of a claim, the Executive Secretariat shall send a copy to the competent court.

8.3 The Executive Secretariat shall receive claims at offices established for this purpose in Kosovo from the date of entry into force of the present Regulation.

8.4 The Executive Secretariat shall establish a procedure to facilitate the receipt of claims from internally displaced persons currently residing outside of Kosovo.

Section 9  
The Procedure for the processing of claims

9.1 Upon receipt of a claim, the Executive Secretariat shall notify and send a copy of the claim to any person other than the claimant who is currently exercising or purporting to have rights to the property which is the subject of the claim and make reasonable efforts to notify any other person who may have a legal interest in the property. In appropriate cases, such reasonable efforts shall take the form of an announcement in an official publication of the Executive Secretariat.

9.2 Any person other than the claimant who is currently exercising or purporting to have rights to the property which is the subject of the claim and/or any other person who may have a legal interest in the claimed property shall be a party to the claim, provided that such person informs the Executive Secretariat of his or her intention to participate in the administrative proceedings within thirty (30) days of being notified of the claim by the Executive Secretariat in accordance with section 9.1.

9.3 A person with a legal interest in the claim who did not receive notification of a claim may be admitted as a party at any point in the proceedings.

9.4 Within thirty (30) days of receiving a copy of the claim, the receiving party may submit to the Executive Secretariat a reply to the claim.

Section 10  
Conclusions of the Property Claims Commission

10.1 The Commission shall reach its findings and conclusions on the basis of the claim and the reply or replies.

10.2 Where the interests of justice so require, the Commission may request and consider further written submissions from the parties or hold a hearing of all parties involved, including witnesses and experts. In such cases the Commission shall act expeditiously.

10.3 The Kosovo Property Agency shall submit the conclusions of the Commission to the competent court and serve copies of the conclusions on the parties.

## **Chapter III**

### **Authority of the Courts**

#### Section 11

##### General Principle

The proceedings before the Kosovo Property Agency and the conclusions issued by the Commission shall be without prejudice to the ultimate authority of the courts with territorial and subject-matter jurisdiction over the claims described in section 2.1 for the resolution of such claims.

#### Section 12

##### Decisions of competent courts

12.1 No court in Kosovo shall exercise jurisdiction over a claim involving the subject-matter described in section 2.1 unless such claim has been referred to it by the Kosovo Property Agency accompanied by conclusions pursuant to section 10.

12.2 Within forty-five (45) days of receipt of the conclusions issued by the Commission on a claim, the competent court shall serve a decision on the parties and the Kosovo Property Agency. Through such decision the competent court shall:

- (a) Confirm the Commission's conclusions;
- (b) Reject the Commission's conclusions;
- (c) Request from the Commission a clarification which may take the form of a question or questions with regard to the basis for the Commission's conclusions in order to facilitate a decision on the claim; or
- (d) Direct the Commission and/or the Executive Secretariat on the proper application of the law and/or on the provision and evaluation of additional evidence and arguments and/or on the conduct of further examination or assessment.

12.3 If, after receipt of a clarification from the Commission requested under paragraph 2(c) or the Commission's revised conclusions following a direction under paragraph 2(d), the competent court determines that it is still unsatisfied, it may itself render a decision on the merits of the claim.

12.4 If the competent court requests a clarification or issues a direction under paragraph 2, the Commission and/or the Executive Secretariat shall submit to the competent court and the parties the clarification or execute the direction within thirty (30) days from receipt of the request for clarification or the direction.

12.5 Where following a request for a clarification or the issuance of a direction under paragraph 2(c) or 2(d) above there is an unreasonable delay, a claimant may submit a motion to the Supreme Court for an order for immediate action. The Supreme Court shall rule on such motion within ten (10) days of its submission. If the Supreme Court of Kosovo finds that there has been unreasonable delay, it shall order the competent court to render a decision within thirty (30) days from the day of the receipt of such order. If the competent court fails to render a decision within said thirty (30) days, the Supreme Court shall within ten (10) days issue a decision on the claim taking into account the conclusions issued by the Commission. If the Supreme Court of Kosovo finds that there has not been unreasonable delay, it shall notify the competent court and the parties and the competent court shall remain seized of the claim and shall continue with the proceedings.

12.6 The competent court may render a decision rejecting the Commission's conclusions on the grounds that;

- (a) The conclusions contain a material breach of the applicable law; or
- (b) The conclusions rest upon incomplete facts or an erroneous evaluation of the facts.

12.7 Without prejudice to paragraphs 4 and 5, if after the expiry of forty five (45) days from the date of receipt of the conclusions of the Commission in respect of a claim the competent court does not render a decision under paragraph 2, the Kosovo Property Agency shall serve on the parties and the competent court a notification that the parties may within seven (7) days of service submit a petition to the Supreme

Court to give a direction to the competent court to render a decision under paragraph 2. If within this period of seven days none of the parties submits a petition to the Supreme Court, the conclusions of the Commission shall be legally binding and immediately enforceable as a final decision without prejudice to the right of appeal under section 13. The parties shall be advised accordingly by the Kosovo Property Agency.

12.8 If a party submits a petition to the Supreme Court to give a direction to the competent court to render a decision under paragraph 2, the party shall at the same time serve the petition on the UNMIK Department of Justice, the Kosovo Property Agency, the competent court and the other party or parties.

12.9 Upon receipt of a petition to the Supreme Court to give a direction to the competent court to render a decision under paragraph 2, the Department of Justice shall expeditiously submit to the Special Representative of the Secretary-General a request for the assignment to the Supreme Court of a panel of three (3) judges, including at least two international judges, of whom one shall be the presiding judge, to decide upon the petition. Upon approval of the request by the Special Representative of the Secretary-General, the Department of Justice shall expeditiously designate a panel of three (3) judges, including at least two international judges, of whom one shall be the presiding judge, to render a decision upon the petition.

12.10 The Supreme Court shall decide upon a petition within seven (7) days of the designation of a panel of three (3) judges by the Department of Justice. Such decision shall be served upon the competent court, the parties and the Kosovo Property Agency. Within seven (7) days of receipt of the decision of the Supreme Court, the competent court shall render a decision under paragraph 2 in accordance with the decision of the Supreme Court. The decision of the competent court shall be served on the Supreme Court, the Kosovo Property Agency and the parties. In the event that the competent court does not render a decision within this period of seven days, the conclusions of the Commission shall be legally binding and immediately enforceable as a final decision without prejudice to the right of appeal under section 13. The parties shall be advised accordingly by the Kosovo Property Agency.

### Section 13

#### Appeals

13.1 Within fifteen (15) days of service of the decision of the competent court confirming or rejecting the Commission's conclusions or within fifteen (15) days of the parties being advised that the conclusions of the Commission are legally binding and immediately enforceable as a final decision, a party may submit to the Supreme Court of Kosovo an appeal against such decision on the grounds that:

- (a) The decision contains a serious violation of the applicable law; or
- (b) The decision rests upon incomplete facts or an erroneous evaluation of the facts.

13.2 At the same time as a party submits an appeal to the Supreme Court, the party shall submit copies of the appeal to the Kosovo Property Agency. On receipt of the appeal the Supreme Court shall submit copies to the other party or parties and the competent court.

13.3 If requested, the Executive Secretariat of the Kosovo Property Agency shall provide a dissatisfied party information and guidance on the procedure to be followed in the preparation of an appeal to the Supreme Court of Kosovo.

13.4 Within fifteen (15) days of receipt of a copy of the appeal, the other party or parties shall submit a written response to the claimant with a copy to the Supreme Court of Kosovo.

13.5 The Supreme Court of Kosovo shall decide on appeals in a panel of three judges of whom two shall be international judges and one shall be a judge who is a resident of Kosovo.

13.6 If the interests of justice so require, on receipt of a response from a party other than the claimant, the Supreme Court of Kosovo may request and consider further written submissions by the parties or hold an oral hearing. In such cases the Supreme Court of Kosovo shall act expeditiously.

13.7 Within fifteen (15) days of the date on which the Supreme Court of Kosovo determines that it has received all the evidence that it requires to decide the appeal, it shall render a decision on the appeal

which it shall serve on the competent court, the Kosovo Property Agency and the parties.  
13.8 In its decision the Supreme Court shall either accept or reject the appeal.

#### Section 14

##### The applicable law on civil disputes

Unless otherwise determined by the present regulation or any subsequent Administrative Direction issued pursuant to section 22 of the present Regulation, judicial proceedings under the present Regulation shall be governed by the applicable law on civil disputes. The prescribed periods of time set forth in the present Regulation shall always take precedence over any conflicting provisions in the applicable law on civil disputes.

### **Chapter IV**

#### **Execution of Decisions**

##### Section 15

##### Execution of Decisions

15.1 The decision of the competent court or, respectively, the Supreme Court or a decision that otherwise becomes final and legally enforceable under the present Regulation shall become effective fifteen (15) days following the date on which the decision becomes final and legally enforceable and is served on or notified to the parties and the Kosovo Property Agency.

15.2 Remedies for the execution of a decision may include eviction, placing the property under administration, a lease agreement, seizure of unlawful structures, auction and compensation.

15.3 In the event of a decision involving the eviction of persons, the Kosovo Property Agency shall deliver a decision confirming an order for eviction to the current occupant of the claimed property.

15.4 A decision confirming an order for eviction is executable after delivery. The eviction order may be executed against any person occupying the property at the time of the eviction.

15.5 An eviction shall be executed by the responsible officer of the Kosovo Property Agency, with the support of the law enforcement authorities. The said officer and authorities must be in possession of a warrant signed by the Director of the Kosovo Property Agency.

15.6 During the execution of an eviction order, any person who fails to obey an instruction of the responsible officer to leave the property may be removed by the law enforcement authorities. In the event that movable property is also removed in connection with the execution of the eviction order, the Kosovo Property Agency shall make reasonable efforts to minimize the risk of damage to or loss of such property.

15.7 The Kosovo Property Agency shall notify the claimant and any person occupying the property of the scheduled date of the eviction. Following the execution of an eviction order, if the claimant is not present to take immediate possession of the property, the responsible officer shall seal the property, and notify the claimant. Any person who, without lawful excuse, enters a property by breaking a seal may be subject to removal from the property by the law enforcement authorities.

### **Chapter V**

#### **Transitional Provisions**

##### Section 16

##### Abandoned Property

The Kosovo Property Agency shall succeed to the responsibilities of the Housing and Property Directorate under Section 1.1(b) of UNMIK Regulation No. 1999/23 of 15 November 1999 on the Establishment of the Housing and Property Directorate and the Housing and Property Claims Commission and section 12 of UNMIK Regulation No. 2000/60 of 31 October 2000 on Residential Property Claims and the Rules of Procedure and Evidence. For the purposes of this section, “abandoned property” shall be interpreted in accordance with the provisions of UNMIK Regulation No. 2000/60.

### Section 17

#### Physical assets of the Housing and Property Directorate

Upon the entry into force of the present Regulation, the title to all physical assets in which the title has been vested in the Housing and Property Directorate shall be vested in the Kosovo Property Agency.

### Section 18

#### Contracts of a private law character

Upon the entry into force of the present Regulation, the rights and obligations of the Housing and Property Directorate under all contracts of a private law character to which the Housing and Property Directorate is a party shall pass to the Kosovo Property Agency.

### Section 19

#### Claims before the Housing and Property Directorate

The Kosovo Property Agency shall exercise the powers of execution in relation to any decision or eviction order of the Housing and Property Claims Commission which on the date of the entry into force of the present Regulation may be executed, but has not been executed, by the Housing and Property Directorate. In exercising such powers of execution, the Kosovo Property Agency shall have the rights, obligations, responsibilities and powers that the Housing and Property Directorate had before the entry into force of the present Regulation.

### Section 20

#### Claims before courts

The provisions of the present regulation shall apply to any claim under section 2.1 which has been submitted to a court of competent jurisdiction, provided that judicial proceedings in respect of such claim have not commenced prior to the date of entry into force of the present regulation.

## **Chapter VI Final Provisions**

### Section 21

#### Applicable Law

The present regulation shall supersede any provision in the applicable law, which is inconsistent with it.

### Section 22

#### Implementation

The Special Representative of the Secretary-General may issue Administrative Directions for the implementation of the present Regulation.

### Section 23

#### Entry into Force

The present regulation shall enter into force on 4 March 2006, without prejudice to the continuing authority of the Housing and Property Claims Commission to adjudicate claims which have already been submitted to the Housing and Property Directorate and to act on requests for reconsideration of decisions in accordance with UNMIK Regulation No. 2000/60. The present Regulation shall remain in force for a period of twelve (12) months. The Special Representative of the Secretary-General may extend its validity for a further period.

*Søren Jessen-Petersen*  
*Special Representative of the Secretary-General*

## Annex 5

### Go and See Visit

#### INTERVIEWS SUGGESTIONS

The Objective of the GSV Interviews is to collect information on IDP background as well as the Local infrastructure needs in order to identify development projects and planning needs for potential return.

In order to achieve its objective the GSV questionnaires requested will be based on the following four parts:

**1. Social Assessment of the potential returnee which includes the following information:**

- Social Assessment form for housing reconstruction
- Household Composition
- Present Accommodation
- Household Assets
- Total Household income per month
- Preliminary House Damage assessment

**2. Assessment on the conditions of displacement:**

- Household status (Family members, age, vulnerability etc.)
- Residency status
- Employment Status (For all the Family Members)
- Education (Linguistic issue, children participation in school)
- Health
- Integration to the Local Community (Participation in Social Life, Linguistic and Religious issues etc.)
- Total Household income per month

**3. Livelihood Sustainability Questionnaire which includes the following information:**

- Current living and dwelling conditions
- Financial situation (Income)
- General Education / Training Qualifications (independently from current job)
- Receiving Humanitarian Aid
- Employment sheets (Income Generation activities for starting up and strengthening business)

**4. Local infrastructure (Damage Assessment)**

- Location General Information collection -Information per village: (Damaged Houses, Road, Water supply / Sewage, Electricity, Health and education facilities) -Location Summary (Damage and reconstruction cost identification)

**5. Displaced minority Beneficiary sheet**

- Personal and Location Data
- Section 1: Feasibility of Return
  - 1.A: Security Issues
  - 1.B: Sustainable return
  - 1.C: Housing
- Section 2: Housing Reconstruction

## Annex 6

### Return Location Profile Format

(Return Location Name with PCode) Profile Summary Municipality/Region Month/Year

Population	Pre-Conflict/ Post-Conflict Population*	Majority/Minority Population*	IDPs numbers by locations	Minority departure by Year	Minority Returns by Year	
	300/250	200/50	100 Belgrade 200 Podgorica	5- 2000 10-2001	0-2000 49-2001	
Security	Ethnically motivated crimes reported during 2000-1-2	KFOR Presence	Police station	KPS:Mix Patrols Number of mino	KFOR Security Assessment	
	10-2000 2-2001 0-2002	2 Static checkpoints  2 Foot Patrol routes	1 Sub-police station	Yes 10	Cat 1	
Freedom of Movement	Availability of Public Transport	Escorted Transport Available if needed	KS License Plates Available	Access to Town Market	Access to Municipal Building	Free usage of Mino Language in Public places
	Yes	No need	Yes	Yes	Yes	Yes
Housing	Pre-Conflict/ Post-Conflict Total of Houses*	Majority/Minority Number of Houses*	Majority/Minori ty Damaged Number of Houses*	Majority/Minori ty Occupied Number of Houses*	Majority/Minority Reconstructed Houses Through Donor Ass.	Majority/Minori ty empty Housing
	235/156	200/100	23/15	0/15	20/10	0/0
Infrastructure	Prim and Second Schools	Hospital/ Ambulanta	Phone lines	Electricity lines	Water/Sewage Canalisation	Roads
	2 High Schools 3 Primary Schools	Yes	Yes	No	No	Yes
Mino Public Services Access	Prim and Second Education	Health	Social Assistance	Humanitarian Assistance	KEK	PTK
	2 High Schools 3 Primary Schools	1 Ambulanta	Yes	Yes	Yes	Yes
Minority Employment	Public Institutions	State-Owned Ent.	Int Org and NGOs	Total Employed	Total Unemployed	
	5	12	X	7	32	
Completed Projects Financed by the IC	House reconstruction by NGOs	Infrastructure projects by NGOs	Economic/Inc ome Generation Projects	Capacity Building Projects	Interethnic Dialog Activities	
	24 SIDA 69 THW	Sewage SDA	Micro Grant Care	HR Training OSCE	Multi-ethnic Market day	

### Community Profile: AT A GLANCE

Village:

I. Municipality:

Pcode: [refer to Kosovo Atlas, published by HCIC]

Situational overview: [rural/urban, small/large, isolated etc]

FoM / security situation: [heavy/light restrictions, free movement]

Ec.situation: [% of families with income, asset stocks]

Social integration: [very good / good / poor / high risk]  
Access to services: [very good / good / poor]  
Population profile: Alb Serb Roma Eg/Ashk Other  
Total:  
Pre-war:  
2006:  
new arrivals:  
new departures:  
Vulnerability analysis (risk of minority community to depart):  
[expanding / stable / vulnerable / contracting]

Publication: [Date] [Version #]

## **1. OVERVIEW / HIGHLIGHTS**

### **1.1 Location / Situational Overview**

In this section talk/write to the pre-war and post war conditions. Provide an overview with regards to the area including all ethnic groups. This will allow the reader to gain a holistic overview. Points to cover:

- Location within AOR
- Overview of area: mountainous, hilly, flat plans, arid, soil rich, isolated during winter.
- Ethnic groups within the community, pre-post war and location within the region.

### **1.2 Overview / Highlights**

Capture the main issues pre-occupying the community, its robustness / vulnerability of minority members to be compelled to depart to displacement, prevailing trends, opportunities and risks.

### **1.3 Problems / opportunities**

- General population displacement -Destruction of housing -Public infrastructure is inadequate -More medical supplies are needed -Problems communicating with the municipality offices -Women are under-employed -Lack of youth activities -Security for Serbian community -Water well quality test -Public infrastructure (sewage, water system, phone lines and new electric lines) -Agricultural infrastructure

### **1.4 Possible Solutions**

- Active Solutions -Short-Term Solutions -Long-Term Solutions

## **2. DEMOGRAPHICS**

### **2.1 Returns/Departures**

- Profile of age, children, adolescents, aging population
- Men v's women

### **2.2 Returns**

Common sense is to prevail in this section. This information is only to be included if relevant. Ensure to highlight obstacles for return.

Note:

- No:'s of people wanting to return
- Where are they currently situated?
- What are the demographics of those people wanting to return age etc, family units?]
- Reason for wanting to return; to live or renovate fix home and return to new residence
- Ability to work or locate work

## **2.3 Departures**

Note:

- No:'s of people departing
- Where are they currently situated?
- Where are they departing to?
- What are the demographics of those people departing age etc, family units?
- Reason for wanting to depart; have they sold their home, no work opportunities
- Ability to work or locate work in new location?

## **2.4 Go See Visits**

- When are visits planned?
- Who, what, when, where, how?
- Consensus of local community?
- Perceive problems
- Possible Solutions

Synopsis of the factors that influence movement, be it to 'go or not to go'.

## **2.5 Recommendation with regards to returns**

# **3. FACTORS THAT INFLUENCE DISPLACEMENT**

## **3.1 Freedom of Movement & Security**

Provide qualitative analysis on why there is an issue on freedom of movement.

Note:

- Location of nearest Checkpoints:
- Designated KFOR:
- Available escorted transport by International Organisations: (runs from where - to, how often, cost, number of passengers) -Assistance being provided influencing perceived freedom of movement. - Available private transport: (runs from where - to, how often, cost, number of passengers) -Predominate form of transportation: -Access to fuel: -Villages travel from - to: (reason) -Areas of concern during travel: (regions of concern, i.e. pass through several Albanian villages).
- Mixed ethnicity patrols
- Police Station Locations
- Interethnic violence statistics

## **3.2 Social Integration**

Degree of integration of minorities in the society, politics, and economic life of the surrounding area.

Inter-ethnic relations, feelings, past events that could influence future returns. Position of relevant authorities (both minorities as well as majority) on acceptance of each other. Perception/actual cases were Social Integration between multiethnic communities is visible, emphasis on Return populations interaction with local and extended communities.

## **3.3 Housing / Accommodation**

Serbian houses that were in significant disrepair have been reconstructed by IRC. Doors and windows have also been distributed for minor repairs. Each family owns between 5 - 10 hectares of farmland (yet as noted above, is only able to cultivate 0.5 hectares). There are total of two tractors and two private cars (but with no petrol/fuel access) and one combine in the Serbian hamlets of Slivovo. There is no local mill. However, in previous years, international agencies have helped transport grain to Laplje selo (near

Pristina) for milling. Each family currently owns a cow for the subsistence production of milk.

Note:

- Damage to housing -Activities past/present as to reconstruction (types of repairs, windows, doors, livable areas) -Agencies providing housing assistance -Occupied houses and land -Sale of houses - European Construction Reports -Known Claims/Mediation in Progress/Court in Progress/Solution Information within this section is to be used with discretion only point of relevance to be included.

### 3.4 Economic Analysis

Capture land owned, vehicles, tractors (communal) & livestock.

Main sources of income [look at employment, remittances from abroad, pensions/salaries from Serbia, intra-community support etc]

Main occupations / skills of inhabitants.

Cargo Movement Analysis (Look at consumer difficulties in getting bulk items in areas where bus escort does not allow, what goods are moving from one place to another, sources of supply with an eye to local production replacing imports, inter-ethnic trade, access to nearby markets etc).

Agriculture (Look into how to capture land farmed, location of land inaccessible due to security/squatters, production, sales volume) Business/Banking/Credit (Address the issue of access, credit sources, what currencies are currently being used: Euro, Drachma) Employers (former employees number, receiving remittance, Administration minority/majority employees or other indicative info..)

Cost of living

## 4. ACCESS TO PUBLIC SERVICES

### 4.1 Social Assistance

Trends - Gaps - Obstacles to be highlighted

Analysis of Trends (Change deregistration, applications, verification of problems, distance to SAS office, access to office location)

There are approximately 14 families, both Roma and Serbian, currently receiving UNMIK social assistance. Another 30 families, mostly IDPs are the vulnerable, are receiving Food Aid (WFP). Preoce has furthermore received the same humanitarian assistance as has Caglavica and Laplje Selo.

Note changes in provision of assistance being provided and soon to be deleted and the impact of such on the community i.e. the ending of the Safety Net Programme and the impact on the community/coping mechanisms.

#### 4.1.1 Humanitarian Assistance

Date:				
Assistance Provided	Assisting Agency	Description of Assistance	Areas being Assisted	Ethnicity of those being assisted

### 4.2 Health

Health (Medical) Facility Use Matrix (New Suggestion Add Location Map with area served)

Analysis of Health Facilities (location of services, X-ray, Labs, Ultrasound etc, distance from clients, emergency service/ambulance coverage, health care workers to client rations, gaps.)

### 4.3 Education

Details pertaining to the school:

- Location
  - Description of the premises
  - Accessibility of for the children
  - Are all children attending?
  - Grades covered
  - Hours open
  - Teachers
  - Levels covered
  - What/where schools are located if requiring higher education
- Analysis of Map [Student escort changes, shifts/crowding, mixed facilities]

#### **4.4 Utilities**

Water/Sewage (Source piped/well/other, working/not, last quality test, piped sewage or latrine, septic system or to river, working or not, proximity to wells...)

Garbage Disposal/Collection Matrix (Collected or not, disposed where)

Electricity on average being received, supplied from where, are people paying their bills?

#### **4.5 Public communications**

Comments relating to the degree of integration or isolation of the community with their neighbouring areas, the rest of Kosovo / Serbia & Montenegro / FYROM, further abroad.

telephone connections internet newspapers read in community / frequency of delivery TV / radio

Publications specifically targeting minorities / IDPs / returnees

#### **4.6 Information / Documentation / Legal Aid**

Identify gaps, problem areas (where minority people are not getting information about government services/utilities, deadlines, info about changes in escort or other things - in past was utility bills, currency change...)

### **5. GENERAL COMMENTS / IMPRESSIONS**

Anything the lead agency may wish to add that is relevant but has not been captured elsewhere.

## Annex 7

**TRIPARTITE AGREEMENT  
for the  
RECONSTRUCTION OR REPAIR OF RESIDENTIAL PROPERTY IN KOSOVO**

**MARRËVESHJA TRIPALËSHE  
për  
RINDËRTIMIN OSE MEREMETIMIN E OBJEKTEVE TË BANIMIT**

**TROJNI SPORAZUM  
o  
IZGRADNJI ILI POPRAVCI STAMBENIH OBJEKATA NA KOSOVU**

*The construction or repair work will take place on the below mentioned property:*

*Ndërtimi ose meremetimi do të bëhet në pronën e përmendur më poshtë:*

*Izgradnja ili popravka ce se izvršiti na dole pomenutoj imovini:*

		Reference number: Nr. i referencës: Referenti br:
Exact address of the parcel: (Hereinafter referred as "the House") Adresa e saktë e parcelës: (Më poshtë "shtëpia") Tačna adresa parcele: (U daljem tekstu "kuća")		Land plot number: Numri i parcelës: Broj parcele:
Village or neighbourhood: Fshati ose lagjeja: Selo ili naselje:		
Municipality: Komuna: Opština:		
Name of the registered owner: Emri i pronarit të regjistruar: Ime registrovanog vlasnika:		

*This agreement is made between the following signing parties and applies from  
article 1 to 11 of this tripartite agreement including Annex 1 and 2*

*Kjo marrëveshje është bërë nga palët e nënshkruara vijuese dhe aplikohet që nga  
neni 1 deri në nenin 11 të kësaj marrëveshjeje duke përfshirë edhe Shtojcën 1 dhe 2*

*Ovaj sporazum je uradjen izmedju sledecih potpisnih strana i primenjuje se od  
Clana 1 do Clana 11 ovog sporazuma, ukljucujuci i Aneks 1 i 2*

1.	Name of the beneficiary Emri i përfituesit Ime korisnika		Signature / Nënshkrimi / Potpis:
	Full name of the beneficiary's father: Emri i plotë i babait të përfituesit Puno ime oca korisnika		Date / Data / Datum:
	Presently residing: (List apartment No., street, village, municipality) <b>Aktualisht jeton në :</b> (Shëno numrin e banesës, rrugën, fshatin, komunën) <b>Trenutno boravište :</b> (Navedite br.stana, licu, selo, opštinu):		
2.	The Executing Agency: Agjensia Ekzekutuese: Izvršna agencija		Signature / Nënshkrimi / Potpis:
	On behalf of the Donors: Në emër të Donatorëve: U ime Donatora:		Date/Data/Datum:
	Executing Agency represented by: Përfaqësuar nga: Predstavnik Izvršne Agencije:		
3.	The Municipality of: Komuna e: Opština:		Signature / Nënshkrimi / Potpis:
	Represented by: Përfaqësuar nga: Predstavnik Opštine:		Date/Data/Datum:  Stamp / Vula / Pečat

***This agreement governs the obligations of each Party  
pertaining to the reconstruction and repair of the House***

***Kjo marrëveshje përcakton obligimet e secilës palë në lidhje me  
rindërtimin dhe meremetimin e Shtëpisë***

***Ovaj sporazum određuje obaveze svih strana u vezi sa  
izgradnjom ili popravkom kuće***

## ENGLISH VERSION

### Article 1

**Material provision:** The Implementing Agency will provide assistance to the Beneficiary for the purchase/ release of building material according to the materials list enclosed in ANNEX 2, which forms an integral part of this Agreement in order to realize construction works according to the technical project documentation and project description.

The Beneficiary agrees that the materials provided by the Implementing Agency shall only be used for the rehabilitation of the House. Any building material provided and /or purchased with the assistance of the Implementing Agency shall remain in the ownership of the Donor, but controlled on its behalf by the Implementing Agency, until the “Certification of Completion of Assistance for Construction Work” is signed. If building material is not or only partially processed within the agreed terms, the parties shall mutually assess the reason and conclude a solution to finalize/ proceed with the building works. If the Beneficiary refuses to perform her/his committed assistance, the provided building material on site and outstanding instalments shall be reallocated by the Implementing Agency and the Municipality to another beneficiary family.

ANNEX 2 shall be signed by the Beneficiary and the Implementing Agency

## **Article 2**

Labour provision: In case the Implementing Agency agrees to provide labour assistance, transport assistance of construction materials or payment of the grant to the Beneficiary to support or carry out the construction work, the obligations of the parties is described in attached ANNEX 1, which forms an integral part of this Agreement.

The Implementing Agency and the Beneficiary mutually agree upon the time-period necessary for the realization of the different phases according to the release of the material instalments. Any (Un)skilled labour assistance, whether 'self help' or funded (see Annex 1), needed for construction with the material instalments shall be provided within the same time period. If the building works are not realized within the agreed term, any further material instalment shall be suspended.

In case the Beneficiary agrees to process all the construction material on a self-help basis, this will be done according to the attached project description and technical documentation within the agreed time-schedule and to valid professional standards.

In case the Beneficiary decides to carry out modifications or extension to the planned project, the Implementing Agency has no responsibility for these changes, nor to possible changes of construction materials required. The work shall be executed under valid professional standards, and within the agreed time-schedule.

ANNEX 1 shall be signed by the Beneficiary and the Implementing Agency

## **Article 3**

The Beneficiary authorises the Implementing Agency to apply for Construction Permit to the Municipality. The Implementing Agency agrees to submit Application for Construction Permit including and required technical documentation.

By the Municipality's signature of this tripartite agreement the Construction Permit is issued.

In case the Beneficiary decides to carry out modifications or extension to the planned project, s/he shall apply for a separate Construction Permit through Department of Urbanism in the Municipality.

## **Article 4**

When the construction work is completed all parties shall inspect and approve the construction materials provided and the work carried out on site. The Implementing Agency shall issue a "Certificate of Completion of Assistance for Construction Work" which is the final hand over of the assistance to the Beneficiary.

The provided construction materials and possible labour assistance shall be handed over to be the property of the legal owner of the house and the Implementing Agency is released from all future obligations and guaranties. The Certificate of Completion of Assistance shall be signed by the Beneficiary and the Implementing Agency and a representative of the Municipality if present.

## **Article 5**

The Beneficiary is responsible and agrees to provide proof of his/her ownership of the House to the Implementing Agency. The Municipality

agrees to provide access to the relevant property records, where available, or to assist otherwise in the establishment of ownership.

Proof of ownership may consist of one or more of the following documents: cadastre extracts, court deci-

sions, verified contracts on sale or gift, building permits or other valid documents confirming the Beneficiary's rights to the House.

The Municipality agrees to verify ownership documentation expeditiously and submit a ownership verification document to the Implementing Agency.

All parties agree that the Municipality may submit the documentation to the Kosovo Property Agency (KPA) for review.

#### **Article 6**

All parties agree, by signing this Agreement, that the benefits of the reconstruction/repair works, including works carried out with the Beneficiary's labour, shall accrue to the rightful owner of the House.

#### **Article 7**

By signing this Agreement, the Beneficiary reaffirms his/her intention to return to and/or continue to reside in the House.

The Beneficiary agrees, by signing this Agreement, that s/he and all other members of her/his household will vacate any property which they are currently occupying illegally or on a temporary humanitarian basis, within 90 days of the date the rehabilitation works are completed.

If the Beneficiary fails to vacate the property which he/she is illegally occupying, the Beneficiary understands that the Kosovo Property Agency may issue an order evicting him/her from his/her current property.

If the Beneficiary fails to enter into possession of the House within 90 days, by signing this Agreement, the Beneficiary understands that the Kosovo Property Agency will administer the House and temporarily re-allocate the House for humanitarian accommodation according to Section 16 of UNMIK Regulation 2006//10. A KPA-decision to temporarily reallocate the house for humanitarian accommodation will not prejudice the ownership rights of the Beneficiary. The Beneficiary retains the right to return to the House and shall inform the Kosovo Property Agency of his/her intention to return, and shall wait until the Kosovo Property Agency terminates the temporary administration of the property and authorizes him/her to return.

The Beneficiary agrees to notify the Parties and the competent municipal authorities in the municipality where the current accommodation is located as to the exact date that s/he and her/his current household intend to vacate their current accommodation and to hand over the keys to this accommodation to the Kosovo Property Agency immediately on vacating this accommodation.

The Municipality agrees to inform the Kosovo Property Agency as to the exact date that the Beneficiary intends to vacate the current accommodation.

#### **Article 8**

In the event of unforeseeable operation of the forces of nature, war, hostilities or insurrection the Agreement will be terminated immediately without incurring any liability on either party.

#### **Article 9**

The Municipality undertakes to take any and all necessary steps to ensure that this Agreement is considered a legally valid agreement in accordance with domestic law.

#### **Article 10**

The English language version is the definitive version of this Agreement.

Each party agrees that by signing on page one of this agreement, it has read and understood the terms of this Agreement.

***The Parties agree to make all reasonable efforts to resolve any and all disputes amicably. In the event that this is not possible, they shall submit the dispute to a mutually agreed arbitrator. If arbitration fails, they shall submit the dispute to the competent court in the Municipality***

## ANNEX 1 / SHTOJCA 1 / ANEKS 1

*This Annex 1 is an integral part of the Tripartite Agreement*

*Kjo shtojcë është pjesë përbërëse e marrëveshjes tripalëshe*

*Ovaj Aneks 1 je integralni deo Trojnog sporazuma*

Name of the beneficiary: Emri i përfituesit: Ime korisnika:	Reference number: Numri i referencës: Referenti broj:
Address of the parcel: Adresa e parcelës: Adresa parcele:	Land plot number: Numri i parcelës: Broj parcele:
Village or neighbourhood: Fshati ose lagjja: Selo ili naselje:	Municipality: Komuna: Opština:
Implementing Agency: Agjensia implementuese: Agencija za implementaciju:	
<b>Article 1. Special conditions:</b> <b>Neni 1. Kushtet e veçanta:</b> <b>Član 1. Posebni uslovi:</b>	
<b>Article 2. Implementing method:</b> Full contracted reconstruction of category (V) of 65m <sup>2</sup> house according UNMIK housing reconstruction guidelines upgraded to include: 1) painting of the internal surfaces; 2) provision of gutters; 3) supply and installation of window parapet with galvanized tin; 4) concrete slabs for ceiling. <b>Neni 2. Metoda implementuese:</b> Rindertimi i plote i kontraktuar i kategorise (V) 65 m <sup>2</sup> per shtepi sipas udhezimeve te UNMIK per ndertimin e shtepive me permiresimet e perfshira:1)Lyerjen e siperfaqeve te brendeshme; 2) sigurimin e ullqeve;3) furnizimin dhe instalimin e sollobankave prej llamarine te zinguar 4 )Pllake betoni ne tavan <b>Član 2. Metoda implementacije:</b> Puna ugovorena izgradnja kuće kategorije (V) sa 65m <sup>2</sup> prema uputstvu UNMIK -a za izgradnju kuća dopunjenim kako bi obuhvatio: 1)Farbanje unutrašnjih površina; 2) obezbeđivanje oluka;3)obezbeđivanje i ugradnja simsova od cinkovanog lima. 4 )Betonskih ploča na tavanu	
<b>Article 3. Conditions for transportation of construction materials to the construction site:</b> Construction materials delivered on site by the contractor. <b>Neni 3. Kushtet për transportimin e materialeve ndërtimore në truallin ndërtimor:</b> Materialet e ndërtimit shperndahen ne vendin e punes nga kontraktori. <b>Član 3. Uslovi transporta gradjevinskog materijala do mesta izvođenja radova:</b> gradjevinski materijal se isporučuje na mestu radova od strane ugovaraca.	
<b>Article 4. Conditions for possible labour assistance:</b> Full labour assistance <b>Neni 4. Kushtet për ndihmën e mundshme në fuqi punëtore:</b> Ndihma e plote e fuqise punetore. <b>Član 4. Uslovi za moguću pomoć radnoj snazi:</b> Puna pomoć u vidu radne snage.	
<b>Article 5. Time-schedule for reconstruction:</b> Reconstruction works consist in approximately two months. Estimated starting day is the 1st of May 2006 <b>Neni 5. Orari për furnizimin e materialeve dhe punët ndërtimore që duhen kryer.</b> Punet e rindertimit konsistojne afersisht dy muaj. Dita e fillimit eshte llogaritur 1 Maj 2006. <b>Član 5. Vremenski raspored rekonstrukcije.</b> Radovi na rekonstrukciji traju približno dva meseca. Procenjeni datum početka je 1. maj 2006. godine..	
Date/Data/Datum: _____	
Signature: Implementing Agency Nënshkrimi: Agjensia implementuese Potpis: Agencija za implementaciju	Signature: Beneficiary Nënshkrimi: Përfituesi Potpis: Korisnik

## ANNEX 2 / SHTOJCA 2 / ANEKS 2

*This Annex 2 is an integral part of the Tripartite Agreement  
Kjo shtojcë është pjesë përbërëse e marrëveshjes tripalëshe  
Ovaj Aneks 2 je integralni deo Trojnog sporazuma*

Name of the beneficiary: Emri i përfituesit: Ime korisnika:		Reference number Numri i referencës: Referenti broj:
Address of the Parcel: Adresa e parcelës Adresa parcele		Land plot number: Numri i parcelës: Broj parcele:
Village or neighbourhood: Fshati ose lagjeja: Selo ili naselje		Municipality: Komuna Opština:
Implementing Agency: Agjensia implementuese: : Agencija za implementaciju:		
UNHCR Category of the damaged house: Kategoria e UNHCR -it shtëpis së dëmtuar: Kategorija oštećenosti po UNHCR :	Size of the house to be constructed: Madhësia e shtëpi që do të ndërtohet: Veličina kuće koja će biti izgrađena :	

Plan of the house to be constructed: see attachment

Plani i shtëpise që do të ndërtohet: shiko shtesën e bashkangjitur

Plan kuće koja će biti izgrađena: pogledati dodatak

Bill of quantities: see attachment

Paramasa: shiko shtesën e bashkangjitur.

Kolicine: pogledati dodatak

Date / Data / Datum:	
_____ Signature: Implementing Agency Nënshkrimi: Agjensia implementuese/ Potpis: Agencija za implementaciju	_____ Signature: Beneficiary Nënshkrimi: Përfituesi / Potpis: Korisnik

## **Annex 8**

### **Recommendations for amending Housing Reconstruction Guidelines / Standards**

Following Working Group meetings on revising the housing reconstruction standards attended by representatives of the Ministry of Communities and Returns (MCR), NGOs (DRC, DT), IOM and UNDP, the following recommendations for slightly upgrading housing standards within a certain higher amount for the indicative unit costs are made as below.

The recommendations are included in standardised Bills of Quantities, including estimated prizes for 4 sizes of houses attached to these draft recommendations. The recommendations should be considered by all stakeholders involved in housing reconstruction in order to provide a standardised / unified type of housing assistance.

#### **Standard Houses**

The Working Group recommends the following amendments to the current housing standards as per Housing Reconstruction Guidelines 2002 for Standard Cat. V houses of all sizes:

- 1) The connection to water and sewage up to 50 meters and electricity up to 40 meters, including the provision and installation of meters for water and electricity as well as covering fees for taxes and installation are to be completed within the reconstruction. It is highly recommended that each reconstructed house is connected to water, electricity and sewage, either within reconstruction of standard houses (BoQs include up to 50 m for water and sewage and 40 m for electricity) or as additional works for special design houses (e.g. in rural areas).
- 2) Walkway / footpath around the house to be fixed.
- 3) Porch for all houses to be included in construction.
- 4) The provision of quality PVC windows is recommended.
- 5) Plastering of walls around entrance and at window frames is recommended.
- 6) Gutters (horizontal gutters and vertical rain water pipes) to be installed, the installation of quality flashing and sealed roof eaves is to be ensured.
- 7) Internal Plastering is recommended to be completed with 'Renofix' or internal plastering and painting is to be provided.

Additionally, the Housing Reconstruction Guidelines do not specify certain items, mostly already provided by implementing partners but not included in the guidelines so far. It is recommended to provide:

- 1) Internal flooring, if with wood, should include bottom laths.
- 2) Kitchen including ceramic tiles on floor & walls (floor 1 m, walls 1,5 m) and sink as well as connection to hot water.
- 3) Bathroom including ceramic tiles (flooring complete, walls 1,80 m) and basic equipment such as sink, shower, toilet, boiler (recommended 80 l), connection supply for bathroom heating and plastic rack/mirror.

#### **Special Design Houses**

Special design and additional works is recommended for the following:

- 1) Reconstruction in rural areas, e.g. flattening of area, pillars, retention walls, building of septic tanks, connection to electricity at a longer distance (poles), etc.

2) Reconstruction with site constraints, e.g. double floor houses at small sites, special designs in hilly/mountainous areas, etc.

3) Connection to infrastructure to be provided at additional cost, e.g. poles for electricity, construction of septic tanks, construction of wells etc.

Rehabilitation of Cat. III and IV houses has to consider:

Special designs to be developed according to the housing reconstruction guidelines considering the functionality of the Secure Living Area and the size of the reconstructed living area according to the guidelines.

Considering above recommendations for improvements for standard houses.

### **House sizes**

The recommended size of houses should prevail, while for larger families, the construction of houses larger than 75 m<sup>2</sup> is recommended.

As a guideline, the construction of a standard house of 95 m<sup>2</sup>, i.e. two identical units with separate entrances under a common roof for households of more than 10 members and of 2 or more generations (e.g. grandparents with married children with own families) is to be considered.

Design and BoQs can be prepared until end of May 2006.

### **Unit Prizes**

The Unit Prizes indicated in the attached Bills of Quantities are estimated costs according to market prizes as of April 2006 and thus subject to changes as well as subject to tendering procedures, but should provide a guideline for reconstruction costs.

Unit Prize (estimated) Standard House 45m <sup>2</sup>	13,105 Euro
Unit Prize (estimated) Standard House 55m <sup>2</sup>	14,696 Euro
Unit Prize (estimated) Standard House 65m <sup>2</sup>	15,905 Euro
Unit Prize (estimated) Standard House 75m <sup>2</sup>	16,080 Euro

**Average cost per house** **14,946 Euro**

Note: All unit prizes include the construction of a septic tank (approx. 1,600), which is necessary only in about 10 - 15 % of cases. Thus the estimated costs could drop for about 1,600 Euro per house, if a sewage system exists.

### **Additional Works / Special designs**

The development or revision of drawings and BoQs for including e.g. storage room inside or outside (Annex building) the houses as well as the drawings for a standard 95 m<sup>2</sup> house can be completed only at a later point and will be submitted due to time constraints only by end May 2006.