

ABANDONED MINORITY

A REPORT BY THE EUROPEAN ROMA RIGHTS CENTRE



Roma Rights History in Kosovo

DECEMBER 2011

CHALLENGING DISCRIMINATION PROMOTING EQUALITY



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1 Executive Summary

Roma, Ashkali and Egyptians are among the most vulnerable of the communities in Kosovo. Following the ethnic conflict in Kosovo the groups remain marginalised and unable to rebuild their lives. Many live in poor, overcrowded conditions, many are displaced, unable to rebuild and return to their original homes. Extremely low levels of employment and education among Roma, Ashkali and Egyptians are of particular concern, as they perpetuate structural poverty and exclusion.

Kosovo's excellent legal, policy and institutional framework to support Roma inclusion is undermined by inadequate information, implementation and insufficient employment in public and private institutions of Roma, Ashkali and Egyptians. Without clear instructions and budget allocations to the relevant authorities, the promising Strategy for the Integration of the Romani, Ashkali and Egyptian Communities in Kosovo and the related Action Plan remain largely unimplemented.

Roma, Ashkali and Egyptians face poor housing in Kosovo. Following the destruction of Romani, Ashkali and Egyptian properties during the violence in 1999 and 2004, many were unable to return, to reclaim their property from occupiers or to access support for rebuilding their former homes due to administrative and financial obstacles, as well as discrimination. They remain displaced in other parts of the country or in third countries. Over a decade after the war, two IDP camps remain home to groups of Roma, Ashkali and Egyptians who live in poor, overcrowded and unhealthy conditions. One of them is located on the site of a former mine, contaminated by lead, putting the life and health of the camp's residents, including children, pregnant women and elderly persons, at risk. Roma, Ashkali and Egyptian communities are commonly located in informal settlements, often segregated and characterised by poor infrastructure. Without property documents, residents have little hope of establishing a more secure life. The two social housing projects in the country, both segregated and neither maintained by the relevant authorities, demonstrate a clear need for vastly increased housing support to vulnerable communities in poverty.

Many Roma, Ashkali and Egyptians, who left during the conflict in Kosovo, remain displaced in other countries. A great deal of preparation is required to ensure their successful reintegration, to identify and meet the immediate needs of the returnees in their transition, as well as to develop sufficient infrastructure to support their life in Kosovo. Forced and voluntary returnees alike encounter challenges, including accessing new housing or securing reconstruction of their former property, and struggle to integrate socially and economically. After a lengthy period living abroad, sometimes in vulnerable situations or without steady employment, returnees often find the return and reintegration process difficult. Indeed, many leave the country again immediately.

Although safety and security in Kosovo have generally improved in the years since the conflict, the conditions which prompted many Roma, Ashkali and Egyptians to leave the country

created a fear and wariness of the police that persists in some forms today. Violence and intimidation remain concerns among Roma, Ashkali and Egyptians in Kosovo, as does the lack of justice for past crimes committed against them.

Unemployment is one of the biggest problems facing the Roma, Ashkali and Egyptian communities in Kosovo. Privatisation, lack of education and professional qualifications and discrimination all represent obstacles to Roma, Ashkali and Egyptians seeking work. Minority quotas in public and private employment are often filled by Serbs, without considering other minority communities. Many people in Roma, Ashkali and Egyptian communities can only find informal and seasonal work and often rely on social support and remittances from family and friends abroad.

Low levels of education and literacy are found among Roma, Ashkali and Egyptians. Although primary school is compulsory, many students, particularly girls and children returning from Western Europe, do not complete it and very few access secondary school or further education. Access to education is compromised by serious poverty, as students cannot afford to obtain the needed supplies or to sacrifice potential income. School segregation is a problem in some places: separate schools, separate classrooms and separation within the classroom can be found in Kosovo, explained as the result of residential patterns, late enrollment or the “difficult” living conditions of Roma, Ashkali and Egyptians. Discrimination, verbal and physical abuse and bullying from other students and teachers were reported in the schools.

Although they are able to access healthcare and medical services, health is generally poor among Roma, Ashkali and Egyptians, exacerbated by poor nutrition and overcrowded living conditions without adequate sanitation. The unaffordable cost of medicines, substandard or discriminatory treatment and inadequate service from ambulances in some areas were all reported as conditions which negatively impact the health of Roma, Ashkali and Egyptians in Kosovo.

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3 Introduction and Terminology

This report aims to give an overview of the situation of Roma, Ashkali and Egyptians in Kosovo. Due to the tumultuous history of the region, and particularly the recent conflict, conditions in Kosovo are often unstable. The ERRC has been engaged in documenting the conditions and human rights abuses that Roma, Ashkali and Egyptians from Kosovo have experienced, particularly since 1999, making numerous field visits to conduct field research, monitoring and trainings for local activists.

The ERRC refers to Roma, Ashkali and Egyptians in Kosovo as distinct communities, as they identify and are recognised in the Kosovo Constitution.¹ In the historical section of this report, only the term “Roma” is used for historical periods when Ashkali and Egyptian communities were not yet widely referred to under their current names.

The challenging political, social and economic conditions in Kosovo can make documenting discrimination difficult. Romani, Ashkali and Egyptian individuals and communities had close relationships with Serbs and Albanians in Kosovo prior to the rising tensions of the 1990s. Particularly after conflicts and displacement in 1999 and 2004, many relationships between communities were broken; inter-ethnic tensions and fears have persisted. Interviewees may be reluctant or unable to explain the discrimination they face in Romani, Ashkali or Egyptian communities due to fear or lack of understanding about their rights. Although unemployment and poverty disproportionately impact Roma, Ashkali and Egyptians, respondents often preferred to report widespread problems with infrastructure or resources that all of Kosovo’s citizens face and not draw attention to their condition as unique. Furthermore, contention between the groups sometimes creates obstacles to progress.

The responsibility of ensuring compliance with international law in Kosovo lies with the current authorities in Kosovo, as recognised in UNMIK Regulation 1999/24, 1.3² and as set forth in the Constitution of Kosovo, Article 22.³ The ERRC takes no position on the status of Kosovo. The ERRC uses the term “Kosovo” and not “Kosova” or “Kosovo and Metohija”, since the former is most commonly used in the English language. Throughout the report, the ERRC also uses the Kosovo toponyms in the manner accepted by international organisations operating in Kosovo – using both the Kosovo Albanian and the Serbian name wherever applicable (e.g. Prishtinë/Priština). In the case of places with recently changed names, the ERRC uses the old, commonly known names.

1 Republic of Kosovo, Constitution, available at: <http://www.assembly-kosova.org/?cid=2,100,48>.

2 United Nations Mission in Kosovo (UNMIK), Regulation No. 1999/24, 12 December 1999, available at: <http://www.unmikonline.org/regulations/1999/reg24-99.htm>.

3 Republic of Kosovo, Constitution, available at: <http://www.assembly-kosova.org/?cid=2,100,48>.

4 Roma, Ashkali and Egyptians in Kosovo: Historical Background

4.1 Arrival of Romani Groups in Kosovo

The first mention of a Romani presence in the territory of the future Socialist Federal Republic of Yugoslavia (SFRY) dates back to 1362,⁴ placing at least some of their migration into the region ahead of the Ottoman conquest in 1389. After 1362, Roma appear to have generally disappeared from the historical record until the late fifteenth century, though historian Noel Malcolm has uncovered late fourteenth century references to *Magjupci*, which is nearly identical to the later Albanian word for “Gypsy” – *Maxhup*.⁵ A source from 1491 states that Roma lived in the Prizren and Vushtri/Vučitrn regions of Kosovo and worked as blacksmiths.⁶ An Ottoman census performed in 1520 found 164 Romani households in Prishtinë/Priština, 145 in Novobërdë/Novo Brdo, and smaller numbers in other areas of Kosovo.⁷

Kosovo Romani communities continued to develop in size over the next several centuries. In the 1860s, French diplomat and geographer Emile Wiet recorded finding 3,000 Roma in Prizren, 2,000 in Pejë/Peć, 1,700 in Gjakovë/Djakovica, and 1,000 in Prishtinë/Priština.⁸ The Austro-Hungarian military’s 1871 estimate stated that there were 9,000 Roma and Circassians together in the Prizren *sancak* (administrative unit), which corresponds to the territory of present day Kosovo,⁹ while a Serbian geography reader from 1883 states that Roma in Kosovo numbered 9,000.¹⁰

4.2 World War II and Its Aftermath

During World War II, in the territory of the future Socialist Federal Republic of Yugoslavia (SFRY), tens of thousands of Roma were killed during the Romani Holocaust (Porrajmos) from 1941-1945.

4 Neven Hrvatić, “The Romanies in an intercultural environment”. *Društvena istraživanja: Journal for General Social Issues*, Volume 5, Number 5 (1996): 25-26.

5 Malcolm supports the thesis that this word was used as an Albanian term for Roma through the identification of a village in mid-15th-century north-central Kosovo called Magjupci; this village was described as an ethnic Romani village by historian S. Rizaj. Noel Malcolm, *Kosovo: A Short History*, (New York: New York University Press, 1998), 205-6, n. 17.

6 Malcolm, *Kosovo: A Short History*, 206.

7 Malcolm, *Kosovo: A Short History*, 206. Malcolm observed that most of the Romani names listed in the census were Serbian Orthodox names like Jovan or Dimitrije; the Romani households were also mainly Christian. He presented the high degree of Serbian acculturation as evidence that the Roma must have been living in Kosovo for a longer time, predating Ottoman expansion into the province.

8 Malcolm, *Kosovo: A Short History*, 207.

9 The data published in Vienna in 1871 by the Austrian general-staff officer Peter Kukulj, quoted in Petrit Imami, *Srbi i Albanci kroz vekove*, (Belgrade: Radio B92, 2000), p. 151.

10 The data published in Belgrade in 1883 by the Serbian geographer Vladimir Karić, in “Zemljopis za niže razrede srednjih škola”, quoted in: Imami, *Srbi i Albanci kroz vekove*, 152.

As compared to Croatian and Serbian Roma, who faced a greater likelihood of internment and death, the Roma of Kosovo were less likely to fall victim to the Porrajmos. In 1941, the majority of Kosovo's territory was added to the Greater Albania puppet Government, which operated under the control of fascist Italy. In Greater Albania, the Italian occupiers paid little attention to the Roma, as they constituted only a very small part of the population.¹¹ Germans took over the region in 1943 when Mussolini's Government capitulated. Over the course of one year, they sent Roma to concentration camps in other parts of Yugoslavia, as well as other territories, including Buchenwald and Mauthausen.¹² According to one estimate, 1,000 of Kosovo's Roma were killed over the four years of the Porrajmos.¹³

After the end of World War II, "Kosovo and Metohija"¹⁴ was incorporated into the Socialist Federal Republic of Yugoslavia as an "autonomous region", in 1945. The next decades brought some positive changes for Kosovo Roma, including a 1965 economic reform package that allowed many more Yugoslav workers to seek employment abroad. Kosovo Roma were among the most prominent groups that took advantage of this policy change.¹⁵ Kosovo's status as the least developed section of the SFRY certainly played an important role in encouraging migration.

4.3 The Autonomous Province of Kosovo

The Romani identity gained greater prominence in the former Yugoslavia during the 1970s. In Macedonia, Roma were declared an official "ethnic group" through a 1971 amendment to the Republic's Constitution.¹⁶ This did not bring the same level of rights as would recognition of the group as a "nationality", as was the case for Roma in Bosnia and Herzegovina since 1974.¹⁷ A grammar book for the Romani language was published in Skopje and Romani publications and broadcast programmes were distributed from a number of Yugoslav cities. These advances, and the community's growing political activism, were finally recognised by the official award of "nationality" status within Macedonia in 1981.¹⁸

11 David Crowe, *A History of the Gypsies of Eastern Europe and Russia*, (London: M.E. Sharpe, Inc., 1991), 220-222.

12 Donald Kenrick and Grattan Puxon, *The Destiny of Europe's Gypsies*, (New York: Basic Books, Inc., 1972), 123.

13 Malcolm, *Kosovo: A Short History*, 208.

14 "Kosovo and Metohija", or "Kosmet", is the then-Yugoslav, now-Serbian term for Kosovo. "Metohija" refers to Western Kosovo and stems from the Byzantine Greek word *metochia*, referring to monastic property. This term is not accepted by Kosovo Albanians.

15 Crowe, *A History of the Gypsies*, 225.

16 Maria Koinova, "Minorities in southeast Europe, Roma of Macedonia", 2000, available at: www.greekhelsinki.gr/pdf/cedime-se-macedonia-roma.doc.

17 A decision by the Commission for Constitutional Issues of the Assembly of the Socialist Republic of Bosnia and Herzegovina on 24 January 1974 ruled that "Roma [in Bosnia and Herzegovina] should be treated as a national minority (narodnost)". Dragoljub Acković, "Konstitucionalni problemi Roma" in Miloš Macura (ed.) *Razvitak Roma u Jugoslaviji, problemi i tendencije: Zbornik radova sa naučnog skupa održanog 12. i 13. januara 1989. Godine*, (Belgrade: Serbian Academy of Sciences and Arts, 1992), 43-47.

18 Crowe, *A History of the Gypsies*, 226-227.

The mid-1970s through the mid-1980s was a period of great volatility in Kosovo. With the new 1974 Yugoslav Constitution, Kosovo (and the northern province of Vojvodina) gained substantially more autonomy.¹⁹ The new federal constitution of 1974 gave Kosovo *de facto* republican status, but not *de jure* status.²⁰ The 1974 Kosovo Constitution did not explicitly mention Roma, but defined the “Socialist Autonomous Province of Kosovo” as “an autonomous, socialist, democratic, socio-political and self-managing community of working people and citizens, equal Albanians, Montenegrins, Muslims, Serbs, Turks, and members of other nations and nationalities and ethnic groups [...]”.²¹

Kosovo Roma also appear to have been seriously underemployed, even in the context of Kosovo’s miserable economy: a survey conducted in 1980 found that only 10% of Roma living in Prishtinë/Prishtina were employed.²² While it can be assumed that the majority of Roma received little education as compared to other ethnic groups, a small segment of the Romani population succeeded in becoming doctors, lawyers, skilled craftsmen and performing other well-paid professions.²³ This period also saw advances in the development of Kosovo Romani culture. In 1990, the Association of Egyptians in Kosovo and Metohia was established and held its founding congress.²⁴ The first radio programme in Romani to have a full-time news staff was started in Prishtinë/Prishtina in 1983. Prizren and Gjiilan/Gnjilane also began producing shows in Romani on local radio stations.²⁵ In 1983, classes in Romani were started in a number of primary schools, mostly in Kosovo.²⁶

The 1980s also marked the beginning of a dramatic and violent shift away from Kosovo autonomy. Extended Albanian riots in 1981 led to a police crackdown in the province and thousands of Albanians were arrested; during the riots, some participants called for unification with Albania and the Yugoslav authorities labelled them as an “irredentist” movement threatening the unity of Yugoslavia.

Slobodan Milošević assumed Serbia’s presidency and in 1989 the Kosovo assembly – though 70% of its members were Kosovo Albanians – adopted the constitutional amendments ending the province’s autonomy. Kosovo was again merely an administrative district of Serbia. With the new constitution, Serbia re-gained control, notably over the province’s police and courts, which were used to repress Kosovo Albanians. Many Kosovo Albanians did not want

19 Socialist Federal Republic of Yugoslavia, *Constitution of the Socialist Federal Republic of Yugoslavia*, 1974, Official gazette of the Socialist Federative Republic of Yugoslavia 9/1974.

20 Momcilo Pavlovic et al. (eds.), *Kosovo Under Autonomy 1974 – 1990*, available at: <http://www.cla.purdue.edu/history/FACSTAFF/Ingrao/si/Team1Reporte.pdf>.

21 Pavlovic et al. (eds.), *Kosovo Under Autonomy 1974 – 1990*.

22 Crowe, *A History of the Gypsies*, 230. Referring to a survey conducted by the Belgrade weekly magazine NIN. The survey found a similar rate of Romani underemployment in several Serbian towns.

23 Angus Fraser, *The Gypsies*, (Oxford: Blackwell Publishers, 1992), 281.

24 Elena Marushiakova and Vesselin Popov, “New Ethnic Identities in the Balkans: The Case of the Egyptians”, *FACTA UNIVERSITATIS Philosophy and Sociology Vol. 2, No 8, 2001*, available at: <http://facta.junis.ni.ac.rs/pas/pas2001/pas2001-05.pdf>.

25 Helsinki Committee for Human Rights in Serbia, *Izveštaj o položaju romske nacionalne manjine u Srbiji*, (Belgrade: Helsinki Committee for Human Rights in Serbia, 1998).

26 Fraser, *The Gypsies*, 281.

to accept the Kosovo assembly's decision to adopt the new constitution and staged violent protests, which left dozens of people killed and injured.

The abolishment of autonomy laid the ground for the emergence of two parallel societies in Kosovo – Serbian society and Albanian society - and forced the other ethnic groups in Kosovo, which constituted about 20% of the population, to choose a society with which to align.

4.4 The Early Nineties: Worlds Apart

The best estimates from the late 1990s indicate that between 100,000 and 150,000 Roma, Ashkali and Egyptians lived in the province, just under 10% of the overall population,²⁷ though the widely disputed 1991 Yugoslav census found that 45,745 (2.3%) Roma lived in Kosovo.²⁸ Kosovo Albanians barely participated in the 1991 census, which gave the Egyptian community the right to declare their nationality as “Egyptian.” This was the first time the Yugoslav Government officially recognised Egyptians, with 3,307 persons (0.2%) registered as “Egyptian”.²⁹

In the early 1990s, Kosovo Serbs and Albanians gradually developed separated, parallel societies. Albanians created a parallel education and health system and Serbian authorities worked on excluding Albanians from participating in the state-run economy and public sector, including the educational and health systems. Kosovo Albanians created their own political structures, voting in referenda for a president and the adoption of a constitution (the Kaçanik/Kaçanik Constitution).

The existence of two parallel societies in Kosovo produced severe consequences for other ethnic communities, as they had to choose to live in one or the other society. Any Romani support for the “Albanian case” could have led to repression from Serbian security forces or the loss of employment. The Roma were already becoming victims to attacks by Serbian authorities, which triggered the flight of Roma to Western European countries.³⁰ Should Roma have cooperated with the Serbian authorities, however, they would have faced pressure from the Albanian side.³¹

This affected all areas of daily life. Parents had to decide which schools to send their children to – the official “Serbian schools” or the privately organised “Albanian schools.” This decision was particularly difficult for Roma (and Ashkali and Egyptians) whose first language (or second

27 Nicolae Gheorghe and Josephine Verspaget, *Report on the joint OSCE/ODIHR - Council of Europe Field mission on the situation of the Roma in Kosovo, 1999*, 27 JULY-6 AUGUST 1999, available at: http://www.coe.int/t/dg3/romatravellers/archive/documentation/fieldvisits/missionkosovo99_en.asp.

28 Ministry of Public Services of the Republic of Kosovo, available at: <http://www.ks-gov.net/ESK/>. This census was greatly ignored by the Kosovo Albanians, who doubted its regularity.

29 Elena Marushiakova et. al., *Identity Formation among Minorities in the Balkans: The Cases of Roms, Egyptians and Ashkali in Kosovo*, (Sofia: Minority Studies Society, 2001), 22. Nada Raduški, “Etnička slika Srbije – popis 2002. Godine.” *Migracijske i etničke teme* Number 19 (2003): 255. The census of 1991 did not provide the option to register as Ashkali.

30 Katrin Reemtsma, “...und ein Israel haben wir auch nicht”. Zur Lage der Roma in Südosteuropa in *Blätter für deutsche und internationale Politik* 11/1990.

31 Orhan Galjus, “Roma of Kosovo: the Forgotten Victims”, *Patrin*, 7 April 1999, available at: <http://www.oocities.org/~patrin/kosovo.htm>.

language after Romani) was Albanian. Though both parallel societies (Serbian and Albanian) had an interest in increasing their numbers, Roma were not always welcome in either.

Many Albanian-speaking Roma, Ashkali and Egyptians shared the fate of the Kosovo Albanians. They started attending underground schools in private houses to continue learning in the Albanian language. Some Ashkali and Egyptians left their jobs working for Kosovo Albanians at this time.³²

At the political level, the Kosovo Albanian leadership in the 1990s paid only limited attention to Roma.³³ The 1990 Constitution of the “Republic of Kosovo” mentioned Roma as a national minority but did not include Romani as a minority language. Article 68 stated that, depending on the circumstances, elementary education could be provided in the Romani language in areas inhabited by Roma.³⁴

Following the “underground elections” organised by the Kosovo Albanians in May 1992, the Kosovo Albanian leadership assigned, in addition to the 125 seats for Kosovo Albanians, 14 seats to Serbs and Montenegrins, five to the Gorani, but not a single seat to the Roma.³⁵

The Serbian (Yugoslav) authorities, on the other hand, provided direct support to Roma in Kosovo. Roma could profit from their anti-Albanian policies. In some schools in Kosovo, it was possible to study Romani, which was not the case in Serbia proper. Roma benefited from an extensive Romani-language media network in Kosovo.³⁶

Many Roma, Ashkali and Egyptians could also profit economically when Albanian workers were fired from their jobs. Though mostly Serbs received their positions, in some cases Roma, Ashkali and Egyptians, “some of them jobless for many years,”³⁷ were chosen to fill the vacant positions. Nevertheless, years later, Kosovo Roma were also fired from their jobs when Serbian refugees from the wars in Croatia and Bosnia were settled in Kosovo by the Serbian Government.³⁸

The Serbian (Yugoslav) authorities supported Roma and Egyptians at the political level. Romani and Egyptian representatives were included in the “Provisional Executive Council of Kosovo and Metohija” created in October 1998. A peace plan proposed by the Serbian

32 While a number of Kosovo Albanians were fired from their jobs, others left “voluntarily” rather than sign a loyalty pledge.

33 Stephan Müller, *Zur Situation der Roma in Kosovo* in: *Südosteuropa* 9-10/1999.

34 Joseph Marko, *Der Minderheitenschutz in den jugoslawischen Nachfolgestaaten*, Bonn: 1996; Elmar F. Pichl, “Kosovo in den jugoslawischen Verfassungssystemen” in: *Gordischer Knoten Kosovo/a: Durchschlagen oder Entwirren*, Joseph Marko (ed.) Baden-Baden :1999.

35 Stefan Troebst, *Conflict in Kosovo: Failure of Prevention?* ECMI Working Papers 1 May 1998 S.8, available at: http://www.ecmi.de/uploads/tx_lfpubdb/working_paper_1.pdf. According to Marko (1996) only three seats were assigned to the Gorani.

36 Helsinki Committee for Human Rights in Serbia, *Report on the State of the Romany National Minority in Serbia*, December 1997.

37 Ger Duijzings, *Religion and the Politics of Identity in Kosovo* (New York: Columbia University Press, 2000), 153.

38 Latham, Judith. “Conflict Resolution: Kosovo’s Romani (Gypsy) Minority.” VOA Worldwide English Feature, 8 April 1998.

authorities in December 1998 envisaged the equal positioning of eight ethnic groups in Kosovo, including Roma. The National Community of Roma in Kosovo signed a declaration supporting the Government's Draft Framework for Political Self-Governance in Kosovo - a document that was unanimously rejected by all major Kosovo Albanian parties. In the same month, Slobodan Milosevic stated in an interview with the *Washington Post* that around 150,000 Roma live in Kosovo.³⁹ Furthermore, the Serbian delegation to the peace negotiations in Rambouillet included one Romani representative and one Egyptian representative.⁴⁰

These developments, especially the participation of (prominent) Romani and Egyptian individuals in political structures created by the Serbian authorities, contributed to the already existing resentment of Kosovo Roma among Albanians. It served amongst other factors as a pretext for accusing Roma and Egyptians as "Serbian collaborators" to justify the crimes committed against Roma and Egyptians by Kosovo Albanians in the aftermath of the conflict.⁴¹

4.5 Roma, Ashkali and Egyptians and the Armed Conflicts in Kosovo

From 1998 onwards, attacks on Serbs became more frequent and were more frequently attributed to the Kosovo Liberation Army (Ushtria Çlirimtare e Kosovës – KLA).⁴² Increased attacks by the KLA led to often excessive retaliation from Serbian security forces.⁴³

The KLA's strategy targeted Kosovo Serbs and members of other ethnic groups, including ethnic Albanians perceived to be collaborating with the Serbian authorities, Roma, Ashkali and Egyptians.⁴⁴ However, there were supporters of the KLA among the Roma, Ashkali and Egyptians; some of them reportedly even joined their units.⁴⁵

39 L. Weymouth, "I Can Only Be Proud of My Role": Interview with Slobodan Milosevic", *The Washington Post*, 13 December 1998.

40 Ljuan Koka of the "National Community of Roma in Kosovo", Member of the Serbian Parliament and editor of the Romani programme at the Prishtinë/Priština TV station, represented the Roma while Qerim Abazi represented the Egyptians.

41 Later on, the entire Romani community was unjustly identified with these few leaders who openly displayed a pro-Serb attitude, though the authority of these leaders was certainly disputable.

42 In the context of largely non-violent Albanian protest, the KLA was founded in 1993 and slowly began a series of killings and communiqués aimed at loosening the Serbian grip on Kosovo. The level of the KLA's pre-1999 activity is difficult to judge as Serbian reports are likely to have exaggerated and Albanian reports to have underestimated the true figures. According to estimates from Serbian police, there were 31 KLA attacks in 1996 and 55 in 1997. In January and February of 1998, they reported a large increase to 66. The International Crisis Group, speaking to Kosovo Albanian sources, found the KLA had killed 21 people from 1996 through March 1998.

43 Tim Judah, *Kosovo: War and Revenge*. New Haven: Yale University Press, 2000, 137-140. International Crisis Group, Kosovo Spring, 20 March 1998, available at: <http://www.crisisgroup.org/~media/Files/europe/Kosovo%201.pdf>, 6-12.

44 U.S. Department of State, Serbia-Montenegro Country Report on Human Rights Practices for 1998, available at: http://www.state.gov/www/global/human_rights/1998_hrp_report/serbiamo.html.

45 European Centre for Minority Issues Kosovo, "Communities", available at: <http://www.ecmikosovo.org/fileadmin/ecmikosovo.tpl/communities.html>.

Roma, Ashkali and Egyptians fell victim to indiscriminate attacks from Serbs against non-Serbs: targeted incidents including beatings, kidnappings and murders.⁴⁶ In 1998, more Roma, Ashkali and Egyptians started to leave Kosovo. The most common reasons for flight included fear of armed conflict, attacks from Serbs, threats of expulsion by ethnic Albanians and arson attacks targeting Romani houses.

4.6 International Intervention

Early 1999 was marked by the continued victimisation of Roma, Ashkali and Egyptians, with an increase in the level of violence against these groups. There are records of recurrent beatings, murders, bomb explosions and rapes during this period. Six Romani men were beaten by a group of armed ethnic Albanians in the village of Brusnik near Vushtrri/Vučitrn;⁴⁷ a sixteen-year-old girl and a twenty-year-old man were killed with automatic weapons by ethnic Albanians in Gjakovë/Djakovica;⁴⁸ and two Romani men died in a bomb explosion in Ferizaj/Uroševac on 13 February 1999.⁴⁹

During the period of increasing Serbian aggression, Roma, Ashkali and Egyptians were targeted as victims, used as pawns to prove the remaining “diversity” in the province and coerced into performing jobs – such as grave-digging – which would later be seen as “collaborationist” by Kosovo Albanians.⁵⁰ Roma were also forced to join Serbian security forces. The ERRC spoke to people who witnessed Roma being shot if they refused to put on a uniform and who provided accounts of a nine-year-old boy forced to walk ahead of Serbian forces as a human mine-sweeper.⁵¹ During this time, the Serbian army and police expelled Romani families, as well as Albanians, from their homes. These expulsions often were accompanied by racial insults and arson attacks.⁵²

Ongoing conflicts with heavy civilian casualties stimulated a push for international mediation and both sides were invited to peace talks at Rambouillet Castle in France in February 1999. However, the talks were unsuccessful.

46 “Three Persons Wounded at Ponoševc on Monday, One of Them Dies in Hospital”, Kosovo Information Centre, Prishtinë/Priština, 5 May 1998, available at: <http://www.hri.org/news/balkans/kosova/1998/98-05-05.ksv.html#03>; “Neizvesna sudbina 118 gradjana i 10 policajaca”, Radio B92, Belgrade, 3 August 1998.

47 Serbian Ministry of Information, Belgrade, 3 March 1999.

48 Serbian Ministry of Interior, Belgrade, 25 February 1999.

49 Radio B92 on 13 February 1999; the explosion took seven more lives.

50 “How the Serbs Burned Corpses at Balkan Rubber Factory”, *Newsday*, available at: <http://www.alb-net.com/kcc/062899e.htm>; *Kosovapress* of 16 June 1999, available at: <http://www.alb-net.com/kcc/061799e.htm>; Report on the joint OSCE/ODIHR-Council of Europe field mission on the situation of the Roma in Kosovo 27 July – 6 August 1999. Kosovo-Albanian media only sporadically informed on Roma as victims of attacks of Serb security forces. *Kosovapress* of 16 May 1999, available at: <http://www.alb-net.com/kcc/051699.htm#1>; *Kosovapress* of 16 June 1999 Internet: <http://www.alb-net.com/kcc/061799e.htm>; *Kosovapress* of 26 June 1999, available at: <http://www.alb-net.com/kcc/062599e.htm#3>.

51 Kate Carlisle, “Romani refugees from Kosovo in Albania”, *Roma Rights 2/1999*, <http://www.errc.org/cikk.php?cikk=825>.

52 Interview with 26-year-old Ms N.A. Berat, Albania: 30 May 1999; Interview with 51-year-old Mr A.T. Berat, Albania: 31 May 1999.

As fighting in Kosovo resumed, NATO began bombing Serbian targets in Kosovo and Serbia proper on 24 March 1999. The bombing prompted a massive increase in violence against civilians by the Serbian security forces.⁵³ The UN High Commissioner for Refugees (UNHCR) estimated that over 800,000 Albanians fled from the province over the next several months. Many others left their homes to hide in the woods. Estimates of the total death toll of the 1998-1999 conflict in Kosovo vary between 8,000 and 10,000 with additional thousands missing; the Humanitarian Law Center documented over 13,000 victims killed or missing.⁵⁴

The difficult situation of Kosovo Roma, Ashkali and Egyptians was additionally strained by the NATO bombing, which was heaviest in the province. As an example, four Roma died and eight were injured by missile fire directed at the Romani settlement on Podrinjska street in Prizren on 28 April 1999. The two missiles also caused considerable damage to the neighbourhood and destroyed at least ten houses.⁵⁵

4.7 After the Bombardment: “The Orders Are to Let Them Pillage”⁵⁶

On 9 June 1999, 78 days after the bombing began, the Yugoslav Army started to withdraw from Kosovo. A force consisting of soldiers sent by NATO and other countries, called the Kosovo Force (KFOR), entered the province on 10 June 1999. Almost simultaneously with troop deployment, the vast majority of the over 800,000 Albanian refugees returned to Kosovo in a few days, “the quickest and biggest refugee return in modern history, and also the quickest role reversal.”⁵⁷

“Role reversal” refers to the way in which a victimised population quickly becomes the victimisers, and the way in which what was characterised as a “crime” when committed by Serbs became “revenge” when committed by returning Albanians. Even when it became apparent that most of the “revenge” was being systematically executed by KLA soldiers for ethnic, political or economic motivations, intended to expel non-Albanians from Kosovo (including Roma, Ashkali and Egyptians), it was seen as an “inevitable” form of vigilantism.⁵⁸ Furthermore, the international community - not expecting this type of “role reversal” – ultimately

53 For more information on Kosovo Roma in this period, see: Claude Cahn and Tatjana Perić. “Roma in the Kosovo Conflict”, Roma Rights, No. 2/1999, available at: <http://www.errc.org/cikk.php?cikk=798>.

54 The report registered 13, 754 killed or disappeared between January 1998 to December 2000. Humanitarian Law Center, “Documentation and Memory: Kosovo Memory Book”, available at: <http://www.hlc-rdc.org/Dokumentovanje/LJUDSKI-GUBICI-1991-1995-1998-2000/Kosovska-knjiga-pamcenja/index.1.en.html>.

55 According to the Media centar of 29 April 1999, the bombs fatally wounded the entire Zuljfur Romani family – two-year-old Maksim, his three-year-old sister Kasandra, 24-year-old mother Dulja and 25-year-old father Bećir Zuljfur. In the same incident, the following Romani persons were severely injured: Eljvane, Sefedin and Emrija Krasnići, Fatmir Bitiçi, Imer and Vlaznim Paćak, Altina Zuljfur, and Biljkiza Taškran.

56 Judah. *Kosovo: War and Revenge*, p. XVII-XVIII.

57 Judah. *Kosovo: War and Revenge*, p. 286.

58 International Crisis Group, “Violence in Kosovo: Who’s Killing Whom?” 1999, available at: <http://www.crisisgroup.org/home/index.cfm?l=1&id=1581>.

did little or nothing to stop the massive wave of violence directed against the population of Serbs and minorities such as Roma, Ashkali and Egyptians.⁵⁹

In general, it was obvious that the target was to expel non-Albanians from Kosovo and/or to occupy their property. The period from June through September 1999 was marked by murders, kidnappings, rapes and beatings of Roma, Ashkali, and Egyptians, as well as the looting and burning of thousands of their homes. In some cases these acts of violence were followed by the departure of the Roma, Ashkali and Egyptian communities.⁶⁰ According to the UNHCR, the KFOR recorded 67 attacks and abductions targeting Roma by early August 1999 in the region of Gjakovë/Djakovica-Rahovec/Orahovac alone.⁶¹

The ERRC heard accounts from several communities that the two months following the NATO intervention were the most horrifying times of their lives. In the face of this new wave of violence, Roma, Ashkali and Egyptians initially hoped that NATO soldiers deployed as peacekeepers would be able to help them. Observations support the fact that protection of Kosovo Roma was not a priority among peacekeepers.⁶²

International media, accustomed to portraying Kosovo Albanians as victims, started to report that some Kosovo Albanians appeared to be perpetrating crimes. More sympathetic media did emerge after time, particularly after the tragic August 1999 drowning of 36 Kosovo Roma who were attempting to flee to Italy via Montenegro.⁶³

4.8 Atrocities against Roma, Ashkali and Egyptians

Numerous killings of Roma, Ashkali and Egyptians by ethnic Albanians occurred immediately after the NATO deployment in the region. ERRC research in this period recorded murders of Roma throughout the province.⁶⁴

59 Nicolae Gheorghe and Josephine Verspaget, "Report on the Joint OSCE/ODIHR - Council of Europe Field Mission on the Situation of the Roma in Kosovo 27 July – 6 August 1999", 1999, available at: http://www.coe.int/t/dg3/romatravellers/documentation/fieldvisits/missionkosovo99_en.asp.

60 For more information on human rights violations committed against Roma in the immediate post-bombardment period, see: European Roma Rights Centre, *Roma Rights 2, 1999: Roma in the Kosovo Conflict*, available at: <http://www.errc.org/cikk.php?cikk=800>; Human Rights Watch, "Abuses Against Serbs and Roma in the New Kosovo," available at: www.hrw.org/legacy/reports/1999/kosov2/; Humanitarian Law Centre, Nicolae Gheorghe and Josephine Verspaget "Report on the Joint OSCE/ODIHR-Council of Europe Field Mission on the Situation of the Roma in Kosovo", 27 July – 6 August 1999, available at: http://www.coe.int/t/dg3/romatravellers/documentation/fieldvisits/missionkosovo99_en.asp.

61 Stephan Müller, Zur Situation der Roma in Kosovo.

62 The destruction of the Romani mahalla in Mitrovicë/Mitrovica and the passive attitude of French KFOR troops is described in *Tageszeitung*, 14 July 1999.

63 European Roma Rights Centre, "Snapshots from Around Europe: Romani refugees from Kosovo drown while crossing the Adriatic; Macedonian officials warn that they will send Kosovo refugees back; police expel Kosovo Roma from two Montenegrin towns," *Roma Rights 2, 1999*, available at: <http://www.errc.org/cikk.php?cikk=985>.

64 ERRC, "The Current Situation of Roma in Kosovo", 9 July 1999, available at: <http://www.errc.org/cikk.php?cikk=187>; ERRC, *Roma Rights: Justice for Kosovo, 3-4, 2005*, available at: <http://www.errc.org/cikk.php?cikk=2511>.

During field research in Kosovo in mid-1999, the ERRC also collected numerous reports of abductions by ethnic Albanians; these took place during the day or night, from houses or off the street. The ERRC documented illegal detentions in Romani, Ashkali and Egyptian neighbourhoods in many parts of the region. Roma living in a settlement in Prizren told the ERRC that local ethnic Albanians at that time regularly came to the settlement and took women for periods of several hours to perform forced labour. Similarly, in Pejë/Peć, Albanians would take the remaining Roma away to do manual work, such as working in houses or in stables; sometimes forced labourers were also beaten. During field research, the ERRC also documented several cases of disappearances.

Instances of physical abuse of Roma, Ashkali and Egyptians documented by the ERRC in mid-1999 were numerous and only an incomplete list is provided here: the ERRC interviewed victims and eyewitnesses of physical abuse in Gjakovë/Djakovica, Graçanicë/Gračanica, Fushë Kosovë/Kosovo Polje, Mitrovicë/Mitrovica, Prizren and Krushë e Madhe/Velika Kruša. Reports included beatings with fists, iron bars and truncheons and kicking. According to the ERRC's findings, some Romani women were victims of rape by ethnic Albanians during this period.⁶⁵

During field research in 1999, the ERRC frequently learned about the expulsion of Roma, Ashkali and Egyptians from their homes and communities by ethnic Albanians. Descriptions range from pursuit by uniformed and armed KLA men, bombings and arson attacks, racial insults and harassment. After the eviction of Romani, Ashkali and Egyptian families, Albanians in many cases raided the houses, took everything that could be removed and eventually burnt down the houses. Most of these abuses took place after 20 June 1999. According to witnesses, confiscations of Romani, Ashkali and Egyptian property, such as televisions, stereos and refrigerators occurred repeatedly.⁶⁶ In many reported cases, Kosovo Albanians confiscated Romani, Ashkali and Egyptian property with the excuse that these were "stolen goods". Ethnic Albanians also forcibly and repeatedly entered Romani, Ashkali and Egyptian houses. This was often connected to threatening, intimidating and physically abusing inhabitants.

ERRC researchers witnessed numerous instances in which KFOR representatives did not react to mass or individual looting carried out openly and in broad daylight. The ERRC also documented cases of the KFOR's failure to adequately investigate cases of abduction and disappearance of persons allegedly arrested by the KLA, as well as failing to rescue the victims. ERRC researchers documented inadequate responses by the KFOR, including a lack of troops assigned to civilian policing.⁶⁷ As Human Rights Watch and the International Crisis

65 ERRC, "The Current Situation of Roma in Kosovo", 9 July 1999, available at: <http://www.errc.org/cikk.php?cikk=187>.

66 Interview with a representative of an international organisation. Mitrovicë/Mitrovica, Kosovo: 7 September 2000.

67 ERRC, "The Current Situation of Roma in Kosovo", 9 July 1999, available at: <http://www.errc.org/cikk.php?cikk=187>; ERRC, *Roma Rights: Justice for Kosovo, 3-4, 2005*, available at: <http://www.errc.org/cikk.php?cikk=2511>.

Group, among others, have reported, the KFOR and the UN police “failed to adequately enforce authority” at this time.⁶⁸

4.9 Flight and Internal Displacement

The mass return of displaced Kosovo Albanians was immediately followed by the expulsion or flight of non-Albanians, including Roma, Ashkali and Egyptians from and within Kosovo. Every Romani, Ashkali and Egyptian community visited by the ERRC during the mid-1999 field mission had half or fewer of its pre-war inhabitants.⁶⁹ According to some sources, more than 100,000 Roma, Ashkali and Egyptians left the province prior to the conflict, during the conflict and after the NATO intervention.⁷⁰ As many as 50,000 Roma, Ashkali and Egyptians found refuge in Serbia, tens of thousands more tried to reach Western Europe and thousands took refuge in Montenegro, Macedonia and Bosnia and Herzegovina.⁷¹ According to a November 1999 UNHCR figure, there may have been as few as 11,000 Roma in Kosovo at that point.⁷² Estimates indicate that about 30,000 Roma, Ashkali and Egyptians were still living in Kosovo by the end of 2002.⁷³

The March 1999 NATO bombing did not bring significant change to the security situation over the next few months, despite the presence of international armed forces and administration in Kosovo. Widespread violence against Roma, Ashkali and Egyptians did not ebb. Romani, Ashkali and Egyptian families also made frequent allegations of being neglected by humanitarian aid agencies.⁷⁴

68 International Crisis Group, “Kosovo Conflict History”, available at: <http://www.crisisgroup.org/en/key-issues/research-resources/conflict-histories/kosovo.aspx>. Human Rights Watch, *Under Orders: War Crimes in Kosovo*, 26 October 2001, available at: <http://www.hrw.org/en/reports/2001/10/26/under-orders-war-crimes-kosovo>. Additional evidence in reports from the OSCE, such as, *Human Rights in Kosovo: As Seen, As Told. Volume II 14 June – 31 October 1999*, 5 November 1999, available at: <http://www.osce.org/kosovo/17781>.

69 ERRC, “ERRC in Kosovo: pogrom situation”, *Roma Rights 2, 1999: Roma in the Kosovo Conflict*, 15 July 1999, available at: <http://www.errc.org/cikk.php?cikk=818>.

70 Richard Owen, “Italy Gypsies Find Echoes of Nazism in Fingerprinting Move”, *The Times Online*, 5 July 2008.

71 UNHCR/Praxis, *Analysis of the Situation of Internally Displaced Persons from Kosovo in Serbia*, Belgrade March 2007, p.11; Report of the Committee on Migration, Refugees and Population on the Situation of long-standing refugees and displaced persons in South East Europe to the Parliamentary Assembly of the Council of Europe, Doc. 11289, 24 May 2007; Bundesamt für Migration und Flüchtlinge Deutschland, Informationszentrum Asyl und Migration, *Serbien und Montenegro/Kosovo. Erkenntnisse des Bundesamtes Berichtsraum Dezember 2004 – März 2005. Stand März 2005*; “Displaced Kosovo Roma” *Roma Rights Summer 1998*, available at: <http://www.errc.org/cikk.php?cikk=86>, and “Roma from Kosovo victimized in the Serb-Albanian ethnic conflict” in *Roma Rights Autumn 1998*, available at: <http://www.errc.org/cikk.php?cikk=1570>.

72 International Crisis Group, “Violence in Kosovo: Who’s Killing Whom?”, 2 November 1999, available at: <http://www.crisisgroup.org/en/regions/europe/balkans/kosovo/078-violence-in-kosovo-whos-killing-whom.aspx>.

73 US State Department, *Country Reports on Human Rights Practices: Federal Republic of Yugoslavia, 2001*, 4 March 2002, available at: <http://www.state.gov/g/drl/rls/hrrpt/2001/eur/8369.htm>.

74 Theodor Freund, “The War in Kosovo is not over”, 1999, available at: http://www.unionromani.org/articulo_in.htm; OSCE, *Human Rights in Kosovo: As Seen, As Told. Volume II 14 June – 31 October 1999*, 5 November 1999, available at: <http://www.osce.org/item/17756.html>; Society for Threatened Peoples International, “Until the Very Last ‘Gypsy’ Has Fled the Country”: *The mass expulsion of Roma and Ashkali from Kosovo*, Human Rights Report No. 21, September 1999, available at: <http://www.greekhelsinki.gr/pdf/STP-Roma.PDF>.

4.10 The Aftermath of the War (Kosovo under the Administration of the United Nations)

The UN civil and security force arrived in Kosovo in 1999 after UN Security Council Resolution 1244 was passed, and was assigned the task of establishing an interim administration providing substantial autonomy within the former Federal Republic of Yugoslavia.⁷⁵

A four-pillar structure was established: Pillar I – Humanitarian Assistance (managed by the UNHCR);⁷⁶ Pillar II – Civil Administration, led by the UN; Pillar III – Democratisation and Institution Building, led by the OSCE; and Pillar IV - Reconstruction and Economic Development,⁷⁷ managed by the EU. In the years that followed, much of the UN’s initial responsibilities were gradually given to Kosovo self-government institutions. In December 2008, the European Union’s EULEX took over from UNMIK. EULEX is a police and rule of law mission which assists in preserving stability in Kosovo and helps with capacity building.

The war left many former Romani, Ashkali and Egyptian settlements deserted. In towns with considerable Romani, Ashkali and Egyptian communities before 1999, only a few families remained. According to estimates of the Minority Studies Society, in Prishtinë/Priština and Mitrovicë/Mitrovica the Romani, Ashkali and Egyptian communities had around 10,000 members before the war: after 1999, only a few hundred still lived there.⁷⁸

4.10.1 SECURITY SITUATION

The United Nations had to provide security in Kosovo after the province was placed under the governance of the United Nations Interim Administration in Kosovo (UNMIK). The UN Special Representative of the UN Secretary-General (SRSG) was also appointed and given decision-making powers. The UNMIK established its own police force and was supported by the international military force KFOR in order to maintain security, order and public safety.

However, most of the Romani, Ashkali and Egyptian communities continued to live in fear and poverty. Crimes against Roma, Ashkali and Egyptians slowly decreased, yet still continued. Roma, Ashkali and Egyptians were killed or abducted and further crimes such as rape, beating, arson and extortion took place.⁷⁹ Throughout 2000 and to a lesser extent in 2001, violent attacks on Roma, Ashkali and Egyptians, including killings, continued.⁸⁰

75 United Nations Resolution 1244 (1999), adopted by the Security Council at its 4011th meeting, on 10 June 1999, available at: <http://www.nato.int/Kosovo/docu/u990610a.htm>.

76 This pillar was phased out in 2000 and later converted into the Police and Justice Pillar.

77 This pillar was closed down in June 2008.

78 Elena Marushiakova et al., *Identity Formation among Minorities in the Balkans: The cases of Roms, Egyptians and Ashkali in Kosovo*, Sofia: Minority Studies Society, 2001, 47.

79 See the regular reports of the United Nations High Commissioner for Refugees and the Organisation for Security and Cooperation in Europe, “Assessment of the Situation of Ethnic Minorities in Kosovo”, available at: <http://www.osce.org/documents>.

80 See the regular reports of the United Nations High Commissioner for Refugees and the Organisation for Security and Cooperation in Europe, “Assessment of the Situation of Ethnic Minorities in Kosovo”, available at: <http://www.osce.org/documents>.

In March 2001, United Nations Secretary General Kofi Annan stated that: “The Romani and Ashkali communities have suffered from violent attacks involving hand grenades, for example, and other explosions and arson in various locations in Kosovo.”⁸¹ From 2002, the UN reported that the security situation for Roma, Ashkali and Egyptians gradually improved.⁸² However, mob violence in March 2004 demonstrated the volatility of “peaceful co-existence” in Kosovo.

4.10.2 THE MARCH 2004 RIOTS

In March 2004 incidents of mob violence against minorities broke out in Kosovo. Two events in particular sparked the new outbreak of violence. On 15 March 2004, a 19-year old Serb was seriously wounded in a drive-by shooting in the village of Çagllavicë/Čaglovića. The next day, three ethnic Albanian boys aged 9-12 drowned in the Ibar River in Mitrovicë/Mitrovica. According to the Kosovo media, the children were chased into the river by Serbian teenagers with dogs.⁸³ An OSCE report later revealed that one surviving boy stated that the children had not been chased into the river by anyone,⁸⁴ concluding that the Kosovo media had presented the facts to fuel public belief that an ethnically-motivated crime had been committed.⁸⁵

These two events set off mass protests in Mitrovicë/Mitrovica that quickly spread to other cities in Kosovo and became violent. Even though the riots were mainly directed against ethnic Serbs, Romani, Ashkali and Egyptian populations were affected as well. In the Ashkali settlement in Vushtrri/Vučitrn at least 67 houses were burnt on 18 March 2004; before ethnic Albanians burnt the settlement, the inhabitants of these houses were removed by KFOR forces in order to prevent serious injuries and/or casualties. On 17 March and 21 March, four Romani and Ashkali houses were burnt in Lipjan/Lipljan. Ethnic Albanians also stoned the Azotiku area in Obiliq/Obilić, inhabited by 19 Romani, Ashkali and Egyptian families.⁸⁶ During field research in March 2004, the ERRC documented many cases in which Romani and Ashkali communities had been targeted, including in Vushtri/Vučitrn, Gjilan/Gnjilane, Lipjan/Lipljan and Obiliq/Obilic. According to this research, at least 75 houses were set on fire and several hundred people were affected.⁸⁷

81 “Report of the Secretary-General on the United Nations Interim Administration in Kosovo”, 13 March 2001, available at: <http://daccessdds.un.org/doc/UNDOC/GEN/N01/554/86/IMG/N0155486.pdf?OpenElement>.

82 For an overview of reported incidents in 2003 until March 2004 see UNHCR, “Update on the Kosovo Roma, Ashkaelia, Egyptian, Serb, Bosniak, Gorani and Albanian communities in a minority situation”, June 2004.

83 United Nations High Commissioner for Refugees. “Update on the Kosovo Roma, Ashkaelia, Egyptian, Serb, Bosniak, Gorani and Albanian communities in a minority situation” (2004), 31, available at: <http://www.unhcr.org/refworld/publisher,UNHCR,COUNTRYPOS,SRB,41249bdd4,0.html>.

84 Organization for Security and Cooperation in Europe. “The Role of the Media in the March 2004 Events in Kosovo” (2004), available at: http://www.osce.org/documents/rfm/2004/04/2695_en.pdf.

85 Organization for Security and Cooperation in Europe. “The Role of the Media in the March 2004 Events in Kosovo” (2004), available at: http://www.osce.org/documents/rfm/2004/04/2695_en.pdf.

86 United Nations High Commissioner for Refugees, “Update on the Kosovo Roma, Ashkaelia, Egyptian, Serb, Bosniak, Gorani and Albanian communities in a minority situation”. (UNCHR Kosovo, June 2004), 32-33.

87 ERRC, “Ethnic Cleansing of Minorities in Kosovo”, 28 May 2004, available at: <http://www.errc.org/cikk.php?cikk=1873>.

The riots caused 20 casualties and injured more than 950 people, including Ashkali and Egyptians. Some Serbs, Roma, Ashkali and Egyptians left Kosovo and minority communities across Kosovo felt that their security situation had worsened.⁸⁸ Due to the mob violence, refugee and IDP returns drastically decreased in 2004 with a nearly 50% decline compared to 2003.⁸⁹

Spotlight: Roma, Ashkali and Egyptians in Vushtrri/Vučitrn

A relatively large Romani, Ashkali and Egyptian community lived in Vushtrri/Vučitrn prior to the conflict, including several well-integrated and economically successful families. During the war, some families supported the KLA and some of the families fled together with Albanian families during the Serbian aggression. Other families stayed.

Between June and August 1999, after the return of Kosovo Albanians, the Romani and Ashkali neighbourhoods were attacked and their houses burnt down or occupied, primarily by Albanians from neighbouring villages. The town's Romani quarter was totally destroyed. Attacks continued throughout the next years, in particular targeting influential and rich families such as the Q. family, whose members and property were targets of several attacks with explosive devices despite their reported support of the KLA during the conflict.⁹⁰

Despite the ongoing attacks, local authorities, Ashkali organisations and international organisations worked towards the return of Ashkali to Vushtrri/Vučitrn, in light of co-existence prior to and during the conflict.

Several properties of potential returnees were occupied; it was estimated that in April 2002, 100 houses of Ashkali families in Vushtrri/Vučitrn were illegally occupied.⁹¹ Finally, in May 2002, 31 Ashkali families, including 133 people, returned to Vushtrri/Vučitrn town after three years of displacement in Novi Sad, Serbia. Some of the Albanian families who occupied property were able to reconstruct their property in order to move out of the Ashkali houses.⁹²

However, the returnees were not welcomed by everybody. Properties were damaged and looted shortly thereafter in May 2002. Community members reported persistent harassment

⁸⁸ United Nations High Commissioner for Refugees, "Update on the Kosovo Roma, Ashkaelia, Egyptian, Serb, Bosniak, Gorani and Albanian communities in a minority situation". (UNCHR Kosovo, June 2004), 33.

⁸⁹ United Nations High Commissioner for Refugees, "UNHCR Position on the Continued International Protection Needs of Individuals from Kosovo". (UNHCR, March 2005), 2, available at: <http://www.unhcr.org/refworld/pdfid/449664ea2.pdf>.

⁹⁰ Nikolaus von Holtey, Die Stadt Vučitrn ist "zigeunerfrei" - Die Opfer eines Pogroms im Kosovo fordern die Aufnahme in EU-Staaten, available at: <http://www.lebenshaus-alb.de/magazin/002233.html>.

⁹¹ United Nations High Commissioner for Refugees and the Organisation for Security and Cooperation in Europe, "9th Assessment of the Situation of Ethnic Minorities in Kosovo" May 2002, 31.

⁹² UNMIK, "Return of Roma, Ashkali and Egyptians: The long way back home", *Focus Kosovo*, Spring 2008, available at: <http://www.unmikonline.org/pub/focuskos/aug03/focusksocaffair1.htm>.

from Kosovo Albanians, such as verbal abuse, physical abuse, stone and firecracker or grenade attacks. In addition, evicted illegal occupants harassed returnees who were the rightful property owners. Majority community members demanded money for “protection” while evicted illegal occupants demanded compensation from the property owners/returnees for improvements which they had made to the returned properties.⁹³

During the March 2004 riots, the Ashkali settlement in Vushtrri/Vučitrn was targeted yet again. At least 67 houses were burnt on 18 March 2004. An Ashkali man remembered: “In 2004, within an hour, about 80 houses were burnt, including my house [...] 60 families moved abroad at this time, to Germany, Sweden and Denmark”.⁹⁴

Before ethnic Albanians burnt the settlement, the inhabitants of these houses were removed by KFOR forces in order to prevent serious injuries and/or casualties.⁹⁵ The Q. family again became one of the main targets of the attackers. Other targets were asylum-seekers whose claims were rejected and had returned from Western European countries such as Germany.⁹⁶

As of May 2010, residents reported that all of the burnt houses had been reconstructed, but only 27 families returned. In total, there were about 150 Ashkali in the Vushtrri/Vučitrn municipality.⁹⁷

93 United Nations High Commissioner for Refugees and the Organisation for Security and Cooperation in Europe, “10th Assessment of the Situation of Ethnic Minorities in Kosovo”.

94 Interview with a 22-year-old Ashkali man. Vushtrri/Vučitrn, Kosovo: 23 May 2010.

95 United Nations High Commissioner for Refugees, “Update on the Kosovo Roma, Ashkali, Egyptian, Serb, Bosniak, Gorani and Albanian communities in a minority situation”, UNCHR Kosovo, June 2004, 32.

96 See inter alia Nikolaus von Holtey, Die Stadt Vučitrn ist “zigeunerfrei”, available at: http://www.emhosting.de/kunden/fluechtlingsrat-nrw.de/system/upload/download_686.pdf.

97 Interview with a 22-year-old Ashkali man. Vushtrri/Vučitrn, Kosovo: 23 May 2010.

5 Kosovo after the Declaration of Independence

In 2006, under the leadership of UN Special Envoy Martti Ahtisaari, an extensive negotiation process began on the status of Kosovo. However, negotiations between Serbia and Kosovo Albanian groups did not reach an agreement. The United States and some European countries supported the final proposal whereas Russia opposed it; it was abandoned after Russia threatened to veto the plan in the UN Security Council.⁹⁸ In 2007, further discussions involving the European Union, Russia and the United States also failed.⁹⁹ In the meantime, the majority of Kosovo Serbs boycotted the Kosovo parliamentary elections on 17 November 2007.¹⁰⁰ Eventually, on 18 February 2008, Kosovo declared its independence from Serbia. While the Serbian minority in the assembly boycotted the vote, all other minorities voted for independence.

As of August 2011, 77 United Nations Member States had recognised Kosovo as an independent state.¹⁰¹ However, the UN itself has not recognised Kosovo as independent. Moreover, Serbia has not recognised Kosovo as an independent state and was still treating Kosovo as an integral part of the Republic of Serbia. Serbia turned to the UN General Assembly and asked to refer the question regarding the legality of Kosovo's unilateral independence to the International Court of Justice (ICJ).¹⁰² On 22 July 2010, the ICJ issued an advisory opinion indicating that Kosovo's declaration of independence did not violate international law.¹⁰³

5.1 Roma, Ashkali and Egyptians and the Status of Kosovo

Roma, Ashkali and Egyptians from Kosovo as well as international Romani organisations such as the European Roma and Travellers Forum (ERTF) requested on several occasions that their concerns and needs be addressed in the status talks and that their representatives participate in the negotiations.

98 International Crisis Group, "Kosovo: No Good Alternatives to the Ahtisaari Plan", 14 May 2007, 2, available at: http://kms1.isn.ethz.ch/serviceengine/Files/ISN/31172/ipublicationdocument_singledocument/0901C546-632B-4ED8-887B-05DAE547C904/en/eur_rep_182_kosovo.pdf.

99 United Nations Office of the Special Envoy for Kosovo. "Comprehensive Proposal for the Kosovo Status Settlement" (Ahtisaari Plan), available at: http://www.unosek.org/docref/Comprehensive_proposal-english.pdf.

100 International Crisis Group. "Kosovo Countdown: A Blueprint for Transition", 6 December 2007, 1, available at: http://kms1.isn.ethz.ch/serviceengine/Files/ISN/46046/ipublicationdocument_singledocument/5BD3F0D4-B04D-4D77-BD56-B70B67454F74/en/188_kosovo_countdown_transition.pdf.

101 For a detailed list of the countries that have recognised Kosovo, see the Republic of Kosovo Ministry of Foreign Affairs, available at: <http://www.mfa-ks.net/?page=2,33>.

102 United Nations, "Backing Request by Serbia, General Assembly decides to seek International Court of Justice Ruling on Legality of Kosovo's Independence", 8 October 2008, available at: <http://www.un.org/News/Press/docs/2008/ga10764.doc.htm>.

103 International Court of Justice, Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, 22 July 2010, available at: <http://www.icj-cij.org>.

Their request to participate was based *inter alia* on the report of the Special Envoy of the Secretary General of the United Nations, Ambassador Eide, who stipulated that: “(m)echanisms must also be found to involve the smaller communities. But, they also expect that this process will address their own rights and role in the future Kosovo.”¹⁰⁴ In addition, Guiding Principle 4 of the Contact Group for the Settlement of the Status of Kosovo requested that the settlement: “should provide mechanisms to ensure the participation of all Kosovo communities in Government, both on the central and on the local level”.¹⁰⁵

Despite these guidelines and a number of interventions, the UN Negotiation Team (UN-OSEK) focused on the needs and concerns of Kosovo Albanians and Kosovo Serbs in the status talks on Kosovo and refused to properly take into account the needs and concerns of Romani, Ashkali and Egyptian communities. Neither representatives of the Kosovo Provisional Interim Self Government, nor representatives of the Serbian Government nor UNOSEK considered the specific situation of the Roma, Ashkali and Egyptians. Romani, Ashkali and Egyptian representatives reported that in the status talks, community-related discussions aimed at finding proposals to benefit Kosovo Serbs and not disturb Kosovo Albanians, rather than benefit all communities in Kosovo.¹⁰⁶

The final “Comprehensive Proposal” for the status of Kosovo and the new Constitution of Kosovo adopted in 2008 after the declaration of independence¹⁰⁷ foresees the establishment of “municipalities with enhanced competencies”, specific areas in which Kosovo Serbs could enjoy a high level of autonomy and live apart from the Kosovo Albanians in a parallel society. However, with the exception of Turks in the village of Mamusha (which also became a new municipality), other communities did not profit from this despite having greater numbers in some areas, as they do not live separated from Albanians, but within villages or towns, generally in a particular neighbourhood.

5.2 The New Constitution

The Constitution of the Republic of Kosovo provides extensive guarantees for human and minority rights. It was adopted by the Kosovo Assembly in April 2008, entering into force in June 2008. According to the Constitution, Kosovo is a “multiethnic society” where all individuals are equal before the law, and where the rights of communities are respected.¹⁰⁸ While Albanian and Serbian are the official languages, the Romani language, alongside Turkish and

¹⁰⁴ United Nations, Kai Eide report: A Comprehensive Review of the Situation of Kosovo, available at: <http://www.ico-kos.org/pdf/KaiEidereport.pdf>.

¹⁰⁵ Office of the Special Envoy of the Secretary General of the United Nations for the future status process for Kosovo, “Guiding principles of the Contact Group for a settlement of the status of Kosovo”, available at: <http://www.unosek.org/docref/Contact%20Group%20-%20Ten%20Guiding%20principles%20for%20Ahtisaari.pdf>.

¹⁰⁶ Kosovo Roma & Ashkali Forum, “Our Position 2006”, available at: <http://www.osce.org/kosovo/>.

¹⁰⁷ Republic of Kosovo, Constitution, available at: <http://www.assembly-kosova.org/?cid=2,100,48>, Article 124.

¹⁰⁸ Republic of Kosovo, Constitution, Article 3.

Bosnian, are official languages on the municipal level.¹⁰⁹ Non-discrimination and the respect for human rights are the core principles of the constitutional order.¹¹⁰

Fundamental rights and freedoms receive extensive attention, and the Constitution gives priority to specifically enumerated international treaties over Kosovo laws.¹¹¹ It omits the International Covenant on Economic, Social and Cultural Rights, which creates a situation in which some of the rights covered by this instrument do not have “proper and consistent legal protection.”¹¹² When the UN Committee on Economic, Social and Cultural Rights asked the UNMIK for clarification on this situation in late 2008, the UNMIK responded that they could not comment on any official reasons for omitting the Covenant from Article 22, and added the following: “Even though Chapter 3 of the Constitutional Framework does not refer to the Covenant, the Covenant is part of the applicable law in Kosovo pursuant to UNMIK Regulation No. 1999/24.”¹¹³ One of the Committee’s recommendations to the UNMIK in November 2008 was to “advise the Kosovo authorities to take appropriate measures to ensure that the Covenant is directly applicable.”¹¹⁴ To date, however, no concrete measures have been taken in this direction.

5.2.1 COMMUNITIES’ RIGHTS IN THE CONSTITUTION

Communities are defined by the Constitution as “inhabitants belonging to the same national or ethnic, linguistic, or religious group traditionally present on the territory of the Republic of Kosovo”. The Constitution entitles the communities and their members to a number of rights,¹¹⁵ such as the rights to maintain their culture and identity, own educational establishments, use of

¹⁰⁹ Republic of Kosovo, Constitution, Article 5.

¹¹⁰ Republic of Kosovo, Constitution, Article 7.

¹¹¹ Article 22 of the Constitution lists the following treaties as directly applicable international agreements: Universal Declaration of Human Rights; European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols (ECHR); International Covenant on Civil and Political Rights and its Protocols (ICCPR); Council of Europe Framework Convention for the Protection of National Minorities; Convention on the Elimination of All Forms of Racial Discrimination (CERD); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); Convention on the Rights of the Child (CRC); and the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT).

¹¹² Ombudsperson Institution of Kosovo. *Eighth Annual Report 2007-2008*, 20 July 2008, 27, available at: <http://www.ombudspersonkosovo.org/?id=2,0,151,156,e,0>.

¹¹³ UN Economic and Social Council – Committee on Economic, Social and Cultural Rights. “Implementation of the International Covenant on Economic, Social and Cultural Rights. Consideration of reports submitted by States Parties in accordance with Article 16 of the International Covenant on Economic, Social and Cultural Rights. Replies by the United Nations Interim Administration Mission in Kosovo (UNMIK) to the list of issues (E/C.12/UNK/Q/1) to be taken up in connection with the consideration of the document submitted by UNMIK (E/C.12/UNK/1).” Geneva, 3 December 2008, 2, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/455/86/PDF/G0845586.pdf?OpenElement>.

¹¹⁴ Committee on Economic, Social and Cultural Rights. ‘Consideration of reports submitted by States Parties under Articles 16 and 17 of the Covenant. Document submitted by the United Nations Interim Administration Mission in Kosovo (UNMIK). Concluding Observations of the Committee on Economic, Social and Cultural Rights.’ Geneva, 19 November 2008, 2, available at: <http://www.ombudspersonkosovo.org/repository/docs/E-C.12-UNK-CO-1%2019.11.2008.pdf>.

¹¹⁵ Constitution of the Republic of Kosovo, Article 57.

language, access to media in their own language, etc.¹¹⁶ The communities have to be represented among the judges of the Supreme Court and in other courts with appeal jurisdiction¹¹⁷ while “the composition of the courts shall reflect the ethnic composition of the territorial jurisdiction of the respective court.”¹¹⁸ The communities are “entitled to equitable representation in employment in public bodies and publicly owned enterprises.”¹¹⁹

The new Constitution contains several articles referring to the participation and representation of communities in decision-making processes at both the central and local levels, many of which were already included in the Constitutional Framework of May 2001.¹²⁰ However, in some aspects the rights of non-Albanian and non-Serbian communities have decreased under the new Constitution.

In the Kosovo Assembly, communities are granted the number of seats won in open elections, with a guaranteed minimum of 20 seats. Among these, one seat is guaranteed for each of the Romani, Ashkali and Egyptian communities, and an additional seat for the political entity of the three communities which performs best in the elections.¹²¹ However, Article 148 (Transitional Provisions for the Assembly of Kosovo) allows for a greater number of seats to be awarded, as any seats won through open elections are granted in addition to the guaranteed seats for the first two electoral mandates.¹²²

The Committee on the Rights and Interests of Communities of the Kosovo Parliament should be composed of one third Albanian members of Parliament, one third Serbian members and one third representatives of “other communities”. Under the 2001 Provisional Constitutional Framework, it was “composed of two members from each of Kosovo’s Communities elected to the Assembly.”¹²³

The Constitution requires that one of the five deputy presidents of the Assembly must be from the Serbian community and one from “other communities”. Similarly, at least two ministers (and two deputy ministers) should be members of minority communities (one from the Serbian community, one from other communities). If the Government consists of more than 12 ministers, three must come from the communities.¹²⁴

116 Constitution of the Republic of Kosovo, Article 59.

117 Constitution of the Republic of Kosovo, Article 103.

118 Constitution of the Republic of Kosovo, Article 104.

119 Constitution of the Republic of Kosovo, Article 61.

120 Constitutional Framework for Provisional Self-Government in Kosovo, May 2001.

121 Constitution of the Republic of Kosovo, Article 64. Ten seats are reserved for Kosovo Serbs, three for Kosovo Bosniaks, two for Kosovo Turks and one for Gorani.

122 Constitution of the Republic of Kosovo, Article 148. “Any seats gained through elections shall be in addition to the ten (10) reserved seats allocated to the Kosovo Serb Community and other Communities respectively.”

123 Constitutional Framework for Provisional Self-Government in Kosovo, Article 9.1.12, 78.

124 Constitution of the Republic of Kosovo, Article 96.

At the local level, the Constitution stipulates that “local self-government is based upon the principles of good governance, transparency, efficiency and effectiveness in providing public services having due regard for the specific needs and interests of the Communities.”¹²⁵ The Constitution foresees the position of the Vice President of the Municipal Assembly for Communities in municipalities with a community population of at least 10%.¹²⁶ This position has limited competence and must advocate for all “minority communities”.

In addition to rights provided to communities and their members, the Constitution assigns “vital interest” to certain laws, meaning that in addition to the majority of the Assembly deputies present and voting, the “majority of the Assembly deputies present and voting holding seats reserved or guaranteed for representatives of Communities that are not in the majority” have to be secured for adoption, amendment or repeal of various laws.¹²⁷

The Constitution indisputably provides a comprehensive frame for human rights protection, including minority rights protection. However, the Constitution, its “source” the Ahtisaari Plan and subsequent laws focus on Kosovo Albanians and Kosovo Serbs, rather than the interests of all citizens, at the expense of other communities such as Roma, Ashkali and Egyptian. This disregard might derive from the insufficient participation of the communities in the process of drafting the Constitution – they were neither represented on the Constitutional Commission nor were their comments on the draft of the Constitution taken into account.¹²⁸

The Constitution grants rights and positions to “communities” in general. However, the needs and priorities of Roma, Ashkali and Egyptians are very different to the needs and priorities of other communities such as Turks, Serbs or Bosniaks. Further, the lack of reliable statistical data about the population in Kosovo raises concerns over the 10% threshold related to certain rights.

The application of constitutional provisions lags considerably behind the theoretical framework, particularly for Romani, Ashkali and Egyptian communities. The following chapters describe in more detail the actual human rights situation as compared to the constitutional and legal protections provided in principle.

¹²⁵ Constitution of the Republic of Kosovo, Article 123.

¹²⁶ Constitution of the Republic of Kosovo, Article 62.

¹²⁷ Constitution of the Republic of Kosovo, Article 81. It relates to: (i) Laws changing municipal boundaries, establishing or abolishing municipalities, defining the scope of powers of municipalities and their participation in inter-municipal and cross-border relations; (ii) Laws implementing the rights of Communities and their members, other than those set forth in the Constitution; (iii) Laws on the use of language; (iv) Laws on local elections; (v) Laws on protection of cultural heritage; (vi) Laws on religious freedom or on agreements with religious communities; (vii) Laws on education; (viii) Laws on the use of symbols, including Community symbols and on public holidays.

¹²⁸ Minority Rights Group International. *Filling the Vacuum: Ensuring Protection and Legal Remedies for Minorities in Kosovo*, (London: 2009), 16, available at: <http://www.minorityrights.org/7856/reports/filling-the-vacuum-ensuring-protection-and-legal-remedies-for-minorities-in-kosovo.html>.

5.3 Relevant Legal and Policy Framework

The legislative framework of Kosovo is generally considered to meet international human rights standards on paper. As in the constitution and the Ahtisaari Plan, laws addressing the needs of communities are designed to primarily address the needs of the Kosovo Serbs, rather than the needs of Roma, Ashkali and Egyptians.

Overwhelmingly, the implementation of these laws is marred by the lack of resources and political will and by the fact that the Kosovo judicial system is generally considered to be very weak, particularly due to its insufficiently trained and prepared judges.¹²⁹

One of the key impediments to the coherent application of law in Kosovo is a lack of familiarity and in-depth understanding on the part of national and international judges of the complicated legal framework. This is particularly true for UNMIK regulations, many of which introduced unfamiliar concepts and structures, especially for judges trained during the Yugoslav era.¹³⁰

There are also “regular breaches of due process and fair trial standards”, as well as extreme delays and a massive backlog of cases in civil proceedings.¹³¹ What follows is a review of relevant, current international and national legislation concerning Kosovo communities and especially Romani, Ashkali and Egyptian communities.

5.3.1 INTERNATIONAL HUMAN RIGHTS STANDARDS

Protection provided by international human rights treaties is particularly complex in Kosovo. Before the proclamation of independence, the UNMIK was entrusted with protecting human rights in Kosovo and submitting reports on Kosovo to human rights treaty bodies.¹³² The UN Human Rights Committee expressed its opinion on this matter in its Concluding Observations

¹²⁹ See: Human Rights Watch. *Kosovo Criminal Justice Scorecard* (2008), available at: <http://www.hrw.org/en/reports/2008/03/27/kosovo-criminal-justice-scorecard-0>. Also see: OSCE. *Human Rights, Ethnic Relations and Democracy in Kosovo*, Summer 2007 – Summer 2008.

¹³⁰ Human Rights Watch. *Kosovo Criminal Justice Scorecard* (2008), 17, available at: <http://www.hrw.org/en/reports/2008/03/27/kosovo-criminal-justice-scorecard-0>.

¹³¹ OSCE Mission in Kosovo. *Human Rights, Ethnic Relations and Democracy in Kosovo*, Summer 2007 – Summer 2008, 4. European Commission, *Kosovo 2010 Progress Report*, 9 November 2010, available at: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/ks_rapport_2010_en.pdf.

¹³² So far the UNMIK has submitted reports on the following treaties: International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights and the Framework Convention for the Protection of National Minorities. In June 2007, the CEDAW Committee requested a report on Kosovo from the UNMIK, *Concluding comments of the Committee on the Elimination of Discrimination against Women: Serbia*, 11 June 2007, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws38.htm>. However, the subsequent CEDAW report prepared by the government’s Agency for Gender Equality was not accepted by the CEDAW Committee as an official report. UN Women, “CEDAW Orientation Workshop with AGE and Gender Focal Points from all Government Line Ministries”, press release, 30 June 2009, available at: <http://www.unifem.sk/index.cfm?Module=articles&Page=ArticleShow&ArticleID=118>.

in 2006, insisting that any administration in Kosovo should consider itself obliged to respect the provisions of the International Covenant on Civil and Political Rights.¹³³

5.3.2 ANTI-DISCRIMINATION LAW

The Anti-Discrimination Law (ADL) of Kosovo was adopted by the Kosovo Assembly in February 2004 and promulgated by the Special Representative of the Secretary General in August 2004.¹³⁴ The practical rules for the implementation of this law were further outlined in two Administrative Instructions from the Prime Minister in 2006.¹³⁵

According to the ADL, discrimination on any grounds is unlawful: “There shall be no direct or indirect discrimination against any person or persons, based on sex, gender, age, marital status, language, mental or physical disability, sexual orientation, political affiliation or conviction, ethnic origin, nationality, religion or belief, race, social origin, property, birth or any other status.”¹³⁶ It furthermore enshrines entitlement to fair representation for all persons and community members employed in public institutions, as well as interethnic tolerance,¹³⁷ and prohibits direct and indirect discrimination (including segregation).¹³⁸ The ADL encompasses both the public and private spheres, and includes access to employment, social protection, education, housing and property, provision of goods and services, personal security, participation and access to public places –and any other rights protected by the law.¹³⁹ Positive action measures should be applied to achieve full equality in practice.¹⁴⁰ Notably, the procedures reviewing discrimination claims place the burden of proof on the party accused of discrimination.¹⁴¹

Despite the ADL’s broad scope, which ventures further than European and international models, it has been criticised for its lack of clarity concerning the bodies that will implement the law, the lack of adequate enforcement mechanisms and the lack of statistical data to monitor community representation.¹⁴² Furthermore, a general lack of knowledge about the ADL

¹³³ Human Rights Committee. ‘Concluding Observations of the Human Rights Committee: Kosovo (Serbia)’. 14 August 2006, 2, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/436/91/PDF/G0643691.pdf?OpenElement>.

¹³⁴ Anti-Discrimination Law, Law No. 2004/3, available at: <http://www.unmikonline.org/civpol/gender/doc/Anti-Discrimination-Law-in-Kosovo-2004.pdf>.

¹³⁵ Administrative Instruction No. 04/2006 on the Implementation of the Anti Discrimination Law and Administrative Instruction No. 2006/05 on Organizing and Functioning of the Offices for Receiving Complaints and Requests.

¹³⁶ Anti-Discrimination Law, Article 2.

¹³⁷ Anti-Discrimination Law, Article 2.

¹³⁸ Anti-Discrimination Law, Article 3.

¹³⁹ Anti-Discrimination Law, Article 4.

¹⁴⁰ Anti-Discrimination Law, Article 6.

¹⁴¹ Anti-Discrimination Law, Article 8.

¹⁴² Matijević, Milica V. “An Outline on the Implementation of the Kosovo Anti-Discrimination Law – The Serbian Perspective,” in *Implementing the Anti-Discrimination Law: A Challenge for Kosovo* (2007), Prishtina: OSCE Mission in Kosovo, 34-38, available at: http://www.osce.org/publications/mik/2007/06/25298_914_en.pdf.

persists, despite a campaign to raise public awareness on the law's provisions implemented by the Office on Good Governance,¹⁴³ which distributed information leaflets in Romani and other languages used in Kosovo.¹⁴⁴

From January 2007 to June 2011, 86 cases were filed under the ADL, none by Roma, Ashkali or Egyptians, although these groups complain of pervasive discrimination in all spheres of life.¹⁴⁵ No court in Kosovo, except the District Court in Gjiłan/Gnjilane and the Municipal Court in Pejë/Peć, with one open case each, has considered cases concerning allegations of discrimination.¹⁴⁶

5.3.3 LAWS AFFECTING MINORITY COMMUNITIES

The Law on the Protection and Promotion of the Rights of Communities and Their Members in Kosovo,¹⁴⁷ which entered into force in June 2008, requires Kosovo authorities to introduce special measures in order to “ensure the full and effective equality of communities and their members.”¹⁴⁸ In general, the Law requires the introduction of “such affirmative measures as may be necessary to promote full and effective equality in all areas of economic, social, political and cultural life, including education, media, health and other public services. Such action shall be offered equally to all communities and their members based solely on need.”¹⁴⁹ It clarifies that “persons belonging to communities shall be entitled to equitable representation in employment at all levels in publicly owned enterprises and public institutions.”¹⁵⁰

The October 2006 Law on the Use of Languages establishes Albanian and Serbian as official languages and gives communities the right to preserve their own linguistic identities (Article 1).¹⁵¹ If at least 5% of a municipality's population belongs to a particular community, that language obtains the status of an official language; if the community makes up at least 3% of the population, their

143 Rzehak, Radoslav. “Anti-Discrimination Law adopted – implementation begins”, available at: <http://www.unmikonline.org/pub/focuskos/feb05/focusksocaffair2.htm>. Fabian, Gregory. “Implementation of the Anti-Discrimination Law in Kosovo: A Plan in Need of Execution”, available at: <http://www.errc.org/cikk.php?cikk=2459&archiv=1>.

144 Istrefi, Remzije, “Implementing the Law on Anti-Discrimination: Report on the Roundtable on 18 April 2007,” in *Implementing the Anti-Discrimination Law: A Challenge for Kosovo* (2007), Prishtina: OSCE Mission in Kosovo, 44, available at: http://www.osce.org/publications/mik/2007/06/25298_914_en.pdf.

145 However one case concerning Roma, Ashkali or Egyptians was reviewed by the Supreme Court of Kosovo: considered the property issues of a family from Gjakovë/Djakovica. ERRC correspondence with the Humanitarian Law Centre Kosovo, 25 May 2009.

146 Ombudsperson Institution of Kosovo. *Ninth Annual Report 2008-2009*, 24 June 2010, 19.

147 Law on the Protection and Promotion of the Rights of Communities and Their Members in Kosovo, Law No. 03/L-047, available at: http://www.assembly-kosova.org/common/docs/ligjet/2008_03-L047_en.pdf.

148 Law on the Protection and Promotion of the Rights of Communities, Article 1.2.

149 Law on the Protection and Promotion of the Rights of Communities, Article 3.

150 Law on the Protection and Promotion of the Rights of Communities, Article 9.5.

151 Law No. 02/L-37 on the Use of Languages, adopted by the Kosovo Assembly in October 2006, available at: http://www.assembly-kosova.org/common/docs/ligjet/2006_02-L37_en.pdf, and promulgated by UNMIK Regulation No. 2006/51, available at: http://www.unmikonline.org/regulations/unmikgazette/02english/E2006regs/RE2006_51.pdf.

language becomes “a language in official use.”¹⁵² Discrimination on the grounds of language is clearly banned by the Law.¹⁵³ In areas inhabited by communities whose mother tongue is not an official language, residents are entitled to education in their mother tongue in public institutions.¹⁵⁴ Public broadcasters are required to promote cultural diversity and multilingualism.¹⁵⁵

As regards community languages and the media, there are 15 TV and radio stations broadcasting programmes in the Romani language, ranging from 24 hours a day (Radio Romano Avazo in Prizren) to 5 minutes a day (Radio Vizioni in Podujevë/Podujevo), including a weekly one-hour programme in Romani broadcast by the Radio and Television of Kosovo (Radio Televizioni i Kosovës – RTK), whose website is also available in Romani.¹⁵⁶ A representative of the RTK working on the Romani language programme indicated that although there are a variety of programmes currently being broadcast in Romani, they are typically funded by projects and thus cannot be continued after the project’s conclusion.¹⁵⁷

Many feel that this law is not implemented in practice, especially in the case of the Romani language.¹⁵⁸ As of December 2011, no municipality in Kosovo had Romani as an official language or issued documents in the Romani language, except for Prishtinë/Priština where Romani has been given the status of a “language in use.”¹⁵⁹ The recently-established Municipality of Graçanicë/Gračanica contains the highest percentage of Roma in Kosovo: Roma constitute 10% of the population, thus it passes the 5% threshold required to establish Romani as an official language in the municipality. As of February 2011, the community was reportedly considering making a formal request for recognition.¹⁶⁰ The Language Commission, founded in March 2007, supervises the implementation of this law.¹⁶¹ However its work has been widely criticised; it mainly addressed complaints received from individuals despite having the ability to launch its own inquiries.¹⁶²

¹⁵² Law on the Use of Languages, Article 2.

¹⁵³ Law on the Use of Languages, Article 3.

¹⁵⁴ Law on the Use of Languages, Article 20.1; The Ministry of Education, Science and Technology is providing administrative instructions on its practical implementation.

¹⁵⁵ Law on the Use of Languages, Article 26.

¹⁵⁶ Based on data from 2009. Kosovo Foundation for Open Society/Humanitarian Law Fund, Governance of Roma, Ashkali and Egyptian rights in Kosovo, Prishtinë/Priština 2010, available at: <http://www.kfosweb.info/pdf/gromaenglish.pdf>, 45.

¹⁵⁷ Email correspondence with D. Qulangiju, RTK: 14 January 2011.

¹⁵⁸ See reports by the Humanitarian Law Centre in the bibliography. Also, Council of Europe. *Progress report on the implementation of the Framework Convention for the Protection of National Minorities in Kosovo submitted by the United Nations Interim Administration Mission in Kosovo*. Strasbourg, 10 December 2008, 28-34, available at: <http://www.unhcr.org/refworld/country,,COESFCPNM,,SRB,,4948cb842,0.html>.

¹⁵⁹ Humanitarian Law Centre Kosovo, *Security Issues, Employment and Application of the Law on the Use of Languages and the Anti-Discrimination Law in Kosovo*, April 2008, 198, available at: http://www.hlc-rdc.org/uploads/editor/Pitanja_bezbednosti_engleski.pdf.

¹⁶⁰ OSCE, Kosovo Community Profiles 2010, 8 February 2011, available at: <http://www.osce.org/kosovo/75493>.

¹⁶¹ Law on the Use of Languages, Article 32.

¹⁶² Humanitarian Law Centre Kosovo, *The Beginning of the Implementation of the Law on the Promotion and Protection of Rights of Communities and Their Members in the Republic of Kosovo*, December 2008, 86 and 100. European Commission, Kosovo under UNSCR 1244/99 2009 Progress Report, 14 October 2009, available at: http://eeas.europa.eu/delegations/kosovo/eu_kosovo/key_documents/index_en.htm.

The Law on Local Self Government, recalling relevant provisions from the Constitution on the needs of non-majority communities, introduces a few mechanisms for the participation of communities, including the obligation of the Municipal Assemblies to establish and permanently maintain the Committee on Communities.¹⁶³ The position of the Chairperson of the Municipal Assembly for Communities shall be held by the non-majority community candidate who received the most votes on the open list of candidates for election to the Municipal Assembly.¹⁶⁴ Municipalities that meet or surpass the 10% non-majority communities threshold shall also introduce the position of a Deputy Mayor for Communities.¹⁶⁵

This law does not include any reference to employment of community members in the municipal civil service although its predecessor, the Law on Self-Government of Municipalities stipulated that: “the municipal civil service reflects a fair proportion of qualified representatives of communities at all levels.”¹⁶⁶

The Law on Local Government Finance¹⁶⁷ supports the implementation of the Law on Communities. It specifies the presence of non-majority communities as one of the criteria for distribution of the general grant amongst municipalities,¹⁶⁸ depending *inter alia* on the size of a municipality’s non-majority population. Annex 1 of the Law is supposed to provide data on the minority population of each municipality. Unfortunately, that information is inaccurate: it indicates, for example, that not a single person belonging to an ethnic minority lives in South Mitrovicë/Mitrovica, despite the fact that more than 800 Roma and Ashkali live in South Mitrovicë/Mitrovica (some of them returned to the site of the former “Roma Mahalla” as part of a reconstruction programme) as well as at least a few hundred Turks and Bosniaks. No other ethnic minority officially lives in the “new Turkish municipality” Mamusha, despite the fact that Romani residents were represented in the Municipal Assembly until the elections in 2009, when the Kosovo Democratic Turkish Party won the election. Other municipalities with considerable (non-Serbian) minority communities such as Fushë Kosovë/Kosovo Polje, Gjakovë/Djakovica, Ferizaj/Uroševac, Istog/Istok or Prizren, do not accurately reflect their numbers in official population data.

¹⁶³ Law Number 03/L-040 on Local Self Government, Article 51.

¹⁶⁴ Law on Local Self Government, Article 54.

¹⁶⁵ Law on Local Self Government, Article 61.

¹⁶⁶ UNMIK/REG/2007/30.

¹⁶⁷ Law 03/L-049, adopted by the Assembly of Kosovo on 13 March 2008 and promulgated on 15 June 2008.

¹⁶⁸ According to Article 1 of the Law on Local Government Finance, the general grant “shall mean an amount appropriated to a municipality that may be used by the municipality for any purpose relating to its competencies”.

Municipality	Annex 1	OSCE Municipal Profile ¹⁶⁹
Fushë Kosovë/ Kosovo Polje	3,730	According to the local authorities, the estimated total population is 50,000. The majority are Kosovo Albanians, but substantial numbers of non-Albanian community members live in the municipality: Kosovo Roma, Ashkali and Egyptians (4,600), Serbs (2,800), Bosniaks (40) and Gorani (30). ¹⁷⁰
Ferizaj/Uroševac	3,367	Other communities residing in the municipality include Kosovo Roma, Ashkali, Egyptians (4,077), Gorani (230), Kosovo Bosniaks (70), Kosovo Serbs (63), and Kosovo Turks (40); in total about 4,500 persons. ¹⁷¹
Istog/Istok	2,646	About 1,650 Kosovo Bosniaks, 800 Kosovo Serbs and 40 Roma and about 2,220 Egyptians – in total around 4700 members of minority communities live in the municipality. ¹⁷²
Gjakove/Djakovica	6,013	As of April 2008: 8,600 Roma, Ashkali and Egyptians live in the municipality. ¹⁷³
Prizren	30,077	Based on data provided by the Prizren Municipal Community Office, 21,975 Kosovo Bosniaks, 9,038 Kosovo Turks, 5,322 Kosovo Roma, Ashkali and Egyptians and 160 Kosovo Serbs live in Prizren. ¹⁷⁴

Since the presence and size of non-majority communities constitute one of the criteria for the distribution of the general grant amongst municipalities¹⁷⁵ and specific grants to municipalities for health and education, the aforementioned municipalities may receive less or even no contribution from the state budget for minority communities.

The data in Annex 1 can be modified,¹⁷⁶ but has remained unchanged thus far despite an intervention from the OSCE Mission in Kosovo; the 2011 census may provide the necessary

¹⁶⁹ As of September 2009, unless otherwise indicated. Additional information from 2010 Municipal Profiles, where available is included in the footnotes.

¹⁷⁰ OSCE Mission in Kosovo, Municipal Profile Fushë Kosovë/Kosovo Polje, available at: <http://www.osce.org/kosovo/43753>. According to updated figures from the OSCE Field Team estimations from 2010, there was a slight increase: there were 783 Roma; 3,882 Ashkali and 115 Egyptians (in total, 4780) living in this municipality. OSCE, *Kosovo Community Profiles 2010*, February 2011, available at: <http://www.osce.org/kosovo/75450>. Community leaders in Fushë Kosovë/Kosovo Polje reported even higher figures, indicating that there were 5,152 Ashkali, 1050 Roma and 350 Egyptians – a total of more than 6500. Interview with M.A. Fushë Kosovë/Kosovo Polje, Kosovo: 19 May 2010.

¹⁷¹ OSCE Mission in Kosovo, Municipal Profile Ferizaj/Uroševac, available at: <http://www.osce.org/kosovo/43753>. The 2011 update found 260 Roma and 3,820 Ashkali living in Ferizaj (in total, 4,080). OSCE, *Kosovo Community Profiles 2010*.

¹⁷² OSCE Mission in Kosovo, Municipal Profile Istog/Istok, available at: <http://www.osce.org/kosovo/43753>. 20 Roma and 1,840 Egyptians (a total of 1,860) were estimated to be living in Istog/Istok by OSCE in 2011. OSCE, *Kosovo Community Profiles 2010*.

¹⁷³ OSCE Mission in Kosovo, Municipal Profile Gjakove/Djakovica, available at: <http://www.osce.org/kosovo/43753>.

¹⁷⁴ OSCE Mission in Kosovo, Municipal Profile Prizren, available at: <http://www.osce.org/kosovo/43753>.

¹⁷⁵ According to Article 1 of the Law on Local Government Finance, the general grant “shall mean an amount appropriated to a municipality that may be used by the municipality for any purpose relating to its competencies”.

¹⁷⁶ Article 35.1. states: “The Government, upon a recommendation from the Minister of Economy and Finance and the Minister of Local Government Administration, and with the consent of the ICR, may, during calendar year 2008, modify Annex 1 as needed to incorporate new or changed population information.”

updated data.¹⁷⁷ Lawmakers' insistence to deny the existence of non-Albanian communities in certain municipalities calls into question their commitment to the reintegration of Roma, Ashkali and Egyptians, particularly in places like South Mitrovicë/Mitrovica.

The Law on Local Elections does not contain any provisions guaranteeing the political participation of ethnic communities in the municipal assemblies, such as reserved seats, despite the transfer of competencies to the local level.¹⁷⁸ Thus, the participation of communities remains symbolic at the local level; the Deputy Assembly President and Deputy Mayor for communities are introduced only in municipalities with a 10% minority population.

5.3.4 STRATEGY FOR THE INTEGRATION OF ROMANI, ASHKALI AND EGYPTIAN COMMUNITIES

A foundational policy document, the Strategy for the Integration of Romani, Ashkali and Egyptian Communities in Kosovo, was developed by the Office of the Prime Minister, the OSCE Mission in Kosovo and the Kosovo Foundation for an Open Society from 2006-2008. The development process included representatives of relevant ministries as well as representatives of the Romani, Ashkali and Egyptian communities.¹⁷⁹ The Strategy was adopted by the Kosovo Government in December 2008.¹⁸⁰

In March 2010, the Government adopted the "Action Plan of the Republic of Kosovo for the Implementation of the Strategy for the Integration of Romani, Ashkali and Egyptian Communities, 2009 – 2015."¹⁸¹ The Strategy covers education, employment, health and social affairs, housing (including informal settlements), returns and reintegration, registration, culture and media, political participation and representation, security, police and justice. With this strategy the Government recognises the existence of discrimination against the three communities in Kosovo and commits to:

Ensure the effective implementation of its anti-discrimination legislation to combat racial and ethnic discrimination in all fields, *inter alia*, access to education, employment, housing, health and social services and citizenship.¹⁸²

177 Email correspondence with D. Rumolo. Kosovo: 19 July 2010.

178 Law No. 03/L-072 on Local Elections in the Republic of Kosovo.

179 The consultation process included Roma, Ashkali and Egyptian Women's organisations. The Network of Roma, Ashkali and Egyptian Women's Organisations (KRAEON), "KRAEON Activities: Participation in the drafting of the action plan for the implementation of the Strategy for the Integration of RAE Communities," *Bulletin* Number I, Volume IV, January 2008 – June 2009, available at: rrgraek.org/file.php?file=BULETINI_-_ANGLISHT.pdf.

180 European Commission, *Kosovo under UNSCR 124/99 2009 Progress Report*, 14 October 2009, 19, available at: http://eeas.europa.eu/delegations/kosovo/eu_kosovo/key_documents/index_en.htm.

181 Republic of Kosovo, *Action Plan for the Implementation of the Strategy for Integration of Romani, Ashkali and Egyptians Communities, 2009-2015*, 2 March 2010.

182 Republic of Kosovo, *Strategy for the Integration of Romani, Ashkali and Egyptian Communities in Kosovo*, Prishtinë/Priština, 2008.

Romani, Ashkali and Egyptian activists expressed concerns that the Strategy may not be implemented, but instead remain on paper only: “Many strategies were prepared for authorities alone and their implementation is the real problem.”¹⁸³

5.3.5 APPLICATION OF THE EXISTING LEGAL AND POLICY FRAMEWORK IN KOSOVO

Protecting and respecting minority rights is considered “the most significant human rights issue in Kosovo in the post independence era,” according to the UNHCR.¹⁸⁴ Many Romani, Ashkali and Egyptian activists believe that the existing legal framework is “just a bunch of declarations.”¹⁸⁵ It is widely thought that laws on human and minority rights are not implemented¹⁸⁶ and that authorities also lack tools to implement these laws.¹⁸⁷ The Ombudsperson Institution also expressed grave concerns that “the majority of the Kosovan population, including public administration, many judges and lawyers, is still not aware of these instruments and is not familiar with the rights they guarantee.”¹⁸⁸ According to the UNHCR, OSCE and European Commission, Roma living in the north of Kosovo face additional obstacles in accessing justice, in part because parallel legal systems continue to operate.¹⁸⁹ As of 2011, only one judge out of 244 was from a Romani, Ashkali or Egyptian background.¹⁹⁰

The lack of visible progress in the situation of Roma, Ashkali and Egyptians, despite the protective legal framework, was also explained by the primary focus on equality between Albanians and Serbs. According to one activist: “International organisations working in Kosovo, as well as the Government of Kosovo, are working on ensuring equal rights between Albanians and Serbs – the Romani, Ashkali and Egyptian communities are hardly ever mentioned.”¹⁹¹ An Ashkali man described the difference between legislation and reality in the following manner: “Under the law, we are equal to the Albanians. Yet the situation is different in practice.

183 Project on Ethnic Relations (PER), *International Roundtable on Roma, Ashkali and Egyptians of Kosovo: Challenges and Prospects of Sustainable Integration*, (Vienna, 22 October 2008), available at: <http://www.per-usa.org/Reports/RAE%20Returns.pdf>.

184 UNHCR, *UNHCR’s Eligibility Guidelines for Assessing the International Protection Needs of Individuals from Kosovo* (9 November 2009), 7, available at: <http://www.unhcr.org/refworld/docid/4af842462.html>.

185 Interview with Mr A.M., Plemetin/Plemetina: 10 September 2008.

186 Phone interview with a Romani activist who requested anonymity: 22 September 2009.

187 Phone interview with Mr Gazmen Salijević, Romani activist: 22 September 2009.

188 Ombudsperson Institution of Kosovo, *Eight Annual Report 2007-2008*, 21 July 2008, 29, available at: <http://www.ombudspersonkosovo.org/?id=2,e,74>.

189 UNHCR, *UNHCR’s Eligibility Guidelines for Assessing the International Protection Needs of Individuals from Kosovo*, 9 November 2009, 15, available at: <http://www.unhcr.org/refworld/docid/4af842462.html>; OSCE, *Kosovo Community Profiles 2010*, 8 February 2011, available at: <http://www.osce.org/kosovo/75493> and European Commission, Commission Staff Working Document: Kosovo Under UNSCR 1244/99 2009, Progress Report, SEC(2009) 1340, 14 October 2009, available at: <http://www.unhcr.org/refworld/docid/4adc2a002.html>.

190 Email correspondence with B. Gashi, Kosovo Judicial Council: 18 January 2011. “In 2011 there are 244 judges: 232 Albanian, 5 Serbs, 6 Bosnjaks and 1 Roma/Ashkali/Egyptian.”

191 Phone interview with a Kosovo Roma, Ashkali, Egyptian activist: 22 September 2009.

Being Roma, Ashkali or Egyptian can be grounds for discrimination. The hierarchy now is the following: Albanians first, then Serbs, then Roma, Ashkali and Egyptians.”¹⁹²

5.4 Institutional Framework

There are a number of Kosovo institutions working on ethnic issues. Despite the variety of agencies, their efficacy is questionable and their division of responsibilities is unclear. Furthermore, despite formal possibilities for participation and the anti-discrimination legal provisions, members of Romani, Ashkali and Egyptian communities are underrepresented in positions of power in the public sector, including those institutions dealing with anti-discrimination and/or community matters.¹⁹³

5.4.1 THE OMBUDSPERSON INSTITUTION OF KOSOVO

The Ombudsman Institution in Kosovo (OIK) was established by the UNMIK in 2000 and has been managed by international and temporary leadership since then. On 4 June 2009, Mr Sami Kurteshi became the first Ombudsman elected to this post by the Kosovo Assembly. Although the OIK’s first mandate allowed for investigating complaints against the UNMIK and the local public administration,¹⁹⁴ a change in regulations in 2006 eliminated the possibility of investigating complaints against the international administration.¹⁹⁵ The OIK’s authority is guaranteed by the Kosovo Constitution, stipulating that “every organ, institution or other authority exercising legitimate power of the Republic of Kosovo is bound to respond to the requests of the Ombudsman and shall submit all requested documentation and information in conformity with the law.”¹⁹⁶ The OIK complements the Kosovo courts when it comes to the implementation of the Anti-Discrimination Law.¹⁹⁷ Its informal procedures should take less time than the court,¹⁹⁸ but it cannot replace judicial procedures or investigate crimes.

The number of complaints coming from Romani, Ashkali and Egyptian communities between 1 July 2007 – 1 January 2011 was 63,¹⁹⁹ out of a total of 4,482 complaints received by

192 Interview with Mr H.J., Shtime/Štimlje: 2 October 2007.

193 Humanitarian Law Centre Kosovo. *Security Issues, Employment and Application of the Law on the Use of Languages and the Anti-Discrimination Law in Kosovo*. Prishtina, April 2008, available at: http://www.hlc-rdc.org/uploads/editor/Pitanja_bezbednosti_engleski.pdf.

194 UNMIK Regulation No. 2000/38 on the Establishment of the Ombudsman Institution in Kosovo, available at: http://www.unmikonline.org/regulations/unmikgazette/02english/E2000regs/RE2000_38.htm.

195 In February 2006, UNMIK Regulation No. 2006/06 on the Ombudsman Institution in Kosovo (available at: http://www.unmikonline.org/regulations/unmikgazette/02english/E2006regs/RE2006_06.pdf) superseded Regulation No. 2000/38. Since the local Ombudsman has been appointed, the pending cases against UNMIK should be dealt by the Human Rights Advisory Panel.

196 Constitution of Kosovo, Articles 132-135.

197 Anti-Discrimination Law, Article 10.

198 Hilmi Jashari, “Kosovo’s Anti-Discrimination Law and the Ombudsman’s Role in It”, available at: http://www.osce.org/publications/mik/2007/06/25298_914_en.pdf.

199 ERRC email correspondence with the Ombudsman Institution in Kosovo: 27 January 2011.

the Ombudsman Institution during these four years.²⁰⁰ Among them, 18 cases were registered for investigation. As of 1 January 2011, 11 of those cases had been resolved and the remaining seven were still under investigation. The ERRC was informed that complaints addressed social concerns, reconstruction, property issues, courts, etc. Additionally, in March 2009, the OIK issued the “Ex-Officio report concerning lead contamination affecting the Romani community living in camps located in the northern part of Mitrovicë/Mitrovica,” calling the Prime Minister and the relevant ministries to take immediate measures to address this particular situation, which will be discussed in more detail later in this report.²⁰¹ As of 1 January 2011, there were no Roma, Ashkali or Egyptians among the OIK staff.²⁰²

5.4.2 MINISTRY FOR COMMUNITIES AND RETURN

The Ministry for Communities and Returns was formed in 2005. Its key responsibilities include, *inter alia*, developing policies and promoting and implementing legislation for the promotion and protection of the rights of communities and their members, as well as supervising confidence building, dialogue and reconciliation activities among communities.²⁰³ The Ministry includes a Communities Department, however it has been described as “grossly understaffed” and its role within the Ministry’s activities is perceived as very limited, as the Ministry mainly focuses on the issues of return.²⁰⁴ According to a March 2010 study, the Ministry of Communities and Returns employs eight political appointees, none of whom are Roma, Ashkali or Egyptian, and 88 civil servants, among whom one is Ashkali and one is Egyptian.²⁰⁵

5.4.3 OFFICE OF THE PRIME MINISTER

Within the Office of the Prime Minister, the Office for Good Governance, Human Rights, Equal Opportunities and Gender Issues began operations in 2002.²⁰⁶ This is the key institution for all issues related to human rights in Kosovo, advising ministries and developing policies and guidelines in the areas covered by their mandate and indicated in the institution’s title.²⁰⁷ Concerns have been

200 ERRC email correspondence with the Ombudsperson Institution in Kosovo: 1 March 2011.

201 Ombudsperson Institution of Kosovo, “Ex-Officio 304/2008 concerning the lead contamination affecting the Roma community living in the camps located in the northern part of Mitrovicë/Mitrovica”, available at: <http://www.ombudspersonkosovo.org/?id=2,e,4>.

202 ERRC email correspondence with the Ombudsperson Institution in Kosovo: 27 January 2011.

203 UNMIK Regulation 2005/15 amending UNMIK Regulation No. 2001/19 on the Executive Branch of the Provisional Institutions of Self-Government in Kosovo, Annex XII, available at: http://www.unmikonline.org/regulations/2005/RE2005_15.pdf.

204 ECMI Kosovo, “Institutions for the Protection of Communities”, available at: http://www.ecmi-map.com/map/index.php?option=com_content&view=category&layout=blog&id=35&Itemid=62&lang=en.

205 Republic of Kosovo, Office for Community Affairs/Office of the Prime Minister, *Employment of Members of Non-majority Communities Within Kosovo Civil Service and Publicly Owned Enterprises* (March 2010), 272.

206 International Labour Organisation, “Facts and Figures on Gender Equality: Serbia and Montenegro”, 2003, available at: <http://www.ilo.org/public/english/region/eurpro/budapest/download/gender/serbia.pdf>.

207 ECMI Kosovo, “Institutions for the Protection of Communities”, available at: http://www.ecmi-map.com/map/index.php?option=com_content&view=category&layout=blog&id=35&Itemid=62&lang=en.

expressed that the Office's broad mandate, in contrast to its limited capacity, prevent it from effectively protecting human rights in Kosovo.²⁰⁸

The Office for Community Affairs was created in February 2008 to address the issue of non-implementation of legislation concerning communities, as well as to coordinate the approach towards communities by various Kosovo ministries and institutions.²⁰⁹ For nearly two years, the deputy director of this office was a Romani activist, but as of January 2011 no one in the office was Roma, Ashkali or Egyptian.²¹⁰

5.5 Political Participation and Representation

5.5.1 CENTRAL LEVEL

As of January 2011, Roma, Ashkali and Egyptians did not hold any Minister or Deputy Minister positions in the Government of Kosovo. In the previous Government, there was a Deputy Minister of Egyptian origin in the Ministry for Communities and Return. There are currently five Romani, Ashkali and Egyptian members of the Kosovo Assembly, one of whom is an Ashkali woman.²¹¹

All Kosovo communities must be represented in the Consultative Council for Communities, which serves as an exchange channel between the communities and the Government, providing communities an opportunity to comment on or propose legislation and policy. The CCC was formally established in September 2008 and launched in December 2008.²¹²

Romani activists were concerned that Romani, Ashkali and Egyptian communities have fewer seats in the Council compared to other community groups, and Ashkali activists noted that this disproportion might affect the future work of the Council.²¹³ As of October 2009, two Romani, two Ashkali and two Egyptian representatives were members of the Council, among

208 Ombudsperson Institution of Kosovo. *Eight Annual Report 2007-2008*, 21 July 2008, 31, available at: <http://www.ombudspersonkosovo.org/?id=2,e,74>.

209 ECMI Kosovo, "Institutions for the Protection of Communities".

210 Email correspondence with N. Krasniqi, Office of the Prime Minister, Office for Community Affairs: 27 January 2011.

211 Assembly of the Republic of Kosovo, "Numerical representation of the Kosovo assembly", available at: <http://www.assembly-kosova.org>.

212 The Council also existed, in a different format, before 2008: "The Consultative Council for Communities began in 2005 as an informal body of community representatives attached to the Kosovo Delegation. The CCC initially engaged in drafting the legally-based 'Framework for the Protection of Rights of Communities in Kosovo' through a series of international workshops and regular consultation meetings in Prishtina." ECMI, "Institutionalisation of the Consultative Council for Communities", available at: <http://www.ecmikosovo.org/fileadmin/ecmikosovo.tpl/projects-current.html>.

213 According to Article 12.6. of the Law on the Communities, Romani, Ashkali and Egyptian communities are entitled to two seats each, compared to, for instance, Serbs with five seats, or Bosniaks and Turks with three seats each. Humanitarian Law Centre Kosovo, *The Beginning of the Implementation of the Law on the Promotion and Protection of Rights of Communities and Their Members in the Republic of Kosovo*, December 2008, 94-95.

a total of 20 community representatives.²¹⁴ Among the eight Government representatives on the CCC there were no Roma, Ashkali or Egyptians at the time.

5.5.2 MUNICIPAL LEVEL

There are no seats assigned to minority communities in the municipal assemblies in Kosovo. Four Romani, Ashkali and Egyptian political parties ran for the municipal elections in autumn 2009: the New Democratic Initiative of Kosovo (IRDK), the Democratic Union of Ashkalis (Bashkimi Demokratik i Ashkalive – BDA), the Ashkali Democratic Party in Kosovo (PDAK), and the United Roma Party of Kosovo (PREBK). Eight Roma, Ashkali and Egyptians were elected to Municipal Assemblies across Kosovo. The Egyptian political party IRDK gained one municipal assembly seat each in Gjakovë/Djakovica, Fushë Kosovë/Kosovo Polje, Istog/Istok and Pejë/Peć. The Ashkali political party BDA secured one seat each in Fushë Kosovë/Kosovo Polje and Ferizaj/Uroševac, while the Ashkali political party PDAK obtained a municipal seat in Ferizaj/Uroševac. In addition, a Romani candidate in Prizren gained a seat on the list of the Kosovo Albanian majority party LDK.²¹⁵

The Constitution and laws introduced mandatory mechanisms to ensure the participation of communities in municipal institutions,²¹⁶ one of which is the Communities Committee of the Municipal Assembly.²¹⁷ The committees, composed of at least one representative of each community living in the municipality, review municipal policies and practices to protect the rights and interests of the communities and propose measures for the municipality to take to address communities' needs. Unfortunately, these committees have not been established or are not yet fully operational in all municipalities: some have been established but are not functional, and in a number of municipalities the work of the committees is seen as problematic for Romani, Ashkali and Egyptian communities.²¹⁸ In the Gjilan/Gnjilane region, the members of the committee representing Roma were not perceived as legitimate, as some community members boycott Kosovo institutions; in Mitrovicë/Mitrovica the Romani community was not represented on the committee and in Klinë/Klina there was no Ashkali representation within the committee.²¹⁹ Additionally, there was no Romani representation within the Gjakovë/Djakovica committee despite a sizeable Romani community there and no Ashkali representation in Prizren. The OSCE also noted a gender imbalance

²¹⁴ According to the list of CCC members as of 13 October 2009, received from the ECMI on 24 December 2009.

²¹⁵ Central Election Commission: <http://www.kqz-ks.org/SKQZ-WEB/al/zgjedhjetekosoves/rezultatetzl.html>.

²¹⁶ The remaining mechanism, the municipal community safety council, will be discussed in the "Safety and Security" section.

²¹⁷ These are required by the Law on Local Self-Government, Article 53.2, available at: http://www.assembly-kosova.org/common/docs/ligjet/2008_03-L040_en.pdf. Previously, the establishment and operation of these committees was regulated by UNMIK Regulation 2007/30 and UNMIK Administrative Instruction 2003/02 on Procedural Guidance for the Work of Municipal Communities Committee.

²¹⁸ ECMI Kosovo, "Political Representation", available at: http://www.ecmi-map.com/map/index.php?option=com_content&view=category&layout=blog&id=28&Itemid=60&lang=en.

²¹⁹ OSCE Mission in Kosovo, *Protection and Promotion of the Rights of Communities in Kosovo: Local Level Participation Mechanisms* (December 2009), 8-10, available at: http://www.osce.org/documents/mik/2009/12/41883_en.pdf.

in these mechanisms, particularly with regard to Roma, Ashkali and Egyptians.²²⁰ Across Kosovo, these committees have not met expectations.²²¹

If minority communities make up at least 10% of a municipality's population, the law requires that the municipal assembly elect a Deputy Mayor for Communities to assist and advise the Mayor²²² and a Deputy Chairperson of the Municipal Assembly.²²³ Even if the 10% threshold is not met, municipalities can establish this position at their discretion. As of July 2010, only the Pejë/Peć municipality had appointed a Deputy Mayor from the Egyptian community, despite the estimate that the non-majority population is under 10%.²²⁴ In July 2010, the Graçanicë/Gračanica municipality indicated that it would appoint a Deputy Mayor for Communities from the Romani community, as Roma constitute over 10% of residents.²²⁵ The municipal assemblies in Istog/Istok and Gjakovë/Djakovica have Egyptian Deputy Chairpersons, and in Fushë Kosovo/Kosovo Polje, Lipjan/Lipljan and Ferizaj/Uroševac some Deputy Chairpersons come from the Ashkali community.²²⁶ Some report difficulties in their work. In Ferizaj/Uroševac, the Ashkali Deputy Chairperson complained of a lack of equipment and budget.²²⁷

The previous 2007 Law on Local Self-Government included a further mechanism, the municipal Communities' Office.²²⁸ The 2008 law no longer requires these offices but the Ministry for Local Government Administration instructed municipalities to maintain these offices if they had already established them. As of December 2009, the Communities' Offices remained; however there is concern that this institution might be abolished due to the absence of regulation and the fact that only some municipalities included the communities' offices in their statutes.²²⁹

These mechanisms are widely considered problematic. The OSCE indicates that the threshold is "too high to ensure the effective and adequate representation and participation of non-minority communities."²³⁰ This is exemplified by the small number of Roma, Ashkali

220 OSCE Mission in Kosovo, *Protection and Promotion of the Rights of Communities in Kosovo: Local Level Participation Mechanisms* (December 2009), 11.

221 *Ibid.*

222 Law on Local Self-Government, Article 61, available at: http://www.assembly-kosova.org/common/docs/ligjet/2008_03-L040_en.pdf.

223 This position is referred to both as Deputy Chairperson and Vice President of the Municipal Assembly for Communities in the Constitution of the Republic of Kosovo, Article 62 [Representation in the Institutions of Local Government] and Law on Local Self Government.

224 OSCE Mission in Kosovo, *Protection and Promotion of the Rights of Communities in Kosovo: Local Level Participation Mechanisms* (December 2009), 15.

225 United Nations Mission in Kosovo (UNMIK), Office of Communities Support and Facilitation (OCSF) Field Report 16 July 2010.

226 OSCE Mission in Kosovo, *Protection and Promotion of the Rights of Communities in Kosovo: Local Level Participation Mechanisms* (December 2009), 12.

227 *Ibid.*

228 UNMIK Regulation 2007/30.

229 OSCE Mission in Kosovo, *Protection and Promotion of the Rights of Communities in Kosovo: Local Level Participation Mechanisms* (December 2009), 18-19.

230 *Ibid.*

and Egyptians appointed to municipal positions, such as Deputy Mayor or Deputy Chairperson. Furthermore, some Romani interviewees claimed that since the Communities' Offices have been established, officials constantly instruct Romani, Ashkali and Egyptian individuals to communicate their needs to the Communities' Offices regardless of the type of need.²³¹ They also explained that some representatives of Communities' Offices only provide assistance to members of their families,²³² or to the members of their own community (i.e. Ashkali representatives allegedly neglect Roma).²³³ At the same time, Romani members of the Kosovo Assembly raised concerns that the Offices' staff represent "the interests of political parties' and not communities".²³⁴ There are also reported instances of Romani, Ashkali and Egyptian positions given to members of other communities, or Romani, Ashkali and Egyptian staff being dismissed after a few months.²³⁵ The ERRC also met Roma, Ashkali and Egyptians in Kosovo who did not know about the existence of community offices at all.²³⁶

²³¹ Interview with Mr S.A., Ferizaj/Uroševac, Kosovo: 1 May 2008.

²³² Interview with representatives of an Ashkali political party. Ferizaj/Uroševac: 4 October 2007.

²³³ Interview with Mr S.A. Ferizaj/Uroševac, Kosovo: 1 May 2008; Interview with Mr Z.D. Fushë Kosovë/Kosovo Polje, Kosovo: 4 October 2007.

²³⁴ Humanitarian Law Centre Kosovo, *Security Issues, Employment and Application of the Law on the Use of Languages and the Anti-Discrimination Law in Kosovo*, April 2008, 207.

²³⁵ Interview with a Romani individual who requested anonymity. Fushë Kosovë/Kosovo Polje, Kosovo: 3 October 2007.

²³⁶ Interview with Mr F.S. and Ms R.S. Hallaç i Vogël/Mali Alaš, Kosovo: 1 May 2008.

6 The Situation of Roma, Ashkali and Egyptians in Kosovo

In general, Kosovo has developed an infrastructure to achieve a high standard of human rights protection, and a comprehensive strategy and ambitious action plan for the integration of Roma, Ashkali and Egyptians. An institutional framework for both implementing and monitoring human rights protection and a strategy have been established. However, very few activities targeting the improvement of the situation of the Roma, Ashkali and Egyptians have been implemented, due at least in part to the lack or non-provision of financial resources.

In general, the situation of the Roma, Ashkali and Egyptians in Kosovo is similar to the situation in other countries: they face discrimination, are not fully integrated into the education system or labour market, have difficulties accessing essential services such as healthcare or social assistance and live partly segregated from other ethnic groups.

There is a lack of accurate, current data about the population in Kosovo. The most recent estimate of the number of Roma, Ashkali and Egyptians, according to the Government of Kosovo in 2008, is 35,000 – 40,000. Disaggregated data is not available for these groups. From a total population of 1.73 million,²³⁷ Roma, Ashkali and Egyptians represent about 2%.

Many members of these groups are not registered with the authorities. In 2007, the OSCE estimated the number of unregistered Romani, Ashkali and Egyptian individuals to be between 6,800 and 13,600.²³⁸ Around 20 to 40% of Roma, Ashkali and Egyptians were not registered and thus could not enjoy basic services. Unregistered people are effectively stateless. Without civil registration, they cannot take part in elections as candidates or voters, nor are they eligible to participate in the census.²³⁹

In Kosovo, the repercussions of the conflict compound the disadvantaged situation of Roma, Ashkali and Egyptians:

- The majority of Kosovo's Roma, Ashkali and Egyptians (at least two-thirds) still live outside of Kosovo.²⁴⁰

²³⁷ Statistical Office of Kosovo, *Preliminary Results of the Kosovo 2011 Population and Housing Census*, June 2011, available at: <http://esk.rks-gov.net/rekos2011/?cid=2,40>. Population data disaggregated by ethnicity was not available at the time of publication.

²³⁸ United Nations High Commissioner for Refugees/Organisation for Security and Cooperation in Europe, "Civil Registration of Persons Belonging to the Roma, Ashkali and Egyptian Communities: Findings of a Monitoring Exercise, 11 December 2006-15 January 2007" (Prishtina: UNHCR/OSCE, 2007), 5, available at: http://www.osce.org/documents/mik/2007/06/25278_en.pdf.

²³⁹ Ombudsperson Institution for Kosovo, "Seventh Annual Report 2006-2007", 2007.

²⁴⁰ According to the Strategy for Integration of Roma, Ashkali and Egyptians, the largest groups of displaced Roma, Ashkali and Egyptians include: approximately 45,000-50,000 Roma, Ashkali and Egyptians in Serbia, 35,000 in Germany and an additional 10,000 in Montenegro, Macedonia and Bosnia and Herzegovina. Currently, about 35,000-40,000 Roma, Ashkali and Egyptians are thought to live in Kosovo. Republic of Kosovo, *Strategy for the Integration of Roma, Ashkali and Egyptian Communities in Kosovo*, Prishtinë/Priština 2008.

- Some Romani, Ashkali and Egyptian settlements were destroyed during or after the conflict or are now occupied by Kosovo Albanians.
- Roma, Ashkali and Egyptians whose houses were destroyed during or after the war sometimes cannot access reconstruction assistance and/or refugees and IDPs cannot return to their former homes, if they lack ownership documents.
- Perpetrators of atrocities against Roma, Ashkali and Egyptians committed during or after the conflict remain at large and unpunished.
- Widespread fear prevents many people from reporting cases of discrimination or violence – or even from recognising their experiences as discrimination. The exclusion of Roma, Ashkali and Egyptians from the labour market is discussed and perceived as “normal”. Kosovo Albanians, Roma, Ashkali and Egyptians and international institutions consider it “normal” that after their history of discrimination and the current, difficult economic situation, Albanians prefer to employ family members or other Albanians and not Roma, Ashkali and Egyptians.
- In Kosovo there is a lack of civil society actors – among the communities and among the majority population – who openly and publicly discuss the situation of the three communities during and after the conflict.
- Finally, the inter-ethnic situation in Kosovo is determined primarily by the relationship between Albanians and Serbs. The Kosovo Government and the international actors pay the most attention to maintaining a stable relationship between the country’s Serbs and Albanians.

This report highlights discrimination in areas such as housing, employment, education and returns, which are all closely linked together and identified by Roma, Ashkali and Egyptians as the most pressing issues.

6.1 Housing

Housing is a very complex issue comprising regularisation of informal settlements or property titles, access to (social) housing, access to reconstruction assistance for property destroyed during or immediately after the conflict, access to essential services in an integrated residential area and the return of refugees and IDPs.²⁴¹

Housing conditions in Romani, Ashkali and Egyptian communities are very poor. Most neighbourhoods are separated from other residential areas of the town or village. Homes are in poor condition and lack infrastructure: water, electricity, waste collection and access to public transportation are lacking or inadequate, and roads are poor. Residences are overcrowded, with entire families sharing an extremely small space, and residents often lack property documents as a result of informal transactions, lost or destroyed documentation or unregistered construction.

²⁴¹ Return of refugees and IDP will be discussed in more detail in Section 6.2..

The current situation is defined by the conflict and relevant policies since 1999.²⁴² Prior to the conflict, Romani neighbourhoods existed in most towns throughout Kosovo, some with several thousand people, while others were small neighbourhoods with just a few houses. In many towns across Kosovo, Romani, Ashkali and Egyptian communities were thriving and successful, however most of these vanished after the conflict.

Throughout Kosovo, Romani, Ashkali and Egyptian neighbourhoods were destroyed during and after the war and their inhabitants forced to flee their homes. Some, such as the two large neighbourhoods in Prishtinë/Priština, “Dalmatinska Mahalla” and “Moravska Mahalla”, vanished after the conflict when they were destroyed and/or occupied by Kosovo Albanians. Other neighbourhoods, such as the 8,000-person “Fabricka Mahalla” in Mitrovicë/Mitrovica, were destroyed after the war. Neighbourhoods such as “Kristali” in Pejë/Peć or “Avdullah Preseva” in Gjilan/Gnjilane were largely destroyed, with the expulsion of many of their inhabitants and ongoing attacks against remaining community members, but some families remained after the conflict. Some neighbourhoods, such as “Sallahane” in Ferizaj/Uroševac, were minimally destroyed but many of the Romani, Ashkali and Egyptians residents left or sold their property and Albanians moved into the neighbourhoods. Several (smaller) neighbourhoods managed to maintain their population and infrastructure, such as “Terzi Mahalla” in Prizren.²⁴³

What most of the (destroyed) neighbourhoods have in common is that they are located in town centres, making them very valuable properties. Further, many properties were not registered in the cadastral records under the inhabitants’ names and some areas could be considered informal settlements.²⁴⁴ Although legislation passed in 1991 restricted property sales between ethnic groups, transactions continued through informal contracts, leaving many homeowners without legal proof of ownership.²⁴⁵

6.1.1 LEGAL AND POLICY FRAMEWORK

In addition to domestic legislation (Law on Spatial Planning,²⁴⁶ Law on Social Housing,²⁴⁷ Law on Use, Management and Maintenance of Building Joint Ownership,²⁴⁸ etc.) and the policy framework (Strategy for the Integration of Roma, Ashkali and Egyptians; Strategy and Action

²⁴² For an overview pre-2007 see: Centre for Housing Rights and Evictions (COHRE), Submission: Property Return and Restitution: Kosovo, Prepared for Review of Covenant Law Issues in Kosovo by the UN Committee on Economic, Social and Cultural Rights (31 March 2008).

²⁴³ For the “post-conflict” history of these settlements see *inter alia* the regular assessments of the Situation of Ethnic Minorities in Kosovo by OSCE and UNHCR from 1999 to 2002 or OSCE Mission to Kosovo, *You are displaced, your rights are not* (Prishtinë/Priština 2008).

²⁴⁴ OSCE Mission to Kosovo, *You are displaced, your rights are not* (Prishtinë/Priština 2008).

²⁴⁵ Norwegian Refugee Council, *Profile of Internal Displacement: Serbia and Montenegro, Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council*, 27 September 2005, 185.

²⁴⁶ Republic of Kosovo, Assembly Law No. 03/L-106 Amending Law on Spatial Planning No. 2003/14; UNMIK, Provisional Institutions of Self-Government, Assembly of Kosovo, Law on Spatial Planning, Law 2003/14.

²⁴⁷ Republic of Kosovo, Assembly Law No. 03/L-164 on Housing Financing Specific Programs.

²⁴⁸ Republic of Kosovo, Assembly Law No. 03/L-091 on Use, Management and Maintenance of Building Joint Ownership.

Plan for Prevention and Regularization of Informal Settlements in Kosovo 2009 – 2015, etc), international standards apply directly in Kosovo, currently through the Constitution and previously through UNMIK regulations. This is elaborated in the Government's Strategy for the Integration of Romani, Ashkali and Egyptian Communities in Kosovo 2009-2015:

The legislation in Kosovo recognises the right to the peaceful enjoyment of possessions (Article 1, Protocol 1, European Convention for Human Rights), the right to respect for family and private life (Article 8, ECHR) and the right to adequate housing (Article 11.1, International Covenant on Economic, Social and Cultural Rights).²⁴⁹ These standards create positive obligations for all public authorities with respect to housing, land and property rights of persons living in inadequate conditions and/or without legal security of tenure.²⁵⁰

Furthermore, the aforementioned laws and policies as well as various documents dating back to 1999 focus on the regularisation of informal settlements.²⁵¹ The Standards for Kosovo of December 2003 required that:

Municipal authorities cease unlawful or unjustified attempts to develop public lands that have long-established informal settlements by minority communities or other vulnerable groups. Informal settlements of vulnerable minority groups have been legalized and regularized.²⁵²

The Law amending the Law on Spatial Planning of November 2008 regulates the procedures in which central and municipal authorities develop and implement spatial and urban plans and refers in particular to the regularisation of informal settlements.²⁵³ It requires that “in determining areas for construction of towns and other settlements [...] informal settlements shall be included and treated, with the aim of their regularization.”²⁵⁴ The definition of informal settlements in the law focuses on poverty and hazardous location:

²⁴⁹ These international standards are applicable in Kosovo through Section 1.3 of UNMIK Regulation 1999/24 On the Law Applicable in Kosovo. On the discussion on the applicability of the International Covenant on Economic, Social and Cultural Rights in Kosovo see Section 5.2.

²⁵⁰ See *inter alia* General Comment No. 4 to the ICESCR setting out that the right to adequate housing provides that all persons should be guaranteed a degree of security of tenure that provides protection against forced eviction, harassment and other threats. This protection extends to individuals residing in informal settlements; OSCE Final Conference Document, 2003 Regional Roundtable on Informal Settlements in Kosovo. Republic of Kosovo, Strategy for the Integration of Romani, Ashkali and Egyptian Communities in Kosovo 2009-2015. Prishtinë/Priština 2008.

²⁵¹ Strategy and Action Plan for Prevention and Regularization of Informal Settlements in Kosovo 2009 – 2015; the Strategy for Reintegration of Repatriated Persons; the Council Decision of 18 February 2008 on the principles, priorities and conditions contained in the European Partnership with Serbia including Kosovo as defined by United Nations Security Council Resolution 1244 of 10 June 1999 and repealing Decision 2006/56/EC (2008/213/EC); UNMIK, *Standards for Kosovo*, available at: <http://www.unmikonline.org>; European Partnership Action Plan and Vienna Declaration on National and Regional Policy and Programmes regarding Informal Settlements in South Eastern Europe.

²⁵² UNMIK, *Standards for Kosovo*, available at: <http://www.unmikonline.org>.

²⁵³ Republic of Kosovo, Assembly Law No. 03/L-106 Amending Law On Spatial Planning No. 2003/14; UNMIK, Provisional Institutions of Self-Government, Assembly of Kosovo, Law On Spatial Planning, Law 2003/14.

²⁵⁴ Republic of Kosovo, Assembly Law No. 03/L-106 Amending Law On Spatial Planning No. 2003/14; UNMIK, Provisional Institutions of Self-Government, Assembly of Kosovo, Law On Spatial Planning, Law 2003/14, Article 14. For a discussion of the law see also: Stephan Müller and Željko Jovanović, *Pathways to Progress* (Open Society Foundations, Budapest, 2010).

“Informal settlements” are settlements which are inhabited by individuals and which [do] not enable the inhabitants to enjoy the appropriate living standard [...] As such, the informal settlements can have the following characteristics: a) informal ownership of the property; b) inadequate or privation in elementary services, c) inadequate participation or non participation in governance, and d) high dangerousness.²⁵⁵

The Action Plan for the Implementation of the Strategy for Integration of Romani, Ashkali and Egyptian Communities, adopted in 2010, aims to “regulate informal settlements providing a sustainable solution and equal treatment of Romani, Ashkali and Egyptian communities from 2009-2011 by developing and implementing plans to regulate existing informal settlements and prevent the creation of new informal settlements.²⁵⁶ Furthermore, the Government Strategy for Reintegration of Repatriated Persons recommends that returnees “be provided with the possibility of regularising their property status through the registration of previous informal transfers, the allocation of property title and/or other existing measures to confer legal security of tenure to persons lacking it, in line with international human rights standards.”²⁵⁷

6.1.2 INFORMAL SETTLEMENTS

Many Romani, Ashkali and Egyptian communities in Kosovo are characterised by a lack of security of tenure and substandard conditions. Many Roma, Ashkali and Egyptians lack documents proving ownership of their homes and property. The exact number of informal settlements in Kosovo is not known. The Government Strategy and Action Plan for Prevention and Regularization of Informal Settlements in Kosovo 2009 – 2015 identified around 100 informal settlements in Kosovo inhabited by different ethnic communities, the majority of them Roma, Ashkali or Egyptians.²⁵⁸

Despite the existing legal and policy framework, hardly any progress has been made in regularising informal Romani, Ashkali and Egyptian communities in recent years.

Roma, Ashkali and Egyptians have inhabited the settlement in Fushë Kosovë/Kosovo Polje for generations; however, according to community leaders, the vast majority of the few thousand residents still do not have property documents. Romani activists indicated that the cost of acquiring documents is prohibitive.²⁵⁹

²⁵⁵ Republic of Kosovo, Assembly Law No. 03/L-106 Amending Law On Spatial Planning No. 2003/14; UNMIK, Provisional Institutions of Self-Government, Assembly of Kosovo, Law On Spatial Planning, Law 2003/14.

²⁵⁶ Republic of Kosovo, Action Plan for the Implementation of the Strategy for Integration of Roma, Ashkali and Egyptians Communities, 2009-2015.

²⁵⁷ United Nations Administration in Kosovo/Provisional Interim Self-Government, Strategy for Reintegration of Repatriated Persons. Approved by the Government of Kosovo on 10 October 2007.

²⁵⁸ Government of the Republic of Kosovo, Strategy and Action Plan for Prevention and Regularization of Informal Settlements in Kosovo 2009 – 2015. A survey of UNHABITAT in 2009 identified in 14 municipalities 45 areas to be considered as informal settlements. UNHABITAT, *Overview on Informal Settlements in Kosovo*, 2009.

²⁵⁹ Interview with M. Arifi. Fushë Kosovë/Kosovo Polje, Kosovo: 19 May 2010.

Residents of the settlement in Dubravë, Ferizaj/Uroševac municipality, have lived there for over 150 years, but only 8% of them have property documents as it reportedly costs them 500 EUR, which is unaffordable.²⁶⁰

In Sallahane, a neighbourhood in the Ferizaj/Uroševac municipality, the population which remained there during the violence in Kosovo also cannot afford documents, thus they cannot access or afford reconstruction assistance. When they originally bought their property they weren't concerned about documents. For instance, land was often bought from one person and split into many lots, then sold to private persons who built different structures on it; none of these transactions were performed formally.²⁶¹

Nearby, in the Lipjan/Lipljan municipality, residents reported that most people in their neighbourhood have property documents, but not in their name. They face a slightly different issue - many of them can't update the names on the documents. One resident explained: "this one is still in the name of the Serb who sold the house to my father."²⁶² The community leader reported that 50% of the houses were bought informally and were never put into the name of the new owner. This obviously creates significant problems now, not only for accessing reconstruction assistance, but also because sellers can be hard to track down and can claim large additional amounts of money to transfer the title of the property.

In Gjiilan/Gnjilane, until 1999, Roma were also buying and selling their property informally: sales were generally not registered with the municipality. During the conflict, occupiers took their property. In the process of restoring properties, the municipality references property records from 1950. Since those records are quite out of date, they do not reflect sales to Roma.²⁶³ Community leaders indicated that 80% of Romani properties in Gjiilan/Gnjilane are affected by this problem.²⁶⁴

In many cases, housing was given to Roma, Ashkali and Egyptians by Serbian companies or sold by individuals. No documents were kept. Now, when these property documents are sought, lawyers and representatives of the company or the municipality who have the property records can demand high, unaffordable payments. In Magure/Goleš, an Ashkali resident reported that his former employer demanded a bribe for the documentation: "I went to the mine, but the lawyer there said he would give me the paper saying that I owned the house only if I give him 600 EUR."²⁶⁵

As of the time when this report was written, one small Ashkali neighbourhood in South Mitrovicë/Mitrovica (Dy Korriku/Sitnicko Naselje) had been partly regularised, and municipal authorities were performing regularisation in the village of Prelluzhë/Priluzhje (Vushtrri/Vučitrn

260 Interview with D. Ademi. Ferizaj/Uroševac-Dubravë, Kosovo: 25 May 2010.

261 Interview with representative of the Office of Communities. Sallahane, Ferizaj/Uroševac, Kosovo: 25 May 2010.

262 Interview with a 38-year-old Ashkali man. Lipjan/Lipljan, Kosovo: 24 May 2010.

263 Interview with a Romani man. Gjiilan/Gnjilane, Kosovo: 26 May 2010.

264 Interview with a Romani man. Gjiilan/Gnjilane, Kosovo: 26 May 2010.

265 Interview with M. Sharku. Magure/Goleš, Kosovo: 24 May 2010.

municipality).²⁶⁶ In addition, the municipality of Gjakovë/Djakovica was considering regularisation of two settlements, though plans were delayed or rife with problems. Overall, as the Strategy for the Integration of Romani, Ashkali and Egyptian communities in Kosovo indicates, these cases represent “exceptional actions taken primarily to facilitate returns and housing reconstruction programmes.”²⁶⁷ Although positive, regularisation was allowed for isolated properties and fell far short of the comprehensive policy needed.

For example, in Gjakovë/Djakovica UNHABITAT, the Ministry of Environment and Spatial Planning and the municipality worked to regularise the informal Brekoc Romani settlement for several years without progress.²⁶⁸ At a November 2006 meeting of the Stability Pact, the Ministry stated that a spatial plan for the Brekoc neighbourhood was drafted and under approval procedures, indicating a March 2006 deadline.²⁶⁹ As of the end of 2011, the regulatory plan had been completed.²⁷⁰

In May 2007, the Pejë/Peć Municipal Assembly approved the Municipal Development Plan and the Urban Development Plan for 2006 – 2025. Informal settlements across the Pejë/Peć municipality were included in both plans.²⁷¹ Despite this change, municipal authorities refuse to take further steps to regularise the “Kristali” settlement:

We don’t have any plan to legalise informal settlements in our municipality. Besides, some members of Roma, Ashkali and Egyptian communities cannot prove that they have been in possession of a property because they lack documentation. The municipality cannot help them and cannot take responsibility for resolving ownership issues.²⁷²

²⁶⁶ Republic of Kosovo, *Strategy for the Integration of Romani, Ashkali and Egyptian Communities in Kosovo*, Prishtinë/Priština 2008; OSCE Mission to Kosovo, *You are displaced, your rights are not* (Prishtinë/Priština 2008).

²⁶⁷ Republic of Kosovo, *Strategy for the Integration of Romani, Ashkali and Egyptian Communities in Kosovo* (Prishtinë/Priština 2008).

²⁶⁸ For post-conflict period in Brekoc see Human Rights Watch, “Arson, looting, destruction of property, and takeover of homes”, August 1999.

²⁶⁹ Stability Pact for South Eastern Europe, 4TH Regional Vienna Declaration Review Meeting in Belgrade (23-24 November 2006), available at: <http://www.stabilitypact.org/humi/B%20061127%204th%20VD%20mtg%20-%20VDAMs%20and%20reports%20.pdf>.

²⁷⁰ ERRRC documentation from December 2011.

²⁷¹ Ministry of Environment and Spatial Planning/Association of Municipalities of Kosovo/UN-HABITAT/OSCE, *Making Better Cities Together* (leaflet), December 2007.

²⁷² A.G. municipal officer for property issues and urbanism in Pejë/Peć, HLC-Kosovo interview, 18 May 2009, quoted in: Kosovo Foundation for Open Society/Humanitarian Law Fund, *Governance of Roma, Ashkali and Egyptian rights in Kosovo*. Prishtinë/Priština 2010.

Regularisation of “Kolonia” in Gjakovë/Djakovica

Progress has been reported recently with regard to the informal Egyptian settlement “Kolonia” in the Gjakovë/Djakovica municipality. During the spring of 2010, a plan was developed with the authorities, civil society and Egyptian residents to regularise the settlement (3.8ha) and to construct houses and infrastructure for 125 families, with space for 5 additional families of IDPs. The municipality intends to turn the neighbourhood “into a formal and modern neighbourhood in three years.” The municipality provided the land for the project. The Government and international donors led by Swiss Caritas will cover the remaining costs.²⁷³

Should this project reach completion as anticipated, it will be especially positive because the homes to be constructed will be row houses - which are generally preferred to blocks of flats – allocated by family size, and residents will be allowed to choose their placement in the new neighbourhood. Furthermore, the houses will be owned by the residents, under a standard 99-year contract.

In May 2010, the ERRC observed the ongoing planning process as residents chose the exact placement of their new homes. Construction began on the houses in October 2010. As of February 2011, it was clear that the ownership documents will be provided to the residents but issues such as property taxes were still under discussion. An employment component to the project was also planned, hopefully including 70-100 of the residents of Kolonia.²⁷⁴

No other informal settlements of Roma, Ashkali and Egyptians have been regularised, though the Government Strategy and Action Plan for Prevention and Regularization of Informal Settlements in Kosovo 2009 – 2015 identified as a strength that “a great number of municipalities are in the preparatory stage of municipal and urban development plans, and they are identifying and incorporating informal settlements in their plans”.²⁷⁵

Indeed, the highly publicised return project to Mitrovicë/Mitrovica’s “Fabricka Mahalla”, which was home to around 8,000 Roma and saw 650 homes destroyed during the conflict, or return efforts in Pejë/Peć’s “Kristali” settlement do not include any clear process of legalisation, despite the well-recognised importance of this issue. Although the “Municipal Development Agenda 2007-2009” in Mitrovicë/Mitrovica included the inclusion of the Mahalla in the Municipal Development Plan and the Urban Development Plan and subsequent legalisation,²⁷⁶ most returned residents remain without security of tenure. However, potential returnees to Mitrovicë/Mitrovica’s

273 “130 houses to be built for RAE” *Kosova Sot*, 5 May 2010, available at: www.swiss-cooperation.admin.ch/kosovo/.../resource_en_192072.pdf.

274 Email correspondence with B. Thaçi, National Director of Bethany Christian Services. Gjakovë/Djakovica, Kosovo: 22 February 2011.

275 Government of the Republic of Kosovo, *Strategy and Action Plan for Prevention and Regularization of Informal Settlements in Kosovo 2009 – 2015*.

276 Municipality Mitrovicë/Mitrovica, Municipal Development Agenda 2007 – 2009, approved by the Board of Directors in January 2007.

“Fabricka Mahalla” who can not prove their ownership with documents from the cadastral books and whose houses (or business premises) prior to 1999 were considered to be built on municipal land or on land belonging to (former) Socially Owned Enterprises, are not entitled to the reconstruction of and return to their houses, but have to return to apartment units built on public land.²⁷⁷ The strict requirement of presenting property documents in a post-war context when many such documents were destroyed seriously hinders the return process.

The current indifference of authorities to informal settlements creates serious obstacles for the return of IDPs and refugees and for the integration of the three communities in general; it is almost impossible for persons who lived in an informal settlement before the conflict to return to their place of origin.

The Government Strategy for Reintegration of Repatriated Persons recognises this obstacle and recommends that such persons “be provided with the possibility of regularising their property status through the registration of previous informal transfers, the allocation of property title and/or other existing measures to confer legal security of tenure to persons lacking it, in line with international human rights standards.”²⁷⁸

6.1.3 ACCESS TO SOCIAL HOUSING

Social housing is extremely underdeveloped in Kosovo in general. Under the Ministry of Environment and Spatial Planning (MESP), nine social housing buildings with 183 flats were built in the municipalities of Skenderaj/Srbica, Deçan/Deçane, Mitrovicë/Mitrovica, Klinë/Klina, Malishevë/Mališevo, Obiliq/Obilić, Lipjan/Lipljan, Gjilan/Gnjilane and Gjakovë/Djakovica prior to 2009. In some municipalities, such as Klinë/Klina, Istog/Istok, Skenderaj/Srbica, Vushtrri/Vučitrn, Mitrovicë/Mitrovica “Fabricka Mahalla”, social housing buildings were built by the municipalities or donors without the help of the MESP, and there are other initiatives still to be completed.²⁷⁹

As of March 2010, the new Law on Housing Financing Specific Programs provides potential social housing options for vulnerable families. The law refers to vulnerable persons in general and uses socio-economic status as the exclusive criterion for participation in these housing programmes.²⁸⁰ Municipalities are expected to draft three-year housing programmes

277 Human Rights Watch, *Kosovo: Poisoned by Lead*, 23 June 2009, available at: <http://www.hrw.org/en/reports/2009/06/23/kosovo-poisoned-lead-0>; Xhemshir Mulliqi, Integrating city of Mitrovica, Presentation at the 42nd ISoCaRP Congress 2006, available at: http://www.isocarp.net/Data/case_studies/907.pdf; OSCE Mission to Kosovo, *You are displaced, your rights are not* (Prishtinë/Priština 2008), available at: http://www.osce.org/publications/mik/2008/03/30236_1082_en.pdf.

278 United Nations Administration in Kosovo/Provisional Interim Self-Government, *Strategy for Reintegration of Repatriated Persons*, approved by the Government of Kosovo on 10 October 2007.

279 Government of the Republic of Kosovo, *Strategy and Action Plan for Prevention and Regularization of Informal Settlements in Kosovo 2009 – 2015*.

280 Republic of Kosovo, Assembly Law No. 03/L-164 on Housing Financing Specific Programs. Only Article 4 (Categories of families which can benefit from the specific housing programs) includes families that “are homeless as a result of house destruction during the last conflict in Kosovo”. Due to legal definitions of the last conflict in Kosovo, this period ends in June 1999, thus doesn’t apply to families who are homeless as a result of destruction of homes immediately after the “last conflict” as is the case for many Romani, Ashkali and Egyptian families.

based on housing needs analysis that should also define the categories of families participating in these programmes.

There have been several social housing programmes which either directly targeted Roma, Ashkali and Egyptians or were open to them, in Magure/Goleš (Lipjan/Lipljan municipality) and Plemetin/Plemetina (Obiliq/Obilić).

In Magure/Goleš, the block of social flats is located on a hill outside the town. There are 22 flats in the building, of which nine are occupied by Romani, Ashkali and Egyptian families; 12 house Albanian families and one is empty. Residents live in highly substandard conditions that have deteriorated over the last few years. Residents are supposed to pay for utilities, which is extremely challenging for them. At the time of the last ERRC visit, electricity had been cut for nine days due to non-payment. Residents complained that this had happened for long periods in the winter over the past few years. Water had also been cut due to non-payment.²⁸¹ Originally, the municipality appointed a person to maintain and care for the building, but that person never visited the building. One resident told the ERRC that he called the responsible municipal representative and was told: “I cannot do anything – the building is not for you, it’s for Albanians.”²⁸²

The original plan was to allocate housing to Roma, Ashkali and Egyptians but some did not want to move to this location. Thus, the municipality gave empty places to Albanians. Romani residents interviewed by the ERRC were uncomfortable with the conditions and reported tense relations between Roma and non-Roma in the building: “You cannot live here. It should be all Albanians or all Roma, Ashkali and Egyptians. They push the children to fight.”²⁸³ There are reports of clashes, including one very visible attack during which unknown perpetrators set fire to the flat of one of the Romani families. The fire department was slow to respond, so residents had to extinguish the fire themselves. Although repairs were promised, the municipality did not provide reconstruction support and the family was forced to do what they could to repair the flat and move back in, despite the extremely unhealthy conditions.²⁸⁴ Residents expressed concern about the worsening situation: “Now I cannot leave because [the Albanian neighbours] immediately break into my apartment. My neighbour is in the hospital now and they broke in and stole or destroyed everything in his flat.”²⁸⁵

Furthermore, residents are concerned about long-term prospects for this housing because they do not have ownership contracts as they were promised. Their future is uncertain: “In the beginning they promised that we would have the right to this property for two years, then two more years, and then permanent ownership. But nothing happened, after two years, we heard nothing. Everyone pays 1 EUR/month for rent. This is a social shelter, nothing belongs to anyone.”²⁸⁶

281 Interview with an Ashkali man and a Romani man. Magure/Goleš, Kosovo: 24 May 2010.

282 Interview with M.S. Magure/Goleš, Kosovo: 24 May 2010.

283 Interview with M.S. Magure/Goleš, Kosovo: 24 May 2010.

284 Interview with M.S. Magure/Goleš, Kosovo: 24 May 2010.

285 Interview with M.S. Magure/Goleš, Kosovo: 24 May 2010.

286 Interview with a 59-year-old Ashkali man. Magure/Goleš, Kosovo: 24 May 2010.

In Plemetin/Plemetina, two social housing buildings were constructed to accommodate some of the residents of the local refugee/IDP camp. However, the first building, constructed for Roma, Ashkali and Egyptians, was not taken care of and the conditions deteriorated significantly.²⁸⁷ Residents explained that the first building is in terrible condition: “My wife has asthma. The flat is in bad shape, bad conditions, there is bad hygiene in this building. It is wet in the flat – there is standing water in the basement and it floods up. The walls are mouldy.”²⁸⁸ A second, neighbouring building is reportedly in slightly better condition, but is not solely for Roma, Ashkali and Egyptians. Residents complained that the local authority, which is responsible for managing and maintaining the buildings, is not doing so.

The recently adopted Action Plan for the Implementation of the Strategy for Integration of Romani, Ashkali and Egyptian communities includes the objective of providing social housing and housing improvement projects for Romani, Ashkali and Egyptian communities living in collective centres and inappropriate housing conditions. It should be implemented from 2010-2014 and provide sustainable housing solutions for families living in the camps of Cesmin Lug, Leposaviq/Leposavič and Osterode and improving housing conditions as well as access to and inclusion in Government housing programmes and policies for Romani, Ashkali and Egyptian communities.²⁸⁹

6.1.4 HOUSING AND RETURN

In the post-conflict period, lack of security was the main factor prompting community members to leave their property; ongoing security concerns also kept them from reclaiming or returning to their property. Furthermore, many Roma, Ashkali and Egyptians could not return to their houses, since illegal occupants were not willing to leave the houses and their possible eviction would have posed a threat to the community members. Thus, the return project was rejected and international organisations decided that, for security reasons, return was not feasible.

Most Romani and Ashkali families [in the Prishtinë/Priština area] tended to return into displacement (usually with hosting relatives in a house, village or town other than the place of origin), due to the fact that their own villages or neighbourhoods were deserted, security conditions did not exist, their properties were destroyed, they could not access reconstruction assistance in the foreseeable future, or their own properties were occupied by displaced Albanians, Serbs or even other displaced [Roma, Ashkali and Egyptian] families.²⁹⁰

The policies and attitudes of the central and local authorities towards illegal occupation, the provision of assistance to these three communities and the absorption capacities of the communities further undermined the situation.

²⁸⁷ Interview with a Romani woman. Plemetin/Plemetina, Kosovo: 23 May 2010.

²⁸⁸ Interview with a 32-year-old Romani man. Plemetin/Plemetina, Kosovo: 23 May 2010.

²⁸⁹ Republic of Kosovo, *Action Plan for the Implementation of the Strategy for Integration of Roma, Ashkali and Egyptians Communities*, 2009-2015.

²⁹⁰ UNHCR/OSCE, *Ninth Assessment of the Situation of Ethnic Minorities in Kosovo* (Period covering September 2001 to April 2002).

Roma, Ashkali and Egyptians who were expelled from their homes and fled Kosovo or became internally displaced within Kosovo had difficulties in reclaiming their property, partly due to the lack of information. In the early years following the war, the OSCE reported that: “Overall, physical access to HPD [Housing and Property Directorate²⁹¹] for minorities inside and outside Kosovo is inadequate and prevents them from filing timely claims, and interferes with minorities’ ability to exercise their property rights.”²⁹²

Relevant UNMIK regulations at the time required that at least the head of the family be present during reconstruction work.²⁹³ Refugees and IDPs had to leave their temporary accommodation in Kosovo or abroad and find accommodation close to the location of reconstruction. However due to the tense security situation in the first years after the conflict, limited freedom of movement or lack of accommodation during construction work, many Roma, Ashkali and Egyptians could not participate in reconstruction programmes.

Many potential returnees have no home to return to because it has been destroyed [...]. Even when potential returnees do have property rights to land, the lack of temporary or alternative accommodation during the reconstruction period as well as difficulty in securing reconstruction aid acts as a deterrent, especially to spontaneous return.²⁹⁴

Available data demonstrates discrimination in the allocation of reconstruction assistance in the years directly after the conflict, when large amounts of financial assistance were available. In 2000 and 2001, both the UNMIK and the European Agency for Reconstruction (EAR), the European Union institution in charge of reconstruction, introduced targets for the number of minority-owned houses to be reconstructed. The EAR planned for 10% of the reconstructed houses to go to minorities in 2000 and 20% in 2001.

The UNMIK Guidelines for Housing Reconstruction stipulated a set-aside percentage of 5-10% in 2000; the actual allocation of available reconstruction assistance to minorities was only around 2%. In 2001, the guidelines did not stipulate a minority set-aside; minorities received about only 4.2% of the total. [Municipal Housing

291 “The Housing and Property Directorate and Housing and Property Claims Commission (HPD and HPCC) were established by United Nations Interim Administration Mission in Kosovo (UNMIK) regulations as an interim measure to restore property rights, resolve long standing claims and uphold the rule of law. With the Rules and Procedures Regulation passed by UNMIK on 13 October 2000, the Housing and Property Claims Commission was mandated to adjudicate cases which are presented to it. UNHABITAT, “Housing and Property Directorate and Claims Commission in Kosovo (HPD/HPCC)”, available at: <http://www.unhabitat.org/content.asp?cid=895&catid=282&typeid=13&subMenuId=0>.

292 UNHCR/OSCE, Ninth Assessment of the Situation of Ethnic Minorities in Kosovo (Period covering September 2001 to April 2002).

293 “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.” UNMIK/PISG, *Revised Manual for Sustainable Return*, 2006, available at: http://www.unmikonline.org/srsg/orc/documents/Manual_ENG.pdf.

294 Global IDP Database, Profile of Internal Displacement: Serbia & Montenegro, Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council (as of 27 September 2005).

Commissions] failed to provide minorities an allocation of aid proportionate to their vulnerability or need.²⁹⁵

With regard to the verification of property ownership for accessing reconstruction assistance, the UNMIK Housing Reconstruction Guidelines established a common practice in Kosovo of accepting forms of verification aside from property documents, such as witnesses statements, electricity bills, etc.²⁹⁶ However, as the guidelines were not legally binding, some municipalities set much higher standards. Romani, Ashkali and Egyptian returnees to the “Fabricka Mahalla” in South Mitrovicë/Mitrovica struggled because the local authorities strictly applied a rule requiring that returnees obtain documents from the cadastral books proving their ownership.

While they [former inhabitants of the “Fabricka Mahalla”] may not possess cadastre documents, the documents they do possess may constitute adequate proof of property rights to qualify for reconstruction aid through the procedures outlined in the Guidelines.²⁹⁷

Furthermore, municipal authorities and even organisations implementing reconstruction programmes discriminated against Roma, Ashkali and Egyptians:

Not only were Kosovo Roma, Ashkali and Egyptian property right holders denied construction permits to build on their land, but Kosovo Albanian property right holders were granted construction permits in the same area and illegal construction by the majority community, known to the municipality, continued unregulated. The Kosovo [Romani, Ashkali and Egyptian] property right holders were denied construction permits by the municipality based on the zoning of the area, while the majority community applicants were granted construction permits within the same zoning. The municipality, based on the zoning designation, refused to consider appeals to its decision. Subsequently, based on a September 2000 Municipal Council decision changing the zoning designation, the municipality, through the UN Municipal Administrator, promised remedial action. To date (December 2002), however, over 100-inventoried illegal constructions remain unregulated. As this case illustrates, the continued ineffectiveness of administrative remedies negatively affects the ability of minority communities to access their property rights and thus exercise their right to return.²⁹⁸

Municipal regulations, combined with the animosity of local residents, prevented returns, as exemplified by the informal “Kristali” Romani settlement in Pejë/Peć, which had been

²⁹⁵ UNHCR/OSCE, Ninth Assessment of the Situation of Ethnic Minorities in Kosovo (Period covering September 2001 to April 2002).

²⁹⁶ Transitional Administrative Department of Health, Environment and Spatial Planning, Housing and Reconstruction Division, *Housing Reconstruction Guidelines*, Kosovo 2002. In particular Chapter 2.3.3. Municipal Housing Committee Verification Unit.

²⁹⁷ *Ibid.*

²⁹⁸ UNHCR/OSCE, Tenth Assessment of the Situation of Ethnic Minorities in Kosovo (Period covering May 2002 to December 2002) March 2003.

home to more than 100 Romani and Egyptian families since the 1940s. As of February 2011, Romani residents were still unable to return to Kristali.

[It] was destroyed following the 1999 conflict and the municipality cleared the remains later that year. The area was designated an industrial zone in 2001 by the municipality which prevented residential construction while, at the same time, the municipality tolerated illegal construction in the same area. In 2003, the area was re-classified as a residential area and former residents again attempted to reconstruct their houses. Construction work done during the day was demolished by unknown perpetrators during the night.²⁹⁹

6.1.5 REFUGEE CAMPS REMAIN

It is impossible to discuss Roma in Kosovo without discussing the troubling situation in the Mitrovicë/Mitrovica refugee camps. Many people have resided on lead-contaminated land since they were displaced during the conflict. In 1999 and 2000, the UNHCR constructed several camps - Cesmin Lug, Kablare and Zitkovac, and later Osterode – as a temporary arrangement for Romani, Ashkali and Egyptian IDPs escaping the conflict: all of the camps were located in an area contaminated with hazardously high levels of lead. Tragically, residents remain in one of these camps as of December 2011, over a decade later.

The UNHCR managed the camps until 1 October 2001, when they were passed to the control of the UNMIK.³⁰⁰ As time passed, and residents remained in the camp, concerns about serious health risks grew. In 2006, the UNHCR closed two of the camps, Kablare and Zitkovac (while Cesmin Lug remained), based on concerns over lead contamination, moving residents into a new camp, Osterode. Unfortunately, Osterode is directly next to Cesmin Lug, also on ground contaminated with lead. It is unclear why this decision was made, as a World Health Organisation (WHO) report from October 2004 indicated that the soil in Cesmin Lug contained over 359.5 times the safe limit of lead, compared to Zitkovac, where soil contained 100.5 times the safe limit.³⁰¹

Mitrovicë/Mitrovica is the location of one of the biggest former Yugoslav companies, the huge Trepča mine.³⁰² The problem of lead contamination stems from the fact that camps are located adjacent to the former mine. This issue was first highlighted during random blood testing for lead poisoning in the Mitrovicë/Mitrovica area in 2000. UN consultant Andrej Andrejew identified the

299 OSCE Mission in Kosovo, *Communities Rights Assessment Report*, December 2009. In February 2011, an OSCE report confirmed that the former residents of the Kristali settlement remain displaced, unable to return to their properties. OSCE, *Kosovo Community Profiles 2010*, 8 February 2011, available at: <http://www.osce.org/kosovo/75493>.

300 Human Rights Watch, *Kosovo: Poisoned by Lead*, 23 June 2009, available at: <http://www.hrw.org/en/reports/2009/06/23/kosovo-poisoned-lead-0>.

301 World Health Organisation, Kosovo. “Capillary Blood Lead Confirmation and Critical Lead-Related Health Situation of the Roma Camps Children”, 22 October 2004, on file with the ERRC. Andi Dobrushki and Jeta Bejtullahu, “Alarming Facts about Roma Camps in North Mitrovicë/Mitrovica: Lead Poisoning of Romani Children”, *Roma Rights: Justice for Kosovo*, Volume 3/4, 2005, available at: http://www.errc.org/en-research-and-advocacy-roma-details.php?article_id=2511.

302 Available at: <http://www.trepca-akp.com/>.

Romani IDP camps as the only location with dangerous levels of lead and recommended their immediate evacuation in a report to the UNMIK and the WHO.³⁰³

However, the WHO waited until 2004 to undertake further testing, the results of which were published in two reports in July and October 2004. More than half of the children tested at that time were found to have unacceptably high levels of lead in their blood, some extremely severe:

Twelve children were found to have exceptionally high levels. Six of them possibly fall within the range described by the United States Agency for Toxic Substances and Disease Registry (ATSDR) as constituting a medical emergency (≥ 70 ug/dl). Our instrumentation is only able to read up to 65 micrograms per deciliter.³⁰⁴

The history of international condemnation of the camps housing Roma, Ashkali and Egyptians in the Mitrovicë/Mitrovica area dates back to 2000. Not until June 2007 did individual returns begin,³⁰⁵ and prior to the October 2010 closure of Cesmin Lug, some camp residents were moved to Osterode (also contaminated with lead) rather than provided regular accommodation elsewhere. As of December 2011, several families remained in the most recent Mitrovicë/Mitrovica camp - Osterode.³⁰⁶ The UN called for the closure of the camps through Ambassador Eide's 2005 report; the European Parliament addressed this issue in a 2009 resolution³⁰⁷ and numerous rights groups including the International Committee of the Red Cross, Human Rights Watch, Amnesty International and the ERRC have repeatedly called for the camps to be closed.³⁰⁸

The issue remained politically contentious from 2004 onwards, while families suffered serious health problems. As Human Rights Watch reports, it sparked the involvement of all international actors: "The first inter-agency coordination efforts took place in April 2005, when key international actors (including the UNMIK, UNHCR, WHO, UNICEF and OSCE) formed the Mitrovica Action Team (MAT) to articulate and coordinate a sustainable solution for

³⁰³ Sandra Molano, Andrej Andrejew, "First Phase of Public Health Project on Lead Pollution in Mitrovica Region", November 2000, on file with the ERRC. Andi Dobrushki and Jeta Bejtullahu, "Alarming Facts about Roma Camps in North Mitrovicë/Mitrovica: Lead Poisoning of Romani Children", *Roma Rights: Justice for Kosovo*, Volume 3/4, 2005, available at: http://www.errc.org/en-research-and-advocacy-roma-details.php?article_id=2511.

³⁰⁴ World Health Organisation, "Preliminary report on Blood Lead Levels in North Mitrovica and Zvecan", July 2004, on file with the ERRC. Andi Dobrushki and Jeta Bejtullahu, "Alarming Facts about Roma Camps in North Mitrovicë/Mitrovica: Lead Poisoning of Romani Children", *Roma Rights: Justice for Kosovo*, Volume 3/4, 2005, available at: http://www.errc.org/en-research-and-advocacy-roma-details.php?article_id=2511.

³⁰⁵ Human Rights Watch, *Kosovo: Poisoned by Lead*, 23 June 2009, available at: <http://www.hrw.org/en-reports/2009/06/23/kosovo-poisoned-lead-0>.

³⁰⁶ European Commission Liaison Office to Kosovo, "Joint EU and USAID efforts bring Cesmin Lug camp in North Mitrovicë/Mitrovica to a successful closure", Press Release, 12 October 2010, available at: <http://www.delprn.ec.europa.eu/?cid=2,49,1005>.

³⁰⁷ European Parliament, "European Parliament resolution on Kosovo and the role of the EU", 28 January 2009, available at: <http://www.europarl.europa.eu/sides/getDoc.do?language=EN&reference=B6-0063/2009>.

³⁰⁸ Lawrence Marzouk, "Roma Lead Camp Closed, But Different Sides Claim Credit", 25 October 2010, available at: <http://www.balkaninsight.com/en/article/roma-lead-camp-closed-but-different-sides-claim-credit>.

camp residents.”³⁰⁹ And yet despite this lofty coalition, progress was slow. As a UNHCR official noted in 2009: “Unfortunately, we have been unable to find an alternative site because neither the Albanians [nor] the Serbs want them [the Romani, Ashkali and Egyptian IDPs]”.³¹⁰ Mitrovicë/Mitrovica is a city divided in half, marking a border between Kosovo and the largest Serbian enclave in the north. The Kosovo Albanian south and the Serbian north each have parallel local Government structures.

During 2007, the UNMIK organised a project providing food and medical care to camp residents, yet this only lasted for a year. Afterwards, conditions continued to deteriorate. Many of the camps’ residents, particularly children, suffered serious health consequences, spending much of their lives in and out of hospital. The number of deaths remains unknown, although many sources indicate about 75 people died. A local Romani activist claimed that over 100 people of all ages have died in these camps. Although levels of lead in the blood of the residents are very high, they don’t know the specific causes of death without undertaking autopsies. “Can you imagine, a normal healthy person goes to the hospital [for a small problem]. They diagnose the patient with diabetes and after a few days, he’s dead. I’ve never heard of a person die from diabetes that fast.”³¹¹ When the ERRC visited the camps in May 2010, there were about 40 families (160 people) living in Cesmin Lug and 130 families (300 people) living in Osterode.³¹²

Several projects were implemented to address the situation, one of which finally succeeded in moving the residents of Cesmin Lug out, officially closing and destroying the camp and plans to re-house the residents of Osterode were under development.³¹³ In September 2010, residents were resettled in Osterode or provided new housing in the former Roma Mahalla in Southern Mitrovicë/Mitrovica. Among those resettled, 78 children were to be tested for lead contamination and provided the necessary treatment.³¹⁴ Although residents of Osterode were to be moved to more durable housing and the camp closed during the spring of 2011, as of December 2011, the residents remained in Osterode, due to persistent housing issues.³¹⁵ Earlier, six blocks of flats, containing 12 apartments each and housing 72 families, were constructed by Norwegian Church Aid, and 36 row houses in which 300 – 350 people live were

309 Human Rights Watch, *Kosovo: Poisoned by Lead*, 23 June 2009, available at: <http://www.hrw.org/en/reports/2009/06/23/kosovo-poisoned-lead-0>.

310 J. Malcolm Garcia, “Gypsies relocated by UN remain on toxic land”, *Global Post*, 14 April 2009, available at: <http://www.globalpost.com/dispatch/europe/090414/gypsies-relocated-un-remain-toxic-land?page=0,1>.

311 Interview with S.G., a 32-year-old Romani man. Leposaviq/Leposavič, Kosovo: 23 May 2010.

312 Interview with S.G., a 32-year-old Romani man. Leposaviq/Leposavič, Kosovo: 23 May 2010.

313 The European Commission Liaison Office to Kosovo, “Joint EU and USAID efforts bring Cesmin Lug camp in North Mitrovicë/Mitrovica to a successful closure”, Press Release, 12 October 2010, available at: <http://www.delprn.ec.europa.eu/?cid=2,49,1005>.

314 European Commission Liaison Office to Kosovo, “EU starts medical testing and treatment for children resettled from lead-contaminated camps and opens factory employing RAE community members in Mitrovica”, Press Release, 1 December 2010, available at: <http://delprn.ec.europa.eu/?cid=2,103,1071>.

315 “Mitrovica’s Roma community to be treated for contamination”, *SETimes*, 24 November 2010, available at: http://www.setimes.com/cocoon/setimes/xhtml/en_GB/newsbriefs/setimes/newsbriefs/2010/11/24/nb-13.

Correspondence with representatives of Roma and Ashkali Documentation Center. Kosovo: December 2011.

built by the Danish Refugee Council.³¹⁶ These housing units, comprising blocks of flats and small, closely placed houses are isolated and are often used as examples of housing that fails to be culturally appropriate for residents: “Unfortunately, in all of this housing, there is no room for metal collecting, thus residents cannot work.”³¹⁷

In addition to the substandard conditions in Mitrovicë/Mitrovica, another refugee camp remains open further north in Kosovo. Leposaviq/Leposavič was established on 18 June 1999 and deemed temporary for IDPs. Residents had no documents for their previous housing. They live in one building, a former military barracks – a large metal structure with almost no insulation in its external walls. The internal walls are made of particleboard. There is no heat in the winter, so people live in extremely cold conditions. They use grills or small electric heaters to provide heat. They have partitioned the space and built small shelters inside. Each family lives in a 3m x 4.5m room, some with as many as 10 family members.³¹⁸

A mother, sharing one tiny room in the barracks with her three children, explained that the conditions are inadequate. It has electricity, but “we are cold and part of the roof leaks.”³¹⁹ Another resident explained their dire circumstances and how they have been left in these conditions for years: “I asked to be moved abroad because I have some problems with the Serbs. Wherever we go is ok, but not here. We have to go somewhere else if we are going to have a good life with our kids. For 10 years, I have had no money, no documents. You cannot go on without these things.”³²⁰

After living in these conditions for over a decade, residents are largely hopeless. Without the realistic possibility to return to their homes and lacking other alternative housing solutions, they are stuck in a difficult and deteriorating living situation: “We are forgotten. No one talks about us. We don’t have lead in our blood.”³²¹

In addition to the operational refugee camps in the Mitrovicë/Mitrovica area and further north, the barracks of the Plemetin/Plemetina camp, located next to Obiliq/Obilić, continues to house 12 families despite having been officially closed after the last residents reportedly left in November 2007.³²² While it was operational, the UNHCR provided support for this camp, including food and clothes.

The families remaining in the Plemetin/Plemetina camp structures have to pay for water and electricity, which is limited and sporadic. They have no heating. They use a wood stove

³¹⁶ Some residents were not from the Mitrovicë/Mitrovica refugee camps. UNHCR Kosovo Newsletter, December 2008, available at: http://www.unkt.org/repository/docs/Newsletter_06.pdf?phpMyAdmin=WkPxhYYrO3l4GvCxnRoloY0Xka9.

³¹⁷ Interview with S.G., a 32-year-old Romani man. Leposaviq/Leposavič, Kosovo: 23 May 2010.

³¹⁸ Interview with S.G., a 32-year-old Romani man. Leposaviq/Leposavič, Kosovo: 23 May 2010.

³¹⁹ Interview with B.S., a 42-year-old Romani woman. Leposaviq/Leposavič, Kosovo: 23 May 2010.

³²⁰ Interview with B.T., a 32-year-old Romani man. Leposaviq/Leposavič, Kosovo: 23 May 2010.

³²¹ Interview with S.G., a 32-year-old Romani man. Leposaviq/Leposavič, Kosovo: 23 May 2010.

³²² UNHCR, “Last family leaves camp for displaced in Kosovo”, 9 November 2007, available at: <http://www.unhcr.org/47342a822.html>. Interview with the Roma and Ashkali Documentation Center. Kosovo: December 2011.

but have no insulation on the floor. There are no bathrooms in the camp and it leaks when it rains. The last barrack in the camp burned down due to an electrical fire.

They would like to move into near by social housing, but have not been offered this option: “We want flats in the 2nd building, it was built later and is multi-ethnic and clean.” Unfortunately, residents are not clear on the allocation process for flats in this building and perceived allocation to be unfair: “There are eight free apartments. But people who knew someone at the municipality or who had relatives there could get the flats and many of them are now renting them out to someone else.”³²³

Thus, they remain in the barracks. “It’s a shame for Kosovo, for the municipality, 11 years after the war, it’s a shame to leave this camp here.” Although the municipality reportedly knows the problem, residents report it is not addressing it: “They came to see it but didn’t do anything, even though it’s social housing.”³²⁴

6.2 Return

6.2.1 LEGAL AND POLICY FRAMEWORK

The Constitution states that the Republic of Kosovo “shall promote and facilitate the safe and dignified return of refugees and internally displaced persons and assist them in recovering their property and possessions.”³²⁵ International human rights instruments assure refugees and displaced persons the right to return to their homes or elect to return to another part of the country, irrespective of their ethnicity, in either a spontaneous or an organised and assisted way.³²⁶ Moreover, the rights of displaced persons and refugees to housing and property restitution are recognised by international human rights standards.³²⁷

The main domestic policy documents governing the (voluntary) return of IDPs are the Provisional Institutions of Self-Government (PISG) Recommendations to Updating Return Policies

³²³ Interview with V.K. Plemetin/Plemetina, Kosovo: 23 May 2010.

³²⁴ Interview with V.K. Plemetin/Plemetina, Kosovo: 23 May 2010.

³²⁵ Constitution of the Republic of Kosovo, Article 156.

³²⁶ United Nations, *Guiding Principles on Internal Displacement*, available at: <http://www2.ohchr.org/english/issues/idp/standards.htm>, Principles 28-29. United Nations, *Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles)*, 28 June 2005, available at: <http://www.unhcr.org/refworld/docid/41640c874.html>.

³²⁷ European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols (ECHR), Article 8 (Right to Respect for Private and Family Life), Article 14 (Prohibition of Discrimination), Article 1, Protocol 1 (Right to Property) and Article 2, Protocol 4 (Freedom of Movement). See UN Security Council Resolutions 1287 (2000), 1036 (1996), 971 (1995) and 876 (1993); UN SC Resolution 820 (1993) and UN SC Resolution 1244 (1999) on Kosovo. Regarding the right to return to one’s country, see Article 13(2) of the Universal Declaration of Human Rights (UDHR); Article 12 (4) of the International Covenant on Civil and Political Rights (ICCPR); Articles 45, 127, 132, 134 and 135 of the Geneva Convention on the Protection of Civilian Persons in Time of War.

and Procedures from May 2006, the Revised Manual on Sustainable Return which was last revised in July 2006 and the Protocol on Voluntary and Sustainable Return, signed in June 2006 by the UNMIK, the Government of Serbia and the PISG.³²⁸ In addition, most municipalities developed Municipal Return Strategies which primarily address the issue of voluntary return of IDPs and refugees, but not forced return. The 2007 Strategy for the Reintegration of the Repatriated addresses asylum-seekers in Western Europe at risk of being forcibly returned to Kosovo.

The institution in charge of the (voluntary) return of IDPs (and refugees from neighbouring countries such as Montenegro or Macedonia) is the Ministry of Return and Communities while the Ministry of Internal Affairs is in charge of (forcibly) returned asylum-seekers from Western Europe.

Since 2006, the UNHCR has maintained its position that Kosovo Roma continue to be at risk of persecution and their return should only take place on a strictly voluntary basis, based on fully informed individual decisions. On the other hand, the UNHCR does not categorically consider Ashkali and Egyptians in need of international protection anymore, so asylum claims from these communities are addressed on an individual basis. However, they stressed the limited absorption capacity of Kosovo and that returns should be approached gradually. Romani community members remain classified as persons in need of international protection.³²⁹

Currently, housing reconstruction programmes exist for voluntary returnees (primarily displaced persons and refugees returning from Serbia, Montenegro and neighbouring countries such as Macedonia), in the municipalities of Ferizaj/Uroševac, Gjilan/Gnjilane, Istog/Istok, Klinë/Klina, Mitrovicë/Mitrovica and Vushtri/Vučitrn.

Most refugees and IDPs cannot get their houses rebuilt (and thus do not return) because they don't have documents. Some refugees and IDPs resort to buying old property documents from others in order to access reconstruction programmes. "In 2008 we asked the UNHCR to return. We knew we couldn't return in 2003 because we didn't have property documents, so they couldn't rebuild our house. Eventually we found a neighbour willing to sell his house to us [with documents] and we could have it rebuilt by the UNHCR."³³⁰

Of particular concern for Romani, Ashkali and Egyptian communities is the lack of prospects for returnees: "The situation is not good. We need to secure employment. In most cases, returnees don't even have a house. Kosovo is promising they will reconstruct the houses, they will find people jobs, but they don't do anything."³³¹

The Action Plan addresses language problems among returnee children by envisioning "re-integration programs for returned children from the Diaspora" which should be accomplished

³²⁸ The Ministry for Communities and Return was in the process of revising the Manual in 2011.

³²⁹ United Nations High Commissioner for Refugees, "UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Individuals from Kosovo", 2 November 2009, 17-18, available at: <http://www.unhcr.org/refworld/pdfid/449664ea2.pdf>.

³³⁰ Interview with N.S. Kosovo: 17 June 1991.

³³¹ Interview with a 38 year-old Ashkali man. Lipjan/Lipljan, Kosovo: 24 May 2010.

between 2009 and 2012. Most likely there will be an ongoing need for such programmes well beyond 2012, as returns will likely continue beyond that time.³³²

6.2.2 DESCRIPTION OF THE CURRENT SITUATION

Thus far, relatively few Roma, Ashkali and Egyptians have returned to Kosovo compared to the number remaining in other countries. It is generally expected that after the execution of several readmission agreements between Kosovo and EU Member States³³³ and the adoption of the Reintegration Strategy,³³⁴ the number of persons who will return or be returned to Kosovo will increase.

According to UNHCR statistics, between 2000 and 2009, 2,760 Roma and 5,171 Ashkali and Egyptians returned to Kosovo, for a total of 7,931 persons.³³⁵ Excluding those who returned from displacement within Kosovo, the number of Roma, Ashkali and Egyptians who returned to Kosovo “voluntarily”³³⁶ or spontaneously during this period was 6,155.

Table: Returnees and Their Former Place of Displacement³³⁷

	Serbia	Montenegro	Macedonia	Bosnia-Herzegovina	Within Kosovo	Third Country
Roma	1,343	539	196	33	574	75
Ashkali/ Egyptians	1,639	1,473	551	67	1,202	239
Total	2,982	2,012	747	100	1,776	314

The return process slowed down after the declaration of independence in February 2008. In 2009, 495 returned “voluntarily” (141 from other locations within Kosovo, 354 from abroad), an

332 Republic of Kosovo, *Action Plan for the Implementation of the Strategy for Integration of Roma, Ashkali and Egyptians Communities, 2009-2015*, 2 March 2010.

333 On 29 December 2010, Kosovo’s Minister for European Integration Besim Beqaj indicated that Kosovo had signed readmission agreements with Albania, Belgium, France, Macedonia, Switzerland, Germany, Denmark, Norway, and Austria. Republic of Kosovo, Ministry of European Integration, “Minister Beqaj: Significant Results Achieved in Process of European Integration”, press release, 29 December 2010, available at: <http://www.mei-ks.net/?page=2,5,137>. Subsequently, agreements were also signed with Slovenia, Benelux and the Czech Republic.

334 Republic of Kosovo, *Strategy for the Integration of the Romani, Ashkali and Egyptian Communities in Kosovo* (Prishtinë/Priština 2008).

335 UNHCR/OCM Pristina, *Statistical Overview*, Updates as of end of December 2009. In total, approximately 19,000 non-Albanians returned in this period. In addition to Roma, Ashkali and Egyptians, 8,449 Serbs 1,592 Bosniaks and 1,035 Gorani were among the returnees.

336 As documented by other organisations, interviewees reported to the ERRC that they agreed to a “voluntary” return under pressure, as they were repeatedly encouraged to volunteer to return in order to receive support and threatened that police would come to deport them and they wouldn’t get any support otherwise. Amnesty International, *Not welcome anywhere: Stop the forced return of Roma to Kosovo*, 2010, available at: <http://www.amnesty.org/en/news-and-updates/report/stop-forcible-returns-roma-kosovo-2010-09-28>, 18.

337 Table taken from Stephan Müller/Željko Jovanović, *Pathways to Progress*, Budapest 2010, based on UNHCR/OCM Pristina, *Statistical Overview*, Updated as of late December 2009.

increase from the 281 Roma, Ashkali and Egyptian returnees in 2008. These numbers are much lower than those from previous years: in 2006 and 2007 the numbers were 769 and 893 respectively (2003 saw the highest number of returnees with 1,469 Roma, Ashkali and Egyptians returned).

The UNHCR and the International Organisation for Migration (IOM) collect data on “forced returns of former refugees as well as those with other legal and/or illegal status.” In total, 1,318 members of minority communities were forcibly returned to Kosovo between 2007 and 2009; among them 229 Roma (48 in 2007; 54 in 2008; and 127 in 2009). Data on Ashkali and Egyptians is not available. Between January and March 2010, an additional 114 Roma and 72 Ashkali were forcibly returned to Kosovo.³³⁸

Many returnees appear to be leaving Kosovo again upon or soon after return. In some cases, the persons concerned claim asylum elsewhere. Although exact data is not available for most countries, Hungary alone registered 1,786 asylum applications in 2009 from people claiming to originate from Kosovo. Approximately 80% of them were Roma, Ashkali or Egyptian.³³⁹

Conditions for Romani, Ashkali and Egyptian IDPs and returnees in Kosovo are adversely affected by inadequate housing, limited access to reconstruction assistance and uncertainty of tenure in informal settlements explained in Section 6.1 of this report. The lack of security and difficulty of finding employment are also areas of concern for returnees.

The exact number of Roma, Ashkali or Egyptians who left Kosovo and remain outside of Kosovo is not known, but serious estimates calculate that around 100,000 Roma, Ashkali or Egyptians might have left their place of origin.³⁴⁰ The return of such a large number of persons now would create serious problems for authorities in Kosovo.³⁴¹ Only a small proportion of persons who fled Kosovo gained refugee status in Western European or neighbouring countries, or are displaced within Kosovo. Many Roma, Ashkali and Egyptian asylum seekers have not been granted asylum, but rather a temporary protection status, which entails a different status and treatment in each country, but does not guarantee residency. Based on the unstable conditions in Kosovo, a hold was placed on their return for humanitarian reasons, which has recently begun to expire. Thus, many await the expiration of their protection and subsequent deportation.³⁴²

³³⁸ Verena Knaus, Peter Widmann e.a., “Integration unter Vorbehalt“ - Zur Situation von Kindern kosovarischer Roma, Ashkali und Ägypter in Deutschland und nach ihrer Rückführung in den Kosovo [Integration Subject to Conditions: A report on the situation of Kosovan Romani, Ashkali and Egyptian children in Germany and after their repatriation to Kosovo]. Deutsches Komitee für UNICEF, Köln 2010.

³³⁹ Hungary, Office of Immigration and Nationality, available at: <http://www.bmbah.hu/index.html>.

³⁴⁰ Republic of Kosovo, *Strategy for the Integration of the Romani, Ashkali and Egyptian Communities in Kosovo* (Prishtinë/Priština 2008).

³⁴¹ Many observers, including Kosovo Albanian civil society organisations and politicians are afraid of social tensions, if larger numbers of Roma are returned in a short period of time and without assistance. For the importance of the issue see also: Republic of Kosovo, *Strategy for the Integration of the Romani, Ashkali and Egyptian Communities in Kosovo* (Prishtinë/Priština 2008).

³⁴² Human Rights Watch, *Rights Displaced: Forced Returns of Roma, Ashkali and Egyptians from Western Europe to Kosovo*, 27 October 2010, available at: <http://www.hrw.org/en/reports/2010/10/28/rights-displaced-0>.

Many Roma, Ashkali and Egyptians sought refuge in Serbia, where 22,000 were officially registered as IDPs as of 2010,³⁴³ although the total number has been estimated to be from 40,000 up to 50,000 persons.³⁴⁴ In 2010, the UNHCR indicated that about 4,000 Roma, Ashkali and Egyptians from Kosovo are registered as Displaced Persons in Montenegro, while about 1,700 are in Macedonia and about 130 in Bosnia and Herzegovina.³⁴⁵

About half of those from Kosovo facing return in Western Europe are estimated to be Roma, Ashkali and Egyptians.³⁴⁶ There may be tens of thousands of Roma, Ashkali and Egyptians living in Western Europe either as rejected asylum seekers, awaiting deportation back to Kosovo, or as illegal immigrants that are not registered. Many whose asylum claims were rejected in Germany were granted “*duldung*”, or a similar “*tolerated*” status.³⁴⁷ As of 30 June 2009, there were 14,399 people from Kosovo with this status, including 9,842 Roma, 1,755 Ashkali and 173 Egyptians.³⁴⁸ As this data indicates, the vast majority – 82% – of people from Kosovo with *duldung* status are Roma, Ashkali and Egyptians. Between January and August 2010, 403 people were deported from Germany to Kosovo, including at least 154 Roma, Ashkali and Egyptians.

According to the UNHCR, in late December 2009, a total of 1,672 Roma, Ashkali and Egyptians were still displaced within Kosovo: 695 Ashkali, 676 Roma and 301 Egyptians.³⁴⁹

6.2.3 FORCED RETURNS AND CONDITIONS UPON RETURN

The return of rejected asylum seekers from Western Europe is handled by the Ministry of Internal Affairs. In April 2008, the Kosovo Government finalised an action plan for the implementation of the Strategy for the Reintegration of Repatriated Persons that foresees necessary budgetary allocations among relevant ministries, distributes responsibilities to relevant central and local authorities and timelines for their implementation. Despite the extensive policy framework, Kosovo authorities are still under-prepared to

343 Human Rights Watch, *Rights Displaced: Forced Returns of Roma, Ashkali and Egyptians from Western Europe to Kosovo*, 27 October 2010, available at: <http://www.hrw.org/en/reports/2010/10/28/rights-displaced-0>.

344 UNHCR/Praxis, *Analysis of the Situation of Internally Displaced Persons from Kosovo in Serbia*, Belgrade March 2007, 11.

345 Council of Europe, Committee on Migration, Refugees and Population, *Report on the Situation of long-standing refugees and displaced persons in South East Europe to the Parliamentary Assembly of the Council of Europe*, Doc. 11289, 24 May 2007.

346 Republic of Kosovo, *Strategy for the Integration of Romani, Ashkali and Egyptian Communities in Kosovo* (Prishtinë/Priština 2008).

347 *Duldung* status implies a limited suspension of deportation from the country which must be renewed every 3 or 6 months and involves restricted access to freedom of movement, employment and social and health benefits, depending on the region of Germany. This status is granted based on Aufenthaltsgesetz, AufenthG, § 60a. Federal Republic of Germany, Federal Office for Migration and Refugees [Bundesamt für Migration und Flüchtlinge], *The Granting of Non-EU Harmonised Protection Statuses in Germany*, 22 February 2010, available at: http://www.bamf.de/cln_103/SharedDocs/Anlagen/EN/Publikationen/DasBAMF/EMN/emn-wp30-protection-status-en.html.

348 German Parliament, BT-Drs publication 16/14129 of 12 October 2009, 8.

349 UNHCR/OCM Prishtinë/Priština, *Statistical Overview*, Updates as of end of December 2009.

effectively process and support returns. As an OSCE report noted, more than a year later, the relevant policy had not been implemented.³⁵⁰

Furthermore, municipal offices that should coordinate and facilitate the reintegration process at the local level are in most cases unaware of their obligations within the Reintegration Strategy.³⁵¹ Municipal authorities are often not informed in advance about the arrival of forced returnees. Consequently, none of the municipalities had established policies or procedures for the reintegration of repatriated persons, or set aside relevant funding.³⁵²

Activists in Kosovo noted that the Government was understandably focused on achieving success in the eyes of the European institutions and States, but they are concerned about the approach and timeline: “According to the EC criteria, for Kosovo to meet the Schengen criteria and for Europe to accept our citizens, the deportation process is necessary, but there are no preconditions. Then there are the additional problems of housing and deportation.”³⁵³

Since 2008 the Ministry of Communities and Returns has taken the lead in implementing community development and stabilisation projects. In recent years, Kosovo has seen several return and reconstruction projects, assisting individual and groups of returnees with housing, community development and support for economic activities, focusing on “voluntary IDP and refugee returns from the region.”³⁵⁴ Some of these return and reintegration projects included Roma, Ashkali and Egyptians amongst other communities while others directly targeted these three communities (e.g., in Gjakovë/Djakovica, Gjiilan/Gnjilane, Lipjan/Lipljan or Ferizaj/Uroševac, Mitrovicë/Mitrovica). In several return project locations, such as Gjiilan/Gnjilane, Lipjan/Lipljan or Ferizaj/Uroševac, returnees complain about the low quality of reconstruction work, that the promised income generating opportunities were not provided or that social assistance was refused. According to recipients, these projects do not provide a sustainable platform for their return and reintegration in Kosovo. Indeed, the obstacles often forced families to leave again.³⁵⁵

350 OSCE Mission in Kosovo, *Communities Rights Assessment Report*, December 2009: “no concrete steps have been taken to implement the Strategy, nor have the necessary funds been allocated to extend specific reintegration assistance to repatriated persons. Municipalities have not implemented concrete measures to assist forcibly repatriated persons in the areas of housing, health, education or employment, nor have they established procedures or allocated resources to accommodate their specific needs.”

351 OSCE Mission in Kosovo, Department of Human Rights and Communities, *Implementation of the Strategy for Reintegration of Repatriated Persons in Kosovo’s Municipalities*, November 2009.

352 In April 2010, the Ministry of Internal Affairs recommended a revision of the Strategy and the accompanying Action Plan, establishment of a reintegration fund, building of physical and human capacities at central and local levels, as well as improving communication and inter-institutional coordination. UNMIK, *Comments to the 2nd Opinion on Kosovo of the Advisory Committee on the Framework Convention for the Protection of National Minorities*, 31 May 2010, available at: http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/Table_en.asp#UNMIK_Kosovo.

353 Interview with representative of Community Centre Jeta e Re “Better Life”. Prizren, Kosovo: 22 May 2010.

354 OSCE Mission in Kosovo, *Communities Rights Assessment Report*. December 2009.

355 For accounts of these cases see: Humanitarian Law Centre, *Ethnic Communities in Kosovo in 2007 and 2008*.

Only one programme, known as URA 2 or Die Brücke, “Bridge” and financed by the German states of Baden-Württemberg, Niedersachsen and Nordrhein-Westfalen, is available to support forced returnees from Western Europe in Kosovo.³⁵⁶ No other programme existed from any funding source - Kosovo authorities, international organisations or individual countries.³⁵⁷ This is particularly troubling in light of the increased returns anticipated by Western European Governments, such as Germany, which has pledged to return 10,000 Roma over the next 4 years.³⁵⁸ The Kosovo Government expects up to 5,000 forced returnees per year (from third countries hosting citizens of Kosovo).³⁵⁹

Many Roma, Ashkali and Egyptians facing forcible return have lived in Germany for up to 20 years with *duldung* status. After such a long time outside Kosovo, which for some is an entire lifetime, Roma, Ashkali and Egyptians are far from prepared for the typical return experience. Returns cause significant strain to communities and families in Kosovo. There is no space, housing or employment for returnees, and their former property, if they had it, was often sold or destroyed during the conflict, or is illegally occupied, or cannot be claimed by them, since they lack documents. In order to be eligible for social assistance they need to have an address in Kosovo, which may be difficult to acquire if they return to an informal settlement.

For many individuals and families, this experience provokes stress-induced health problems. A 2010 UNICEF report indicated that those living with *duldung* for an extended time are affected by “physical and psychological problems, caused not only by war and flight, but also by years living isolated as ‘tolerated’ individuals without prospects”. These health problems often go undiagnosed and negatively impact a person’s ability to take care of himself or herself.³⁶⁰ The ERRC spoke to several returnee families who reported being very afraid upon return, feeling pressured and suffering from stress and health disorders.³⁶¹ The underdeveloped health system in Kosovo is ill equipped to help people recover from such trauma.

Among the Romani, Ashkali and Egyptian returnees interviewed by the ERRC, some were extremely scared and would not leave their homes.³⁶² A significant number leave Kosovo again

356 Federal Republic of Germany, Federal Office for Migration and Refugees [Bundesamt für Migration und Flüchtlinge], Project URA Brochure, available at: http://www.bamf.de/clin_103/SharedDocs/Anlagen/DE/Downloads/rueckkehrfoerderung-flyer-kosovo-rueckkehrprojekt-deu.html;jsessionid=3D0A856CE30F2C9C79B565EA9D45154E.

357 Verena Knaus, Peter Widmann e.a., “Integration unter Vorbehalt” - Zur Situation von Kindern kosovarischer Roma, Ashkali und Ägypter in Deutschland und nach ihrer Rückführung in den Kosovo [Integration Subject to Conditions: A report on the situation of Kosovan Romani, Ashkali and Egyptian children in Germany and after their repatriation to Kosovo]. Deutsches Komitee für UNICEF, Köln 2010.

358 “Council of Europe calls deporting refugees back to Kosovo irresponsible”, *Deutsche Welle*, available at: <http://www.dw-world.de/dw/article/0,,5469539,00.html>.

359 See Government of Kosovo, *Strategy for Reintegration of Repatriated Persons*, October 2007.

360 Verena Knaus, Peter Widmann e.a., “Integration unter Vorbehalt” - Zur Situation von Kindern kosovarischer Roma, Ashkali und Ägypter in Deutschland und nach ihrer Rückführung in den Kosovo [Integration Subject to Conditions: A report on the situation of Kosovan Romani, Ashkali and Egyptian children in Germany and after their repatriation to Kosovo]. Deutsches Komitee für UNICEF, Köln 2010.

361 Interview with an Ashkali man. Fushë Kosovë/Kosovo Polje, Kosovo: 19 May 2010. Interview with a Romani man. Prishtinë/Priština, Kosovo: 20 May 2010. Interview with a Romani man. Pejë/Peć, Kosovo: 21 May 2010.

362 Interview with a Romani man. Pejë/Peć, Kosovo: 21 May 2010.

immediately; Kosovo does not offer opportunities for them. According to the Council of Europe's Human Rights Commissioner: "No less than 70-75% of those forcibly returned move to secondary displacement or go back to the deporting countries through illegal channels – after having lost their homes, jobs, years of schooling and a considerable amount of money."³⁶³

Many returnees were desperate: "Let's not forget, we are humans not animals [...] we would like to live in America or Germany. [The children] were born there [Germany]. Now I've spent more of my life in Germany than Kosovo: I don't know this place. It is unknown to me and my children."³⁶⁴

The majority of children forcibly returned to Kosovo were born in Germany or other Western European countries. To register, Kosovo citizens born abroad have to submit original copies of their birth certificates.³⁶⁵ Without birth certificates they are not eligible to receive any documents, enrol in schools, or receive social assistance. Many Roma, Ashkali and Egyptians report being forcibly returned under tense circumstances without warning, picked up in the early morning by police; and as a result they may leave without any documents.³⁶⁶ A UNICEF survey in 2010 found that 65 out of 173 persons (including 48 children) were not registered and did not obtain any Kosovo documents. They were de facto stateless persons.³⁶⁷

Caught in Contradiction: European Union and the Return of Roma, Ashkali and Egyptians to Kosovo³⁶⁸

While the European Parliament calls upon European Union Member States to abstain from forcibly returning Roma, Ashkali and Egyptians to Kosovo,³⁶⁹ Member States are actively involved in the process of returning them to Kosovo.

363 Council of Europe, Commissioner for Human Rights, "Children victimised when families are forced to return to Kosovo", *Human Rights Comment*, available at: http://commissioner.cws.coe.int/tiki-view_blog_post.php?postId=56.

364 Interview with a Romani man. Pejë/Peć, Kosovo: 21 May 2010.

365 UNMIK Regulation 2000/13, Article 23.2.

366 "I have a shoulder injury. I was scheduled for surgery at 6:00 this morning, but the police arrived at 3:00 AM to return me, my wife and my daughter." Interview with a Romani man. Prishtinë/Priština, Kosovo: 20 May 2010. "At 5:00 AM, the police arrived while we were sleeping, knocked on the door and entered, saying "We are the Kreisberg police; open up, you are leaving now." We opened the door; they came in. They brought big empty bags and gave us one hour. They didn't allow us any space, didn't allow us to call, they took away our mobile phones. Wouldn't let us contact the lawyer." Interview with an Egyptian man. Pejë/Peć, Kosovo: 21 May 2010. "We knew we would be returned, but we didn't know what day. The police came at night. We were allowed to call people because our family was an exemplary case in the town." Interview with a Romani man. Ferizaj/Uroševac, Kosovo: 25 May 2010.

367 Verena Knaus, Peter Widmann e.a., "Integration unter Vorbehalt" - Zur Situation von Kindern kosovarischer Roma, Ashkali und Ägypter in Deutschland und nach ihrer Rückführung in den Kosovo [Integration Subject to Conditions: A report on the situation of Kosovan Romani, Ashkali and Egyptian children in Germany and after their repatriation to Kosovo]. Deutsches Komitee für UNICEF, Köln 2010.

368 For more detail see: Stephan Müller and Željko Jovanović, *Pathways to Progress*, April 2010, available at: http://www.soros.org/initiatives/roma/articles_publications/publications/european-exclusion-20100402.

369 European Parliament, Resolution on the European Integration Process of Kosovo, P7_TA(2010)0281, 8 July 2010, available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0281&language=EN&ring=B7-2010-0409>.

European Commission funded projects in Kosovo mainly focus on efforts to return IDPs from Serbia, Montenegro or those displaced within Kosovo. Almost no initiatives include rejected asylum seekers returning from Western Europe. Furthermore, projects in Kosovo supporting “IDPs and refugees” provide assistance to the Ministry of Return and Communities, which is in charge of the return of IDPs from Serbia and voluntary return of refugees from neighbouring countries but not the return of rejected asylum seekers from Western Europe. The Ministry of Internal Affairs (Department for Border Management, Asylum and Migration), which is in charge of this group of persons, is not targeted by EC projects.³⁷⁰

The strict approach of EU Member States to forcibly return rejected Romani, Ashkali and Egyptian asylum seekers to Kosovo is in contradiction with the European Commission’s appeal to Western Balkan countries hosting refugees and IDPs from Kosovo to integrate those “who choose not to return”.³⁷¹

UNICEF found that only one quarter of returnee children continue schooling when they return to Kosovo; all surveyed children attended German language schools in Germany.³⁷² During the ERRC field research in 2010, none of the 12 school-age children of respondents who had returned from Germany were in school.³⁷³ One Romani respondent indicated that he would not send his children to school, for fear they would be hurt. He was afraid for them, explaining that he had seen other children get hurt while going to school.³⁷⁴

UNICEF also reported that most of the children who were infants when they went abroad or were born abroad do not speak Albanian or Serbian. Language barriers for children who speak German as their first language prohibit integration into school: “How can we accept them? How can we integrate them? How can we integrate their children into schools? They spent 15 – 20 years in Germany, some forgot the language.”³⁷⁵ The Ministry of Education and Municipal Directorates for Education are obliged to support the integration of returnees into the local education system, with catch-up classes or language classes.³⁷⁶ However, as of

370 Stephan Müller and Željko Jovanović, *Pathways to Progress*, April 2010, 72-3, available at: http://www.soros.org/initiatives/roma/articles_publications/publications/european-exclusion-20100402.

371 See the European Partnerships with Serbia (2008) and Montenegro (2007). The respective short-term priorities: Serbia: “Ensure the right to a real choice between sustainable return and integration and contribute to ensuring full implementation of the Sarajevo Declaration”. Montenegro: “Ensure protection of the rights of refugees and internally displaced persons. [...] Ensure the right of a real choice between sustainable return and integration and provide conditions for integration for those who choose the latter”.

372 Verena Knaus, Peter Widmann e.a., “Integration unter Vorbehalt” - Zur Situation von Kindern kosovarischer Roma, Ashkali und Ägypter in Deutschland und nach ihrer Rückführung in den Kosovo [Integration Subject to Conditions: A report on the situation of Kosovan Romani, Ashkali and Egyptian children in Germany and after their repatriation to Kosovo]. Deutsches Komitee für UNICEF, Köln 2010.

373 During research in May 2010, the ERRC met individuals from nine families returned from Germany, which included 12 children. Interviews on file with the ERRC.

374 Interview with a Romani man. Pejë/Peć, Kosovo: 21 May 2010.

375 Interview with N.M. Prizren, Kosovo: 22 May 2010.

376 Government of Kosovo, *Strategy for the Integration of the Repatriated* (Prishtinë/Priština 2007).

December 2011, there was not a single project in Kosovo supporting children who were deported to Kosovo from Western Europe.³⁷⁷

6.3 Safety, Security and Access to Justice

Although the conflict in Kosovo officially ended in June 1999, violent incidents, particularly against minorities, continued. Indeed, many Roma, Ashkali and Egyptians left after June 1999 as the dangerous situation persisted or grew worse, as crimes committed during this time were generally left unpunished. Some activists believe that the security situation of Roma, Ashkali and Egyptians has improved.³⁷⁸ According to others, the major issues facing Romani, Ashkali and Egyptian communities relate to overall sustainability of their situation, especially economic and social issues.³⁷⁹ Few acts of violence against Roma, Ashkali or Egyptians have been recently reported.

6.3.1 DESCRIPTION OF THE SITUATION

Despite the gradual decrease in violence, the perception that reporting crimes will have no impact may lead to underreporting of crimes by Romani, Ashkali and Egyptian victims. It is generally considered that the justice system in Kosovo is inadequate and weak, and that insufficient witness protection remains a major obstacle, especially in cases concerning attacks on minorities.³⁸⁰ Thus cases of intimidation and violence against Roma, Ashkali and Egyptians go unreported, mostly out of fear of retribution against complainants. Here is a typical explanation given to the ERRC by a young Ashkali woman from Prizren: “I do not feel free to go out late or come back late because one does not have any security. Every day we hear of cases of ill treatment. If something would happen, I wouldn’t have the power to report it to the police or the media – you never know what might happen [to you] tomorrow.”³⁸¹ In some communities, activists testified of an improved sense of security, yet also spoke of the threats of unlawful activities within the community itself, coming mainly from the “unemployed generation of young people” without any opportunities, with a rising incidence of alcohol abuse.³⁸²

Although most Roma, Ashkali and Egyptians reported good relationships with the police, some respondents have indicated that the police do not treat them as they treat Albanians or the Serbs,

377 Verena Knaus, Peter Widmann e.a., “Integration unter Vorbehalt“ - Zur Situation von Kindern kosovarischer Roma, Ashkali und Ägypter in Deutschland und nach ihrer Rückführung in den Kosovo [Integration Subject to Conditions: A report on the situation of Kosovan Romani, Ashkali and Egyptian children in Germany and after their repatriation to Kosovo]. Deutsches Komitee für UNICEF, Köln 2010. Interview with the Roma and Ashkali Documentation Centre. Kosovo: December 2011.

378 Telephone interview with the Roma and Ashkali Documentation Centre: 23 September 2009.

379 Telephone interview with G.S., a Romani activist: 22 September 2009.

380 For a detailed overview of the failures of the justice system in Kosovo, see: Human Rights Watch. *Kosovo Criminal Justice Scorecard* (2008), available at: <http://www.hrw.org/en/reports/2008/03/27/kosovo-criminal-justice-scorecard-0>.

381 Interview with A.E. Prizren, Kosovo: 24 September 2009.

382 Interview with M.P. Gjakovë/Djakovica, Kosovo: 8 September 2008.

or that they do not trust the police. A Romani man from Rahovec/Orahovac told the ERRC that his father was taken to jail because of a minor offence, in a situation where a non-Romani, Ashkali or Egyptian person would only be fined or taken to court.³⁸³ Similarly, a Romani man from Plemetin/Plemetina was taken to a police station on an unspecified date in 2007, but was not asked any questions regarding the case for which he was allegedly detained: “They asked questions like what did I do during the war, how many Albanians did I kill, and so on.”³⁸⁴

Police are not the only ones Roma perceive as a source of violence and intimidation. In Ferizaj/Uroševac, Mr G.S. told the ERRC that ethnic Albanians from the surrounding Albanian villages intimidate the local Roma, Ashkali and Egyptians by making threats, yelling, and calling Roma, Ashkali and Egyptians “Magyup” and “dirty”. No physical violence is reported, yet many provocations and threats are, which scare the local Roma, Ashkali and Egyptians: “I don’t see a future here”, said Mr G.S.³⁸⁵

Freedom of speech has also been affected by these fears, according to Romani, Ashkali and Egyptian activists: “We don’t have any freedom of expression, not yet. People are afraid for their future, they have different kinds of problems, yet they cannot say that on television, because you never know what will happen tomorrow if you do that.”³⁸⁶

6.3.2 PROSECUTION OF INTER-ETHNIC VIOLENCE

Feelings of insecurity are fed by a large number of unresolved cases: according to an activist interviewed by the ERRC, many acts committed against Romani, Ashkali and Egyptian communities, both in the past as well as recently, remain unaddressed by the authorities, and “that’s why Roma, Ashkali and Egyptian do not believe the Government or the police.”³⁸⁷ A Romani asylum seeker in Hungary told the ERRC that he does not feel safe in Kosovo, as his cousin was killed by ethnic Albanians immediately after the 1999 NATO bombing and the attackers were never identified.³⁸⁸ In another case, Mr F.J. from Prizren told the ERRC that 13 of his relatives were kidnapped in early 2000 in the village of Sopina.³⁸⁹ Mr F.J. had given information on this case to the police, KFOR and the International Committee of the Red Cross yet was never provided any information on the investigation. As of 2008, none of the perpetrators were identified. Similarly, in Rahovec/Orahovac, Mr O.H. told the ERRC how his sister was shot and killed in 1998 during the armed conflict; the next year, in June 1999, his uncle was taken away by a group of KLA men and has not been seen since.³⁹⁰ The family received some

383 Interview with O.H. Rahovec/Orahovac, Kosovo: 29 April 2008.

384 Interview with M.F. Plemetin/Plemetina, Kosovo: 1 October 2007.

385 Interview with Mr G.S. Ferizaj/Uroševac, Kosovo: 30 April 2008.

386 Interview with Mr E.Q. Youth Development Coordinator, NGO Prosperiteti. Gjakovë/Djakovica, Kosovo: 4 September 2009.

387 Telephone interview with a Romani activist who requested anonymity: 22 September 2009.

388 Interview with Mr F.B., from Pejë/Peć. Interviewed in Hungary: 30 September 2009.

389 Interview with Mr F.J. Prizren, Kosovo: 29 April 2008.

390 Interview with Mr O.H. Rahovec/Orahovac, Kosovo: 29 April 2008.

information on who the kidnappers might be and relayed this information to the KFOR, yet reportedly received no feedback on any investigation of the suspect. In Ferizaj/Uroševac, Mr S.G. was kidnapped by the KLA in June 1999. His dead body was found in Drenica by the KFOR and given to the family in December 1999.³⁹¹ The family was never informed of any results from the investigation.

Similarly, when it comes to dealing with cases stemming from the March 2004 riots, the OSCE noted that “the justice system failed to send a swift, strong and clear message that ethnic violence will not be tolerated in Kosovo”. Several years later, little progress has been made.³⁹² The OSCE noted that impunity prevailed, particularly with respect to domestic courts. Although the Kosovo Police Service indicated that about 1,400 cases were reported after the ethnic violence of March 2004, charges were only brought against approximately 400 people: “Witnesses [including police officers] failed to appear before the court and contradicted their previous statements.” Delays and lenient sentencing were widespread and ethnic motivations as an aggravating factor were consistently ignored.³⁹³

Generally, the lack of information concerning ongoing investigations and prosecutions increases mistrust among Romani, Ashkali and Egyptian communities of Kosovo institutions, whether national or international. It has also been noted that it is very difficult to obtain information on investigations of war crimes and interethnic violence in Kosovo.³⁹⁴

6.3.3 FREEDOM OF MOVEMENT

According to the Ombudsperson Institution for Kosovo, the situation of Romani minority communities has gradually improved over recent years. Serbs and Roma still do not enjoy full freedom of movement, particularly returnees.³⁹⁵ However, Roma, Ashkali and Egyptians generally have access to public transportation or humanitarian bus services which run between areas where Kosovo Serbs and Roma live.³⁹⁶

In the past, concerns about the lack of freedom of movement were commonly reported, especially in areas such as the Obiliq/Obilić municipality where Serbian, Romani, Ashkali and Egyptian communities live within a larger Albanian populace.³⁹⁷ Generally, Roma, Ashkali and Egyptians living in areas with a predominantly Serbian population were reported to be worried about travelling to

³⁹¹ Interview with Ms A.G. Ferizaj/Uroševac, Kosovo: 30 April 2008.

³⁹² OSCE, *Human Rights, Ethnic Relations and Democracy in Kosovo*, Summer 2007 – Summer 2008, p. 5.

³⁹³ OSCE Mission in Kosovo/UNMIK, *Four Years Later: Follow up of March 2004 Riots Cases before the Kosovo Criminal Justice System*, July 2008.

³⁹⁴ Human Rights Watch, *Kosovo Criminal Justice Scorecard* (2008), 24-25, available at: <http://www.hrw.org/en/reports/2008/03/27/kosovo-criminal-justice-scorecard-0>.

³⁹⁵ Ombudsperson Institution of Kosovo, *Ninth Annual Report 2008-2009*, 24 June 2010, available at: <http://www.ombudspersonkosovo.org/?id=2,e,74,2010>, 37.

³⁹⁶ OSCE, *Kosovo Community Profiles 2010*, 8 February 2011, available at: <http://www.osce.org/kosovo/75493>.

³⁹⁷ Interview with A.M. Plemetin/Plemetina, Kosovo: 10 September 2008.

parts with a majority Albanian population;³⁹⁸ some of them feel only comfortable within their own communities,³⁹⁹ yet this could simply be because they rarely leave their neighbourhoods or villages. As Mr N.S. from Hallaç i Vogël/Mali Alaš explained to the ERRC: “We don’t have contact with Albanians, they hurt us and our families and we don’t want to talk to them. So we have no problems with them, because there is no interaction.”⁴⁰⁰ An Ashkali man from the Lipjan/Lipljan municipality, where non-Albanian communities represent 17% of the population, told the ERRC that he could not go to work outside Lipjan/Lipljan, and even in Lipjan/Lipljan he could not venture outdoors after 10:00 PM.⁴⁰¹ Similarly, a Romani man from Plemetin/Plemetina told the ERRC that he did not feel safe travelling to the Albanian part of town or other predominantly Albanian towns, unless it was absolutely necessary “I am afraid,” he told the ERRC, “This fear is not based on concrete events, experiences or situations. It is rather a general feeling. However I also hear stories of Roma being beaten, insulted and even killed if they go to Albanian sections.”⁴⁰² Another Romani man from Rahovec/Orahovac told the ERRC how he and his father were verbally harassed on a bus to Montenegro in 2008 by the bus driver and his assistant, who told them that: “Albanians were waiting for independent Kosovo to kill the Gypsies and Serbs.”⁴⁰³

Romani, Ashkali and Egyptian women especially complained to the ERRC that, being women, they have more reasons to be concerned about their personal safety.⁴⁰⁴ A women’s rights activist explained that sometimes Romani, Ashkali and Egyptian women feel safe enough to go to a limited number of places, to visit a doctor, to their children’s school, to shop, yet they are afraid to go to other places and they do not feel safe.⁴⁰⁵

6.4 Employment

6.4.1 LEGAL AND POLICY FRAMEWORK

Since 2001, the legal framework in Kosovo has stipulated the “equitable representation” of communities as regards employment in the civil service and/or publicly owned enterprises.⁴⁰⁶ The Law on Communities requires “special consideration” of Roma, Ashkali and Egyptians.⁴⁰⁷ However, according to the data available, the relevant authorities do not fulfil this positive obligation.

³⁹⁸ Telephone interview with the Roma and Ashkali Documentation Centre: 23 September 2009.

³⁹⁹ Interview with Z.S. Lipjan/Lipljan, Kosovo: 30 September 2007.

⁴⁰⁰ Interview with N.S. Hallaç i Vogël/Mali Alaš, Kosovo: 1 May 2008.

⁴⁰¹ Interview with M.H., from Lipjan/Lipljan. Interviewed in Hungary: 30 September 2009.

⁴⁰² Interview with S. Plemetin/Plemetina, Kosovo: 1 October 2007.

⁴⁰³ Interview with O.H. Rahovec/Orahovac, Kosovo: 29 April 2008.

⁴⁰⁴ Interview with B.B. Prishtinë/Priština, Kosovo: 5 September 2008.

⁴⁰⁵ Telephone interview with a Romani activist who requested anonymity; 22 September 2009.

⁴⁰⁶ Constitutional Framework for Provisional Self-Government Article 4.4. and 4.5.; UNMIK Regulation No. 2001/36 “On the Kosovo Civil Service”; Constitution of the Republic of Kosovo, Article 61; Anti-Discrimination Law, Article 2.

⁴⁰⁷ Law on the Protection and Promotion of the Rights of Communities, Article 9.2.

The Constitution further stipulates that communities must be represented among the judges of the Supreme Court and in other courts with appeal jurisdiction,⁴⁰⁸ indicating that “the composition of the courts shall reflect the ethnic composition of the territorial jurisdiction of the respective court”.⁴⁰⁹ Other institutions such as the Kosovo Police, the Kosovo Intelligence Agency or the Central Election Commission should also reflect the ethnic diversity of Kosovo.⁴¹⁰

Three objectives for employment and economic empowerment are included in the Action Plan for the Implementation of the Strategy for Integration of Romani, Ashkali and Egyptian Communities: increase the number of employees from Romani, Ashkali and Egyptian communities in the private economic sector through drafting and implementing effective fiscal-economic policies that promote employment and self-employment; encourage, prepare and support Romani, Ashkali and Egyptian communities for their inclusion in agricultural activities; and increase the level of employment of individuals from Romani, Ashkali and Egyptian communities through mediation, professional training and employment in public works.⁴¹¹

Roma, Ashkali and Egyptians in Kosovo are overwhelmingly unemployed and live in extreme poverty. Direct and indirect discrimination against these communities contribute to their high unemployment. Since 1999, the authorities have had the obligation and opportunity to reach “equitable representation” in ministries or other central institutions, municipal administrations and publicly owned enterprises.⁴¹² The current Government of Kosovo, the UNMIK administration, the previous provisional institutions for self-government, and the vast majority of the municipalities have yet to fulfil this obligation.

There remains no mechanism for ensuring equitable representation of all minority communities in public sector employment. The Government Action Plan for the Implementation of the Strategy does not include any objectives or activities regarding employment in the public sector and/or publicly owned enterprises with the exception of temporary “public works” programmes.⁴¹³

6.4.2 RAMPANT UNEMPLOYMENT AND POVERTY

Though reliable, comprehensive data on (un)employment is not available, it is widely understood that unemployment is a pervasive, serious issue across Kosovo and that Roma,

⁴⁰⁸ Constitution of the Republic of Kosovo, Article 103.

⁴⁰⁹ Constitution of the Republic of Kosovo, Article 104.

⁴¹⁰ Constitution of the Republic of Kosovo, Articles 61, 128, 129 and 139 respectively.

⁴¹¹ Republic of Kosovo, *Action Plan for the Implementation of the Strategy for Integration of Romani, Ashkali and Egyptians Communities*, 2009-2015

⁴¹² Constitutional Framework for Provisional Self-Government; UNMIK Regulation No. 2001/36 “On the Kosovo Civil Service”.

⁴¹³ Republic of Kosovo, *Action Plan for the Implementation of the Strategy for Integration of Roma, Ashkali and Egyptians Communities*, 2009-2015.

Ashkali and Egyptians are affected more than other communities.⁴¹⁴ The UNDP Human Development Report 2004 put the unemployment rate among Roma, Ashkali and Egyptians at 58.32%. The corresponding unemployment rate for Kosovo Serbs was 30.18%; Kosovo Albanians, 45.85%; others, 42.96%

In 2009, the Kosovo Foundation for Open Society (KFOS) commissioned a survey on the employment situation of Roma, Ashkali and Egyptians. In total, 857 Roma, Ashkali and Egyptians participated in the survey.⁴¹⁵ It found:

Activity	Percentage
public sector	5.10%
private sector	3.50%
self-employed	2.58%
seasonal jobs	10.92%
agriculture	1.00%
unemployed and seeking a job	31.46%
unemployed and no longer seeking a job	5.75%
work at home (mainly women)	33.2% ⁴¹⁶
pensioner	4.93%
NGOs	0.90%
students/pupils	0.50%

Very few persons are employed in Ferizaj/Uroševac's large, predominantly Ashkali population. In the Sallahane neighbourhood, some individuals work in the public and private sectors and 80 families qualify for social assistance.⁴¹⁷ Otherwise, the community relies on remittances, which

⁴¹⁴ The overall unemployment rate is assessed at around 45%. See *inter alia* the data of the International Labour Office available at http://www.ilo.org/global/What_we_do/Statistics/lang--en/index.htm or the data of the Statistical Office Kosovo, available at http://esk.rks-gov.net/eng/index.php?option=com_content&view=article&id=59&Itemid=50. See UNDP, Human Development Report Kosovo 2004, Prishtinë/Priština 2004. For a discussion of (un)employment statistics in Kosovo see: Kosovo Civil Society Foundation, *Kosovo Debate on European Issues, A compilation of eight Policy Papers in the area of education, rule of law and economy*, Prishtinë/Priština 2009: "There are two main sources of labour market statistics in Kosovo: the Labour Force Survey (LFS) conducted annually by the Statistical Office of Kosovo (SOK) since 2001 and the registration data of the Public Employment Services (PES). There are a number of limitations to the data available. First, the lack of a recent census of the population poses questions on the reliability of the sampling rates of less than two percent used in the LFS. Second, LFSs are usually conducted in the last quarters of the year, and are unable to adequately capture seasonal employment during the summer months. Third, the unemployment register of the PES is inflated by a high number of people who are not actively looking for work, or are working informally, while there are many unemployed who are not registered with the PES. Further support is required for the PES and the SOK to address these limitations and bring together all data collectors so as to produce the indicators needed to monitor and evaluate employment and labour market policies."

⁴¹⁵ Kosovo Foundation for Open Society, *Baseline Survey, The Position of Romani, Ashkali and Egyptian Communities in Kosovo* (Prishtinë/Priština 2009). Roma living in Serb enclaves and Northern Kosovo were not included.

⁴¹⁶ Of all female survey respondents, 71.1% declared they worked "at home" without identifying as unemployed.

⁴¹⁷ According to the Office of Communities, in May 2010 there were 1463 Ashkali, 258 Roma and 15 Egyptians living there. Interview with representative of the Office of Communities, Sallahane neighbourhood. Ferizaj/Uroševac, Kosovo: 25 May 2010.

their families send from Germany, Switzerland or Sweden to support them. The financial crisis may decrease income from this source.⁴¹⁸

The changing economic landscape in Kosovo means that some trades are dying out, including some traditionally practiced by Roma, Ashkali and Egyptians. In Prizren, for example, respondents indicated that 90% of Roma are unemployed, unable to find informal work or access trades previously practiced: “Before we had jobs working as musicians, wedding performers, etc. Now most musicians are Albanian. We had painters, molliers, [...] but now Albanians work in these professions. The free market killed us. Our shops closed because of the supermarkets.” In the new labour market, competing with the majority population for a smaller number of jobs is nearly impossible because, “We don’t have qualifications [...]”.⁴¹⁹

High levels of poverty among Romani, Ashkali and Egyptian respondents were clearly revealed in the KFOS survey. The average monthly family income reported was only 119.68 EUR.⁴²⁰ In comparison, the average monthly income in Kosovo for employed males, regardless of ethnicity, is 256 EUR and 224.50 EUR for females.⁴²¹ Taking into account the average number of family members (5.60) among Romani, Ashkali and Egyptian respondents, the average monthly income per person was 21.37 EUR, or 71 Eurocents per day. Thus, the survey suggests that about 60% of Roma, Ashkali and Egyptians in Kosovo live in extreme poverty.⁴²²

Indeed, available data indicates that the level of severe poverty among these minorities is increasing. A 2004 UNDP survey found 36.7% Roma, Ashkali and Egyptians living in extreme poverty, indicating that the percentage of Roma, Ashkali and Egyptians living in extreme poverty has nearly doubled and that per capita income decreased from 397 EUR to only 119.68 EUR.⁴²³

Social transfers and remittances constitute an important source of income. Of the persons interviewed by KFOS, 42% received social assistance and only 2% stated that they received assistance from other organisations and institutions. The Kosovo social assistance scheme

⁴¹⁸ Interview with a representative of the Office of Communities, Sallahane neighbourhood. Ferizaj/Uroševac, Kosovo: 25 May 2010.

⁴¹⁹ Interview with N. Menekshe. Prizren, Kosovo: 22 May 2010.

⁴²⁰ Twenty percent of families had an average monthly income of up to 50 EUR per month, 20.06% between 50 - 80 EUR, 19.75% had up to 120 EUR, 17.33% of the families had an income between 120 - 180 EUR, 13.09% between 181 - 300 EUR and 3.76% had an income of over 300 EUR per month. Kosovo Foundation for Open Society, *Baseline Survey, The Position of Romani, Ashkali and Egyptian Communities in Kosovo* (Prishtinë/Priština 2009).

⁴²¹ For 2008 data see: Statistical Office of Kosovo, *Household Budget Survey 2008* (Prishtinë/Priština 2009). For 2007 data see: Statistical Office of Kosovo, *Statistics of Living Standards 2007* (Prishtinë/Priština 2008), available at: <http://www.ks-gov.net/ESK/eng/>.

⁴²² Author’s calculation based on figures from the World Bank, which sets the reference lines for extreme poverty at \$1.25 per day. World Bank, *Poverty Reduction and Equity*, available at: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPOVERTY/0,,contentMDK:20153855~menuPK:373757~pagePK:148956~piPK:216618~theSitePK:336992,00.html>.

⁴²³ UNDP research in 2004 indicated the following results: Extreme Poverty (1 USD a day): Roma, Ashkali & Egyptians: 36.70%; Kosovo Serbs: 3.94%; Kosovo Albanians: 12.87%; Others: 16.82%. Per Capita Income: Roma, Ashkali & Egyptians: 397 EUR; Kosovo Serbs: 1.282 EUR; Kosovo Albanians: 1.051 EUR; Others: 866 EUR. UNDP, *Human Development Report Kosovo 2004* (Prishtinë/Priština 2004).

foresees a maximum of 75 EUR for each applicant family, which is not sufficient to cover basic living costs. The KFOS survey indicated that of those who receive support from relatives abroad (about 20%), more than half said their families are totally or highly dependent on such assistance, and about 35% said their families are slightly dependent on this assistance, whereas only 10% said they are not even slightly dependent on assistance from Western countries.⁴²⁴ Comparing this data to the 2004 information from the UNDP, which indicated that 20.86% of Roma, Ashkali and Egyptians were reliant on remittances,⁴²⁵ it appears that reliance on remittances is growing. One Ashkali individual told the ERRC: “I am living off social support from Italy. They send remittances to support us here. [...] Many here are supported by family members working abroad. [...] If they are not abroad, we cannot survive. My son collects metal and he comes back at the end of the day with 2 or 3 EUR. He has to work everyday. If we didn’t have family we would die. Even if they only send 100 EUR.”⁴²⁶

A respondent in Prizren indicated that this form of income has become increasingly tenuous due to the current global economic situation. Furthermore, the forced return of many Roma, Ashkali and Egyptians considerably decreases remittances: “There are 1 or 2 people abroad in every family. The recent financial crisis caused problems as now there is no money coming in.”⁴²⁷ As noted above, 42% of Romani, Ashkali and Egyptian families receive social assistance; the remainder do not, despite the fact that many more face serious poverty.⁴²⁸ Two social assistance schemes operate in Kosovo: one provided by Kosovo and one from Serbia.⁴²⁹ Persons registered in Serbia proper or in Northern Kosovo or in the Serbian enclaves in Kosovo are eligible to receive social assistance and other allowances from Serbia. Social welfare provided by Kosovo authorities depends on the number of persons in the family and is conditional upon there being at least one child under the age of five.⁴³⁰ One Romani respondent in Prizren described the problems that this law causes, not only among Roma, Ashkali and Egyptians, but also the other communities in Kosovo: “The law on social assistance [...] places many requirements on the whole population including having a child less than 5 years old. Thus people, Roma and non-Roma alike, have an incentive to have a child every 5 years. This is a bad approach.”⁴³¹

Numerous respondents reported corruption and arbitrary decision making concerning eligibility. In Gjiłan/Gnjilane, one respondent told the ERRC: “if someone from the Kosovar social assistance

424 Kosovo Foundation for Open Society, *Baseline Survey, The Position of Romani, Ashkali and Egyptian Communities in Kosovo* (Prishtinë/Priština 2009).

425 UNDP, *Human Development Report Kosovo 2004* (Prishtinë/Priština, 2004).

426 Interview with an Ashkali male. Lipjan/Lipljan, Kosovo: 24 May 2010.

427 Interview with N. Menekshe. Prizren, Kosovo: 22 May 2010.

428 Kosovo Foundation for Open Society, *Baseline Survey, The Position of Romani, Ashkali and Egyptian Communities in Kosovo* (Prishtinë/Priština 2009).

429 See *inter alia* International Labour Organisation, *Profile of the Social Security System in Kosovo (within the meaning of UNSC Resolution 1244 [1999])*, Budapest 2010; Danish Refugee Council, *Livelihood assessment among Roma, Ashkali and Egyptians returning to Roma Mahalla, Mitrovicë/Mitrovica* (authors: Stephan Müller & Christian Böhm), Prishtinë/Priština 2007.

430 Law No 2003/15 on the Social Assistance Scheme in Kosovo, Article 4.1.

431 Interview with O.O. Prizren, Kosovo: 22 May 2010.

comes to check and sees carpets and curtains, they will say ‘You have better conditions than me. No social assistance.’”⁴³² In Prelluzhë/Priluzhje a Serbian and Romani enclave in Vushtrri/Vucitrn the local Romani community is fully dependent on social assistance and reported that an official required them to do private work for him in order to access their social assistance.⁴³³ The difficulty of accessing formal work or finding and surviving on informal work in Kosovo also forced many to turn to garbage collection, recycling and begging. “You probably saw that many from our community beg on the street. It is very bad for us to put out our hands.”⁴³⁴

6.4.3 DISCRIMINATION AND OTHER BARRIERS TO EMPLOYMENT

Romani, Ashkali and Egyptian individuals interviewed by the ERRC reported that direct and indirect forms of discrimination obstruct their access to employment in Kosovo. Most respondents reported that the biggest problem they face is being completely blocked from the labour market, noting that Roma, Ashkali and Egyptians cannot access employment opportunities at all.

After years of exclusion, many respondents were quite hopeless about their prospects for joining the labour market: “There are no jobs for Ashkali, no one will hire us. There is no work for us and no life for us.”⁴³⁵ One respondent reported that he goes out each day to seek temporary labour work and sometimes succeeds in getting hired, but that employers and other workers become very upset when they discover that he is Romani: “They say ‘We don’t have work for Albanians, you guys [Roma] are last.’”⁴³⁶

Furthermore, various Romani, Ashkali and Egyptian respondents noted that some positions appear to be designed to exclude them. For example, many municipal sanitation jobs reportedly require secondary or university level education. This was reported as a criteria cited when Roma, Ashkali and Egyptians try to access public employment.⁴³⁷ “Discrimination is happening, we are looking for simple jobs, we don’t have a secondary school education. They use this to keep out Ashkali.”⁴³⁸

Many Roma, Ashkali and Egyptians lack the requisite qualifications to access formal work in Kosovo. Many therefore seek informal or seasonal work. Due to the extremely high levels of unemployment, even informal work is competitive and difficult to find: “Roma in this neighbourhood used to work in the factories. Now many do seasonal field work, or labour for two or three months per year. The money made in seasonal labour has to support them and their family for the rest of the year.”⁴³⁹

⁴³² Interview with a Romani activist. Gjilan/Gnjilane, Kosovo: 26 May 2010.

⁴³³ Interview with S.E. Prelluzhë/Priluzhje: 23 May 2010.

⁴³⁴ Interview with H.A. Magure/Goleš, Kosovo: 24 May 2010.

⁴³⁵ Interview with a 38 year-old Ashkali man. Lipjan/Lipljan, Kosovo: 24 May 2010.

⁴³⁶ Interview with a 24 year-old Romani man. Gjilan/Gnjilane, Kosovo: 26 May 2010.

⁴³⁷ Reported generally in Plemetin/Plemetina; as secondary education in Lipjan/Lipljan; and university education in Gjilan/Gnjilane where many Roma have finished secondary school. Interview with a 24 year-old Romani man. Gjilan/Gnjilane, Kosovo: 26 May 2010.

⁴³⁸ Interview with an Ashkali man. Lipjan/Lipljan, Kosovo: 24 May 2010.

⁴³⁹ Interview with O.O. Prizren, Kosovo: 22 May 2010.

6.4.4 UNDEREMPLOYMENT IN THE PUBLIC SECTOR

It has been noted that “salaries in the public sector are the most important source of income in Kosovo and are the main source for almost a quarter of households.”⁴⁴⁰ That being said, central and local authorities do not adhere to legal requirements for “equitable representation” in public sector employment when it comes to these communities: “Employment in Kosovo is similar to any transitional state; the majority gets the jobs, hires their own people. The members of the Romani community who had jobs in public institutions were fired after the war and they put in Albanians.”⁴⁴¹

In 2010, the Government of the Republic of Kosovo (excluding the Office of the Prime Minister) employed 5,489 civil servants of which 5,051 were members of the majority community (92.02%) and 438 belonged to non-majority communities (7.98%). This included 8 Roma (0.15%), 7 Ashkali (0.14%) and 2 Egyptians (0.03%).⁴⁴²

The municipalities included in the Government study employed a total of 9,197 civil servants of which 8,696 are members of the majority community and 501 belonged to non-majority communities. This included 31 Ashkali (0.34%), 13 Roma (0.14%) and 7 Egyptians (0.08%).⁴⁴³

Data from 2005 referring to the Ministry of Public Services (Department of Judicial Administration and Correctional and Civilian Staff), Ministry of Health, Ministry of Agriculture, Forestry and Rural Development, Ministry of Finance and Economy and Ministry of Education, including teachers, counted approximately 35,500 persons employed in these institutions. Of those, 180 (0.5%) were Roma, Ashkali or Egyptian,⁴⁴⁴ indicating a decrease in public sector employment.

Unfortunately, no data is available on the representation of ethnic groups in the employment structure of international organisations in Kosovo, which represent important employers (KFOR, OSCE, UN Team in Kosovo, European Commission including EULEX, etc).

6.4.5 PUBLICLY OWNED ENTERPRISES

Law No. 03/L-087 on Publicly Owned Enterprises (POE) defines eight companies as “central publicly owned enterprises”, including the Kosovo Energy Corporation (KEK), the Post

⁴⁴⁰ Statistical Office of Kosovo, *Household Budget Survey 2008* (Prishtinë/Priština 2009).

⁴⁴¹ Interview with N.M. Prizren, Kosovo: 22 May 2010.

⁴⁴² Republic of Kosovo, Office for Community Affairs/Office of the Prime Minister, *Employment of Members of Non-majority Communities Within Kosovo Civil Service and Publicly Owned Enterprises* (March 2010), 37.

⁴⁴³ The survey did not include municipalities with a Serb majority (Zubin Potok, Zvečan/Zvečan, Leposaviq/Leposavič) or a large Serb community (Shtërpçë/Štrpce). Republic of Kosovo, Office for Community Affairs/Office of the Prime Minister, *Employment of Members of Non-majority Communities Within Kosovo Civil Service and Publicly Owned Enterprises* (March 2010), 60.

⁴⁴⁴ Report Submitted By The United Nations Interim Administration Mission In Kosovo (UNMIK) Pursuant To Article 2.2 Of The Agreement Between UNMIK And The Council Of Europe Related To The Framework Convention For The Protection Of National Minorities (2005).

and Telecommunications of Kosovo (PTK), Kosovo Railways and the Prishtinë/Priština International Airport.⁴⁴⁵ In addition, there are regional and local publicly owned enterprises.

Before the new Constitution took effect, POEs were administered by the UNMIK under the Kosovo Trust Agency. They are now under the overall authority of the Government of Kosovo or municipalities.⁴⁴⁶

A 2009 Government study examined the representation of communities among the workforces of the central POE companies. The survey found that out of 12,243 persons employed at the management and administrative levels, 14 were Romani (0.11%) and 1 was Ashkali (0.01%).⁴⁴⁷

Interviews conducted by the ERRC confirm this data. According to the respondents, POEs such as PTK or KEK hardly employ Roma, Ashkali and Egyptians, and local level authorities reportedly tolerate discriminatory hiring practices.⁴⁴⁸ In practice, positions officially reserved to ensure “equitable representation” are often allocated to members of one community, in particular to Kosovo Serbs. In other cases, they are taken by Albanians with no questions asked, or by Serbs or Albanians reporting to be Roma, Ashkali or Egyptian: “The airport is very close. Recently Ashkali had an opportunity to apply for jobs there, but the Albanians claimed to be Ashkali and took the jobs in the name of the Ashkali. They are violating our rights. There is one Ashkali pensioner who used to work there and his son still works there. That’s all.”⁴⁴⁹

However, a few positive examples have been recorded in the past. For example in Gjakovë/Djakovica the Water and Sewage Public Company employed around 5% Roma, Ashkali and Egyptians (11 persons) while the rate of Roma, Ashkali and Egyptians employed with the City Sanitation Public Company was 56% (61 persons).⁴⁵⁰

6.4.6 LOSS OF EMPLOYMENT IN THE PRIVATISATION PROCESS

Prior to the conflict many Roma, Ashkali and Egyptians were employed in (then) “Socially Owned Enterprises” (SOE) and “Publicly Owned Enterprises” (POE).⁴⁵¹ Before the 1990s,

⁴⁴⁵ Law on Publicity Owned Enterprises 2008/03-L087.

⁴⁴⁶ United States Agency International Development (USAID), *Effective Municipalities Initiative, Compliance of the Law on Publicly Owned Enterprises with the Ahtisaari Proposal* available at: http://emi-kosovo-rti.org/repository/docs/9_Memo_on_Compliance_of_LPoE_Ahtisaari.pdf.

⁴⁴⁷ The Publicly Owned Enterprises included were: Kosovo Energy Corporation, Kosovo Railways, Kosovo Electricity Transmission System and Market Operator, Prishtinë/Priština International Airport, Post and Telecommunications of Kosovo. Government of the Republic of Kosovo, Office for Community Affairs/Office of the Prime Minister, *Employment of Members of Non-majority Communities Within Kosovo Civil Service and Publicly Owned Enterprises* (March 2010), 73.

⁴⁴⁸ Interview with N.M. Prizren, Kosovo: 22 May 2010.

⁴⁴⁹ Interview with H.A. Magure/Goleš, Kosovo: 24 May 2010.

⁴⁵⁰ Humanitarian Law Centre, *Application of Anti-discrimination Law and Law on the Use of Languages in Kosovo Public Companies* (Prishtinë/Priština 2007).

⁴⁵¹ Kosovo Trust Agency, available at: <http://kta-kosovo.org/html/index.php>.

quotas existed in some areas dictating proportional employment: “The factories were here during the socialist era. If a factory employed 10 people it would take 8 Albanians, 1 Serb and 1 Roma or Bosnian or Turkish person.”⁴⁵² After the conflict, many of these enterprises reduced or ceased their activities. As demonstrated elsewhere, the transition to a market economy particularly affected the most vulnerable groups, such as unskilled labourers and minorities. They are often the first to lose their jobs and the last to be employed again following privatisation.

The privatisation process in Kosovo was supervised and monitored by representatives of the international community. Since 2008 the Privatisation Agency of Kosovo (PAK) has been in charge of the privatisation process of former Socially Owned Enterprises, succeeding the Kosovo Trust Agency (KTA).⁴⁵³

Despite Constitutional and other legal requirements for equitable representation of communities in POEs and public institutions, neither the KTA nor the PAK introduced any requirements for SOE privatisation bidding procedures to achieve equitable representation in the ownership of the newly privatised companies.⁴⁵⁴

Respondents in Magure/Goleš indicated that most families living in that area worked in the local mine before the war. At the time of research, there were only about 80 Albanians working in the mine, which previously employed thousands. Residents explained that they could not reclaim their jobs because they were too old and the number employed was much lower. In many industries, privatisation resulted in a reduction in available jobs and new Albanian owners were perceived to be unwilling to hire outside their ethnic group: “They made a public announcement that there are jobs. We were not afraid to apply, but we knew the jobs were for the Albanians.”⁴⁵⁵ Roma, Ashkali and Egyptians widely reported believing that they could not get their jobs back in such situations. An Ashkali man explained: “I cannot go [back] there. No, they are all Albanians, they will not take me.”⁴⁵⁶ Respondents in Magure/Goleš reported that there is no work – formal or informal – available: “The men aged 17-35 don’t know what to do. And it’s a lot worse for Roma/Ashkali [than for others].”⁴⁵⁷

For Roma from Gjilan/Gnjilane the situation is devastating compared to their former level of integration and employment. In 1991, there were officially at least 4,500 Roma in Gjilan/Gnjilane,⁴⁵⁸ most of whom were employed. Many worked in the factories, but Roma were also employed as policemen, doctors, teachers, etc: “Before 1999 if you talked about going

⁴⁵² Interview with O.O. Prizren, Kosovo: 22 May 2010.

⁴⁵³ Privatisation Agency of Kosovo, available at: <http://www.pak-ks.org/?id=23>.

⁴⁵⁴ The current legal framework mandates only the “equitable representation” of the communities in public institutions and POE; this language does not differentiate between the different communities and is vulnerable to abuse. This general stipulation is reflected in official data which often provides only information on “other communities” in addition to Albanians and Serbs.

⁴⁵⁵ Interview with H.A. Magure/Goleš, Kosovo: 24 May 2010.

⁴⁵⁶ Interview with M.S. Magure/Goleš, Kosovo: 24 May 2010.

⁴⁵⁷ Interview with H.A. Magure/Goleš, Kosovo: 24 May 2010.

⁴⁵⁸ Although many accounts indicate that there may have been as much as twice as many, the 1991 census data indicates 4,500. OSCE, *Kosovo Community Profiles 2010*, 8 February 2011, available at: <http://www.osce.org/kosovo/75493>.

to Europe it was ridiculous; we had it here. Roma were doing very well and nobody predicted a conflict. We were second class, but out of the employment facts you can see that we were doing very well.”⁴⁵⁹ At that time, each family had at least one person working in the factories. But now, they cannot access old jobs. The factories are privatised and/or not functioning.⁴⁶⁰

The Wage and Skills Survey of the International Labour Organisation also confirms the disadvantaged position of the three communities in the labour market – this time in the private sector. From a sample comprising 12,126 workers employed in 1,547 primarily private companies, only 0.1% were Roma, Ashkali and Egyptians, meaning around 12 persons.⁴⁶¹

The only problem here is employment; we don't have bad relationships with Albanians. My father used to work in the paper factory. KFOR took the factory and now just a few people work there. Part of the factory was sold and privatised. There was a municipal sanitation company and the Coca Cola company which were both sold and privatised. People here also used to work in a chicken farm, but now it is closed and privatised.⁴⁶²

6.5 Education

6.5.1 LEGAL AND POLICY FRAMEWORK

In general, Kosovo has an extensive legal and policy framework for guaranteeing adequate education for members of the ethnic communities, including Roma, Ashkali and Egyptians. However, law and policy falls short in meeting the requirements.

Education in general and for the ethnic communities in particular is regulated by a number of laws and policies, mostly concerned with language.⁴⁶³ The Constitution stipulates the right of the communities to public education in the official language of their choice at all levels; pre-school, primary and secondary; and to establish private educational institutions.⁴⁶⁴

The Law on Communities further indicates that the Government “shall establish integrated curricula in community languages that are not an official language”, requiring the creation of integrated curricula in Romani language and training of qualified teachers.⁴⁶⁵ Furthermore, the law requires the Government to ensure equal access for persons belonging to minority communities to higher education, including special measures: “To this end, it shall establish

⁴⁵⁹ Interview with A.P. Gjilan/Gnjilane, Kosovo: 26 May 2010.

⁴⁶⁰ Interview with A.P. Gjilan/Gnjilane, Kosovo: 26 May 2010.

⁴⁶¹ International Labour Organisation, *Wage and Skills Survey* (Prishtinë/Priština 2006).

⁴⁶² Interview with an Ashkali male. Lipjan/Lipljan, Kosovo: 24 May 2010.

⁴⁶³ Relevant laws include the Law on Communities, the Law on Education in the Municipalities, the Law on Local Government Finance and general education laws (in particular the Law on Primary and Secondary Education from 2002).

⁴⁶⁴ Republic of Kosovo, Constitution, available at: <http://www.assembly-kosova.org/?cid=2,100,48>.

⁴⁶⁵ Law on the Protection and Promotion of the Rights of Communities, Articles 8.7 and 8.8.

special measures to ensure the admission of candidates from community schools to higher and university educational institutions.”⁴⁶⁶

Several policy documents refer specifically to Roma, Ashkali and Egyptians in the education system, including the Strategy for the Integration of Roma, Ashkali and Egyptians (2008) and the Education Strategy for Roma, Ashkali and Egyptians (2007). Both contain extensive measures targeting an improvement of the performance of the three communities in education. The March 2010 Action Plan on the Implementation of the Strategy for the Integration of Romani, Ashkali and Egyptian Communities 2009-2015 names four objectives in the area of education:

- Significant improvement of participation in the education system and of the quality of education for members of Romani, Ashkali and Egyptian communities.
- Prevention of discrimination and segregation in the Kosovo education system.
- Qualitative and efficient cooperation among relevant institutions and organisations towards the education of members of Romani, Ashkali and Egyptian communities.
- Raising the awareness of communities and stakeholders to support the education of members of Romani, Ashkali and Egyptian communities.⁴⁶⁷

The Action Plan intends to introduce Romani educators and assistants in “pre-primary and pre-school education”, however, not in primary education itself.⁴⁶⁸ In light of the small number of pre-school institutions in Kosovo and the small number of Roma, Ashkali and Egyptians attending these institutions, this idea seems of limited value.⁴⁶⁹ Moreover, hardly any “qualified educators and assistants from Romani, Ashkali and Egyptian communities” exist. According to the Ministry, in the school year 2010/2011 there were seven pre-school teachers from these communities: three Roma, three Egyptian and one Ashkali. In the primary and elementary schools, there are 29 teachers from Romani, Ashkali and Egyptian communities.⁴⁷⁰

6.5.2 DESCRIPTION OF THE CURRENT SITUATION

In Kosovo two competing and separate educational systems still prevail. Kosovo Albanian students and the majority of the other non-Serbian communities follow the official Kosovo curriculum, while Kosovo Serbian students, Gorani students and some Romani students are educated according to curricula of, and in schools run by, Serbia.⁴⁷¹

⁴⁶⁶ Law on the Protection and Promotion of the Rights of Communities, Article 8.11.

⁴⁶⁷ Republic of Kosovo, *Action Plan for the Implementation of the Strategy for Integration of Roma, Ashkali and Egyptians Communities*, 2009-2015.

⁴⁶⁸ The education system in Kosovo officially includes “pre-primary education, primary education, lower secondary education and upper secondary education”. See Law on Pre-School Education (Law 02/L-52; 19 Jan 2006, Section 6).

⁴⁶⁹ The Education Strategy for Roma, Ashkali and Egyptians (2007) already included this component and intended to introduce 90 educators and assistants.

⁴⁷⁰ Email correspondence with E. Kadiq, Head of Office for Communities and Gender Equality, Ministry of Education, Science and Technology. Kosovo: 22-25 February 2011.

⁴⁷¹ OSCE Mission in Kosovo, *Kosovo non-majority communities within the primary and secondary educational systems* (Prishtinë/Priština 2009).

Official data on Romani, Ashkali and Egyptian students⁴⁷²

	2007/2008	2008/2009	2009/2010	2010/2011
Total Roma, Ashkali and Egyptians	3,636	6,523	6,294	7,215
Total students	439,406	443,912	440,452	433,916

Compared to the previous years, the 2008/2009 school year saw a considerable increase in the number of students (nearly 44%) from the three communities. There is no official explanation for this increase, but it could be related to recent activities of the Municipal Community Offices focused on the inclusion of Roma, Ashkali and Egyptians in the school system. This data does not include the number of students in the Serb-dominated areas of Kosovo. Taking into account that hundreds of (especially) Romani children attend “Serb schools” in places such as Gračanice/Gračanica, Gjilan/Gnjilane, North Mitrovicë/Mitrovica, their actual number should be higher.

There is no comprehensive data on the educational achievements of the three communities, but available data shows very poor educational outcomes for Romani, Ashkali and Egyptian communities. Although literacy rates have increased particularly among Romani women in some Balkan countries such as Macedonia, data from Kosovo indicates an unfortunate decrease in literacy rates among Roma, Ashkali and Egyptians and particularly among women.⁴⁷³ A September 2009 report from the UN Secretary-General to the Security Council indicated that 75% of Romani, Ashkali and Egyptian women in Kosovo are illiterate.⁴⁷⁴ A 2007 UNICEF report found much lower literacy levels among Roma in Kosovo compared to non-Roma:⁴⁷⁵

Age	Non-Roma	Roma	Romani women
15-24	98%	65%	56%
25-34	98%	76%	69%

A large number of Romani, Ashkali and Egyptian children are not attending school or leave school early. Several factors contribute to this, including security concerns, lack of financial means, distance to educational facilities, etc.⁴⁷⁶ This problem was particularly severe immediately after the conflict, but still prevails.

⁴⁷² Ministry of Education, Science and Technology, available at: <http://www.masht-gov.net/advCms/>.

⁴⁷³ Stephan Müller and Željko Jovanović, *Pathways to Progress* April 2010, available at: http://www.soros.org/initiatives/roma/articles_publications/european-exclusion-20100402.

⁴⁷⁴ United Nations, Security Council, Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo (S/2009/497), 30 September 2009.

⁴⁷⁵ UNICEF, *Breaking the Cycle of Exclusion. Romani Children in South East Europe* (Belgrade 2007). UNICEF quotes the UNDP as a source.

⁴⁷⁶ Interviews with Roma, Ashkali and Egyptians in Kosovo: May 2010. For an overview: UNICEF, *Justice Denied: The State of Education of Children with Special Needs in Post-Conflict Kosovo*, May 2010, available at: <http://www.unicef.org/kosovo/>.

Numerous Romani, Ashkali and Egyptian respondents noted that school-related costs for things such as notebooks, pencils and clothes are a financial burden and pose a barrier to school attendance.

Romani, Ashkali and Egyptian girls are less likely to complete school than their male counterparts. At times this is the result of economic or other decisions made within the family: “Boys are more privileged, they are given more priority. When we talk money, we give more money to boys. For women, she’ll get married and live with her husband.”⁴⁷⁷ It has been reported in some areas that at 13 or 14 years of age, some girls have to leave school to work in the household and/or take care of their siblings.⁴⁷⁸ During research carried out by RAE Women’s Network activists, socio-economic conditions are most commonly reported by Romani, Ashkali and Egyptian women and girls as the reason for leaving school, particularly the cost of clothes and text books. The majority indicated that they were not visited by a school director or teacher after leaving school.⁴⁷⁹

Yet there are some good practices in Kosovo as concerns the enrolment of children in school. NGOs such as Balkan Sunflowers have established learning centres in a few settlements in order to successfully increase enrolment rates and decrease drop-out rates.⁴⁸⁰ Under a project sponsored by the European Commission and the Open Society Institute beginning in September 2010, additional learning centres were established in five municipalities in Kosovo. The project also included a grant scheme for pupils, language courses for pre-school pupils and preparatory courses for higher education.⁴⁸¹

Municipal Community Offices throughout Kosovo co-operate with other institutions and NGOs focused on enrolling Romani, Ashkali and Egyptian children into the education system or on further affirmative measures to improve their educational performance.⁴⁸² The MCOs in Pejë/Peć and Gjakovë/Djakovica have conducted intensive awareness campaigns informing families of the importance of education for children and have facilitated the enrolment of 130 and 66 children, respectively. In Prizren, 80 children were enrolled in primary and secondary schools after completing “catch up classes” for children that had dropped out of school. In Ferizaj/Uroševac over 1,000 children from the three communities integrated into the education system. In addition, poor families whose children attend school can receive a monthly allowance of 30 - 40 EUR.

477 Interview with H.A. Magure/Goleš, Kosovo: 24 May 2010.

478 OSCE, *Kosovo Community Profiles 2010*, 8 February 2011, available at: <http://www.osce.org/kosovo/75493>.

479 Kosovar Center for Gender Studies, *Research on Education and challenges of young RAE women in Kosovo*.

480 Balkan Sunflowers, available at: <http://learningcentersnetwork.org/>. In Fushe Kosove/Kosovo Polje the drop-out rate was decreased considerably: In 2006-2007, 120 children dropped out; in 2008-2009, 13 dropped out; and in 2009-2010, 20 dropped out (including six who left Kosovo).

481 Email correspondence with Vera Pula, Kosovo Foundation for Open Society: 23 July 2010.

482 See: Kosovo Foundation for Open Society/Humanitarian Law Fund, *Governance of Roma, Ashkali and Egyptian rights in Kosovo* (Prishtinë/Priština 2010).

6.5.3 SEGREGATION

ERRC research indicates that Romani, Ashkali and Egyptian children experience segregation in schools in some locations in Kosovo. Segregation exists both within the classrooms, where Romani, Ashkali or Egyptian students may be asked to sit in the back, or in completely separate classes or schools. A respondent in Fushë Kosovë/Kosovo Polje indicated that from 1999-2009, Romani, Ashkali and Egyptian students were enrolled in segregated classes in the local school: “From 1999-2009 we had segregated classes, which were dissolved last year. Now it’s mixed, but the classroom groups (for projects, etc.) can still be ethnically divided.”⁴⁸³

The same treatment occurred in Gjakovë/Djakovica’s Kolonia community. Egyptian children were placed in segregated classes until the community and a local educational organisation complained: “Currently there are no segregated classes, but there were previously – they [school officials] claimed this was a result of late registration.”⁴⁸⁴ Segregated classes were also reported to be a problem in Dubravë, in the Ferizaj/Uroševac municipality, until residents complained; now the classes are reported to be integrated.⁴⁸⁵

At the end of the 2009/2010 school year, segregated classes were reported to exist in the Roma Mahala in South Mitrovicë/Mitrovica and in Gjilan/Gnjilane, two areas close to Serbian enclaves. In Mitrovicë/Mitrovica, Roma who have been resettled in the Mahala attend Serbian school, despite speaking Albanian and Romani at home and living much closer to the Albanian schools. They were placed in several Roma-only classes. According to a local activist, parents of the children have objected to this but the school officials claimed it was necessary because they live in such difficult conditions (previously in the refugee camps and now in the rebuilt Roma Mahala) and they do not speak Serbian well.⁴⁸⁶

In Gjilan/Gnjilane, Romani children attend a Roma-only satellite school of the local Serbian primary school; it is located in a private house in one of the city’s Romani neighbourhoods. The children from the other Romani neighbourhood are also transported there by bus. The Serbian children go to the Serbian primary school located in a Serbian church in Gjilan/Gnjilane. The parents with whom the ERRC spoke reported being afraid to send their children to the main school because Albanians will see them. The children speak Romani at home. Their parents report that authorities may want to transfer them to the local Albanian schools: “Our kids go to Serbian school. I see an indication that the authorities want to transfer us to the Albanian schools, but it would probably be bad and cause more language problems. The preschool and kindergarten are in Serbian language.”⁴⁸⁷ Currently, most parents expect that their children will have problems and will need language support in Albanian schools. A community leader reported that they are reluctant

483 Interview with M.A. Fushë Kosovë/Kosovo Polje, Kosovo: 19 May 2010.

484 Interview with B. Thaçi, National Director of Bethany Christian Services, Gjakovë/Djakovica, Kosovo: 21 May 2010.

485 Interview with D. Ademi, an Ashkali political representative. Ferizaj/Uroševac, Kosovo: 25 May 2010.

486 Interview with a Romani activist, Mitrovicë/Mitrovica, Kosovo: 23 May 2010.

487 Interview with A.P. Gjilan/Gnjilane, Kosovo: 26 May 2010.

to transfer the children, proposing that it may be possible for the next generation: “OK, we know it’s Kosovo, we have to go to Albanian school.”⁴⁸⁸

6.5.4 DISCRIMINATION AND ABUSE

Romani, Ashkali and Egyptian children face discrimination and violence at school in Kosovo. Respondents noted that Romani, Ashkali and Egyptian children are bullied at school and are beaten up going to and coming from school. This is sometimes, but not always, a result of going to a Serbian school in an enclave.

In Prizren, it was reported that: “teachers and students still call Roma insulting names”.⁴⁸⁹ Romani activists report that discrimination negatively impacts the overall success of Romani, Ashkali and Egyptian students: “Some cases of discrimination are obvious here. Some situations are indirectly impacted by discrimination – such as increases in the drop out rate. There is a problem with the discussions between parents and the schools – the school gives them different information, indicates that the students face no problems.”⁴⁹⁰

Discrimination and exclusion was also noted to be a significant deterrent to school attendance. An Ashkali father in Lipjan/Lipljan reported that all of his children were going to school except his daughter. She stopped going to school because the other students found out about her ethnicity. At the beginning, her father recalled, the other children did not know her background and she was the best student, really bright and engaged, with many friends. However, when they found out, they began teasing and taunting her: “She was disappointed because her friends left her. She sat alone.”⁴⁹¹ As the only Ashkali student in the class, she found this impossible to bear. Her brothers did not mind the name-calling so much and continue to attend school, but this girl remained at home, unwilling to return or try another school. Her father explained: “This is the only school I know of, the other is far away. Even if I send her, I cannot keep their mouths shut. The teacher told me to send her to school, but even if the teacher said he would help, the teacher cannot be with her all the time.”⁴⁹²

If the Romani students in Gjilan/Gnjilane go to secondary school, they must travel by bus from the centre of the city to the Serbian enclaves. According to respondents the children often get beaten on the way to school because the local Albanians know that they are going to the Serbian school. They report that about 75 children from the community are currently in primary school and only 18 in secondary school.⁴⁹³

488 Interview with A.P. Gjilan/Gnjilane, Kosovo: 26 May 2010.

489 Interview with O.O. Prizren, Kosovo: 22 May 2010.

490 Interview with O.O. Prizren, Kosovo: 22 May 2010.

491 Interview with an Ashkali male. Lipjan/Lipljan, Kosovo: 24 May 2010.

492 Interview with an Ashkali male. Lipjan/Lipljan, Kosovo: 24 May 2010.

493 Interview with Romani man. Gjilan/Gnjilane, Kosovo: 26 May 2010.

Everyday, language presents a barrier for many Romani, Ashkali and Egyptian students in several ways. Many Romani, Ashkali and Egyptian families speak Romani at home. Unfortunately this poses a significant obstacle to their education, particularly in the mainstream schools of Kosovo: “They face discrimination; it’s not major, but it’s obvious that a Romani student cannot follow an academic career in the same way as his or her Serbian peers. They have to work on the language first, thus students often fall behind.”⁴⁹⁴

In majority Albanian areas, Romani, Ashkali and Egyptian children generally go to the Albanian school, but often need extra tutelage in grammar and standard Albanian. The Romani community often prefers to attend school in Serbian when the opportunity exists, but there may be pressure from the local Albanian authorities to integrate. The Roma often find themselves caught in the middle of competing interests.

6.5.5 ACCESS TO SECONDARY EDUCATION

In general, Roma, Ashkali and Egyptians have poor access to secondary education, although this appears to be gradually increasing. This can be attributed to a number of obstacles, including cost, foregone income and distance from the school, exacerbated by the low numbers of Romani, Ashkali and Egyptian children completing primary school.

The Action Plan (2009-2015) envisages “establish[ing] the school grant scheme for Romani, Ashkali and Egyptian communities” to increase the number of pupils completing primary and secondary education. A few scholarship schemes exist.⁴⁹⁵

Considering the high number of Romani, Ashkali and Egyptian families living in extreme poverty, the cost associated with secondary school is a significant obstacle for those students who wish to continue schooling after primary school. The cost of books and other educational supplies in addition to the foregone income from whatever work they might be able to find make attending secondary school an economic decision. As one respondent explained, they must balance investment in their children’s education with the urgent needs of the family: “I have a son who is 17-years-old and in intensive school, but I need him to make money.”⁴⁹⁶

Respondents also reported that few were interested in high school because of the lack of employment opportunities for high school graduates. In an area where many educated adults go out to seek temporary, informal labour work every day, there is little incentive to bear the costs and challenges of completing secondary school. Although some in the Romani community still prioritise education, it cannot ensure employment or security: “My older son graduated secondary school, my younger son will graduate this week. The secondary school is fine, our kids are all attending. The problem is that my older son graduated three years ago and still can’t find a job.”⁴⁹⁷

494 Interview with S.E. Prelluzhë/Priluzhje, Kosovo: 23 May 2010.

495 OSCE Mission in Kosovo, *Kosovo non-majority communities within the primary and secondary educational systems* (Prishtinë/Priština 2009). At that time they supported 84 students.

496 Interview with M.A. Magure/Goleš, Kosovo: 24 May 2010.

497 Interview with a 45-year-old Romani woman. Gjilan/Gnjilane, Kosovo: 26 May 2010.

6.5.6 ACCESS TO HIGHER EDUCATION

In the education section of the Action Plan, the first objective is to “create conditions for the continuation of education after compulsory education” and it includes the establishment of a “scholarship fund”. In 2008/9, the Prishtinë/Priština University reserved 134 seats for Kosovo Turk, Kosovo Bosniak, Roma, Ashkali and Egyptian candidates; 1.5% of the 8,970 slots open for registration. Of those, 38 were reserved for Roma, Ashkali and Egyptians. In 2009/2010 the number was increased to 58 and in 2010/2011 there were 68 places reserved for Romani, Ashkali and Egyptian students from a total of 206 allocated for minority communities.⁴⁹⁸

Some areas reported that there are no Romani, Ashkali and Egyptian students from their community in secondary school, let alone in university. In larger or more well-established communities some students do attend university. Still, in one of the largest settlements, Fushë Kosovë/Kosovo Polje, there are currently only 7 Romani, Ashkali or Egyptian university students from a community of between 4700 and 6000 people.⁴⁹⁹ In Prizren, 27 Romani, Ashkali and Egyptian students went to university in 2009.⁵⁰⁰

6.5.7 ROMA, ASHKALI AND EGYPTIANS ABSENT IN THE CURRICULUM

Despite provisions in the Action Plan to review and draft textbooks and “promote the values, heritage and identity of Romani, Ashkali and Egyptian communities”, between 2009 and 2011, neither the Albanian nor the Serbian educational system contained curricula and textbooks specific or adequately tailored to the culture and history of Roma, Ashkali and Egyptians. Moreover, educational textbooks focus on the dominant ethnic group (Albanians or Serbs) and provide for a biased presentation of history and culture.⁵⁰¹

Further, Romani, Ashkali and Egyptian communities have no access to community-specific educational subjects enabling the preservation of their identity or promotion and teaching of their culture, history and language.⁵⁰²

6.5.8 LANGUAGE

Various laws in Kosovo guarantee members of communities the right to receive public education in their own language. Schools or classes in the Romani language do not exist in the Kosovo education system, even though in 2011 the Ministry of Education adopted a new

498 OSCE Mission in Kosovo, *Communities Rights Assessment Report* (December 2009); OSCE Mission in Kosovo, *Kosovo non-majority communities within the primary and secondary educational systems* (Prishtinë/Priština 2009).

499 Interview with M.A. Fushë Kosovë/Kosovo Polje, Kosovo: 19 May 2010.

500 Interview with N.M. Prizren, Kosovo: 22 May 2010.

501 OSCE Mission in Kosovo, *Kosovo non-majority communities within the primary and secondary educational systems* (Prishtinë/Priština 2009).

502 Ministry of Education, Science and Technology, *Indicators and Statistical Data in Education 2004/05, 05/06, 06/07*, (Prishtinë/Priština 2008).

curriculum for Romani language classes.⁵⁰³ Only the Serbian education system occasionally provides classes in the Romani language; according to the OSCE, primary schools in Gjilan/Gnjilane, Kamenicë/Kamenica, Berivojcë/Berivojce (Kamenicë/Kamenica municipality), Northern Mitrovica/Mitrovicë, Ugljare/Uglar (Fushë Kosovë/Kosovo Polje municipality) and Janjevo/Janjevë (Lipjan/Lipljan municipality) offer Romani language classes.⁵⁰⁴

Relevant legislation in Kosovo requires municipalities to subsidise transportation to an area with minority language education if it is not available in a given location. Not all municipalities make this available to Roma, Ashkali and Egyptians, such as Podujevë/Podujevo. It was reported that other municipalities, such as Vushtri/Vučitrn, Fushë Kosovë/Kosovo Polje, Lipjan/Lipljan, Gjilan/Gnjilane, have offered this to students from communities, including Roma, Ashkali and Egyptians.⁵⁰⁵ However, more recent reports raise concerns indicating that Romani students living in South Mitrovica/Mitrovicë and in Magure/Goleš social housing are not provided transportation to schools where instruction is provided in their language.⁵⁰⁶ In May 2010, the ERRC spoke with a Romani boy whose family had been given a flat in the Magure/Goleš social housing building in 2006. When they moved to Magura, he attended the Serbian school in Lipjan/Lipljan for 4th and 5th grade, which he enjoyed very much. However his attendance was dependent on a local man who would give him a ride. When this man got a new job and could no longer offer transportation, the Romani boy was unable to travel to the Serbian school because no public transportation was available. Instead, he attended the local Albanian school, where he needed some time to learn to read and write again. After two years his mother died. Completing just the 7th grade, he left school to care for his father, who is ill.⁵⁰⁷

Returnees face particular language problems. Since many of their children were born and raised in a foreign country, they are not prepared for school in Albanian (or Serbian). Many of the children were extremely well integrated in the host society, especially in Germany, and come back speaking only German (and Romani). Not only is their education abruptly interrupted, they are also unprepared for transitioning to a new and foreign school environment without the necessary language skills. As of May 2010, the ERRC found no NGOs or schools that were running language support programmes aimed at integrating returnee children from Germany into schools.

503 OSCE Mission in Kosovo, *Implementation of the Action Plan on the Strategy for the Integration of the Roma, Ashkali and Egyptian Communities in Kosovo* (May 2011), available at: <http://www.osce.org/kosovo/77413>.

504 OSCE Mission in Kosovo, *Kosovo non-majority communities within the primary and secondary educational systems* (Prishtinë/Priština 2009).

505 OSCE Mission in Kosovo, *Kosovo non-majority communities within the primary and secondary educational systems* (Prishtinë/Priština 2009). In the Lipjan/Lipljan municipality transport is provided for students attending Serb language schools while the Ashkali in the village of Magure/Goleš who attend Albanian language schools do not receive transportation assistance.

506 OSCE, *Kosovo Community Profiles 2010*, 8 February 2011, available at: <http://www.osce.org/kosovo/75493>.

507 Interview with a Romani man. Magure/Goleš, Kosovo: 24 May 2010.

6.6 Health

6.6.1 LEGAL AND POLICY FRAMEWORK

The Law on the Protection and Promotion of the Rights of Communities requires equal access to health care without discrimination, including special measures for providing health care to vulnerable communities and monitoring the access to and delivery of health care for communities.⁵⁰⁸ Kosovo does not have any public health insurance. All persons in Serbian enclaves, irrespective of economic activity, have the right to health insurance from Serbia (all have a Serbian “health booklet”). Primary health care is provided free of charge in Serbia proper (for those with a Serbian health booklet) and Kosovo, although secondary and specialised health care might incur fees.

6.6.2 DESCRIPTION OF THE SITUATION

The health situation in many Romani, Ashkali and Egyptians communities is poor. Poor housing conditions create an environment conducive to declining health conditions for all members of these communities. Obstacles to hygiene and good nutrition abound, and in the cramped living conditions, people are more vulnerable to communicable illnesses. “As for health conditions, [...] the majority used to work. Now, unemployment has led to poor nutrition, health, disease, illness. It’s not just our community but also for the majority people here [...] but in our community it’s emphasised.”⁵⁰⁹

Across the board, Romani, Ashkali and Egyptians respondents reported that the cost of health care was an insurmountable barrier. Respondents indicated that although basic health services are adequate and open to them, they cannot afford medicine: “Although everyone must buy it, this disproportionately affects Roma, Ashkali and Egyptians, who cannot afford it, as they live in extreme poverty.”⁵¹⁰ Unfortunately, not only medicine is at times hard to get or costly; medical tests are also not affordable, as many respondents indicated.

Payments requested may not be just for medicines but also include additional payments or bribes for medical staff. This is an issue faced by the general population of Kosovo, but the overrepresentation of Roma, Ashkali and Egyptians among the poor means that they are less likely to be able to afford this. As a Romani activist in Prizren explained, these bribes are generally quite high and many people cannot afford to pay them: “My son recently

⁵⁰⁸ Law on the Protection and Promotion of the Rights of Communities, Article 10.

⁵⁰⁹ Interview with B.A. Prizren, Kosovo: 22 May 2010.

⁵¹⁰ Interview with M.A. Fushë Kosovë/Kosovo Polje, Kosovo: 19 May 2010. Respondents in other locations agreed that cost presents a significant barrier to accessing healthcare: “As regards healthcare, there is a public clinic, which they can access and most people go there but don’t have medicine. We have access to all of the Ferizaj/Uroševac institutions, but we cannot afford them.” Interview with Office for Communities Representative in Sallahane. Ferizaj/Uroševac, Kosovo: 25 May 2010. “[People in this community] have access to healthcare, but because of the bad economic situation, they cannot access treatment. For instance, they get prescriptions, but cannot buy the medicine. For surgeries, [the doctors] take as much money as you have. If you have no money, they don’t care.” Interview with N.M. Prizren, Kosovo: 22 May 2010.

needed surgery. I gave 50 EUR to the doctor, I gave 50 EUR to the anaesthesiologist, and I gave 20 or 30 EUR to each of the technicians. A surgery can cost you 100 or 200 EUR total. Most people don't have this."⁵¹¹

In areas near Serbian enclaves, segregated healthcare facilities can pose some challenges, particularly for the local Roma, Ashkali and Egyptians. Albanian and Serbian clinics and hospitals are separate. Generally, Roma, Ashkali and Egyptians choose which facilities to frequent based on language and the cost of the medicine, rather than location or distance. In most cases, Serbian facilities don't charge anything for most medicines or procedures,⁵¹² thus the more expensive Kosovo Albanian clinics are often not a reasonable option. Those who live nearby and can access Serbian clinics reported no problems: "Healthcare, if you get social assistance it's easy. You only need healthcare from the hospital. The unemployment office pays for healthcare. The free medicines are accessible."⁵¹³ The costs of healthcare are covered by the Serbian social welfare system in Serbian enclaves. Residents pay only a small participation fee and any sort of treatment or medicine is covered.

6.6.3 DISCRIMINATORY TREATMENT

Although most Roma, Ashkali and Egyptians report good access and treatment at healthcare institutions, distance to clinics does pose some issues. For example, accessing ambulance services is difficult. In some places, like the Albanian or Ashkali community in the city of Magure/Goleš, ambulances are reported to not come at all, since it is considered to be too far from the hospital. In other places, Serbian healthcare facilities don't have ambulances or, as in Gjilan/Gnjilane, they are unwilling to go to Albanian, Romani, Ashkali or Egyptian areas. In these cases, Roma, Ashkali and Egyptians are forced to pay for a taxi to go to a Serbian hospital, which is prohibitively expensive.⁵¹⁴

Some individuals reported that in the rare areas where someone from the community is employed in the health facility their treatment was very good, but in other places, treatment is likely to be more costly. One indicated: "If I go with my son, who is supposed to get a blood infusion, my sister works there, so I'm ok. If another person goes alone, [the doctor] says ok, no problem; but you have to pay."⁵¹⁵

A report from the Movement for Peace to the Ombudsman, based on UNDP research, asserted that there is discrimination against Roma, Ashkali and Egyptians in access to essential medicines.⁵¹⁶ The list of essential medicines, provided by the WHO and endorsed by the

⁵¹¹ Interview with N.M. Prizren, Kosovo: 22 May 2010.

⁵¹² Interview with S.E. Prelluzhë/Priluzhje, Kosovo: 23 May 2010; Interview with V.K. Plemetin/Plemetina, Kosovo: 23 May 2010; Interview with A.P. Gjilan/Gnjilane, Kosovo: 26 May 2010; two interviews with Romani men. Mitrovicë/Mitrovica, Kosovo: 27 May 2010.

⁵¹³ Interview with S.G. Leposaviq/Leposavič camp, Kosovo: 23 May 2010.

⁵¹⁴ Interview with a Romani man. Gjilan/Gnjilane, Kosovo: 26 May 2010.

⁵¹⁵ Interview with N.M. Prizren, Kosovo: 22 May 2010.

⁵¹⁶ Movement for Peace and Center for Legal Aid and Regional Development, Project "Strategic Litigation on Anti-discrimination and Minority Rights", 16 September 2009.

Ministry of Health, dictates which basic medicines should be provided free of charge. These medicines are requested by each municipality according to their need, but between delivery and dispersal, many are reportedly stolen to be sold to private clinics. Thus, people have to pay for the few that remain either at the State clinic or at the private clinic. Although this is an issue facing everyone in Kosovo, Roma, Ashkali and Egyptians report paying twice as often. ERRC research respondents agreed that this kind of treatment is widespread and, in their experience, most people from the Romani, Ashkali and Egyptian communities pay for these medicines: “It’s true that there is discrimination. Every problem is harder on minorities. [...] Each ambulance has a pharmacy and a list of free medicines, but these are rarely given to people. They say ‘We don’t have it. We have to buy it.’”⁵¹⁷

⁵¹⁷ Interview with B.A. Prizren, Kosovo: 22 May 2010.

7 Conclusions

Roma, Ashkali and Egyptians are the most vulnerable communities in Kosovo today. They face disadvantages in all areas of life. Suffering collateral damage during the Kosovo ethnic conflict, many Roma, Ashkali and Egyptians remain displaced, unable to return to their former homes, do not trust a justice system which has failed them and are afraid of the resurgence of inter-ethnic tensions. Despite the existence of an almost ideal legal, policy and institutional framework in Kosovo (created in large part by the international community), a lack of information, implementation and inadequate representation of Roma, Ashkali and Egyptians in public and private institutions undermine the realisation of equality and the protections prescribed. The Strategy for the Integration of the Romani, Ashkali and Egyptian Communities in Kosovo and the associated Action Plan have not been adequately implemented.

7.1 Housing

Housing conditions remain one of the most problematic areas of life for Roma, Ashkali and Egyptians in Kosovo. The majority live in informal settlements, characterised by segregation, a lack of basic infrastructure and overcrowding. Violence in 1999 and 2004 forced many people to flee as their property was destroyed and their lives were threatened. Today, many of Roma, Ashkali and Egyptians remain displaced and face obstacles to return to and reconstruct their homes.

Roma, Ashkali and Egyptians from informal settlements whose property was destroyed or who were forced out of their houses were victimised twice. Since the war, authorities have often rejected their appeals to return to or rebuild their former houses, citing the lack of property documents. To date, there have been only a few social housing projects undertaken to include or target Roma, Ashkali and Egyptians. These projects are not adequate to provide for the number of Roma, Ashkali and Egyptians in need of social housing. In addition places allocated for Roma, Ashkali or Egyptians have been given to members of the majority community. The living conditions in these isolated buildings have deteriorated quickly, putting the health of residents at risk.

For returnees, housing presents a particular problem. Roma, Ashkali and Egyptians who were displaced face obstacles to returning to their homes or communities like security concerns and illegal occupiers. The right to reclaim or rebuild homes is undermined by a lack of property documents, and was previously impeded by inadequate information and problems with freedom of movement. Discrimination against Roma, Ashkali and Egyptians in access to return assistance and reconstruction permission was also reported.

Finally, the desperate conditions in IDP camps, which remain after more than a decade, demonstrate the inadequacy of the response of Government bodies and international organisations. More than a decade after the conflict, two camps remain: Leposaviq/Leposavič

and the lead-contaminated camp Osterode, in North Mitrovicë/Mitrovica. The location and conditions in the camps negatively affect the health of residents, which include pregnant women, the elderly and children.

7.2 Returns

As the majority of Kosovo's Roma, Ashkali and Egyptians still lives outside the country, and many others are displaced within the country, their impending return represents a significant concern in the absence of adequate and comprehensive support for the transition and reintegration of returnees. Conditions in Kosovo are inadequate to provide for their needs even at the present rate of return. Many Romani, Ashkali and Egyptian returnees leave Kosovo again immediately upon return, demonstrating the dire conditions facing individuals returned to Kosovo.

Returnees, whether forced or voluntary, face persistent barriers to resettlement including the aforementioned housing and reconstruction issues, lack of security as well as poor social and economic conditions. Returnees are not offered adequate support upon return: only one programme supports returnees from Western Europe.

Individuals who are suddenly returned to Kosovo are particularly vulnerable and unprepared for the transition and the conditions they will face, as many have lived in precarious situations for many years with only a temporary hold on their deportation. Among such individuals, many have not had access to employment, have lived with the constant fear of deportation and, consequently, have lived in extremely marginalised conditions for more than a decade.

7.3 Safety, Security and Access to Justice

Roma, Ashkali and Egyptians perceive themselves to be treated differently by the Kosovo Police Service, among whom they are not adequately represented. Individuals reported discriminatory treatment by police, a lack of trust in police to conduct objective investigations and a reluctance to lodge complaints for fear of reprisal. They also face violence and intimidation from private citizens, which limits their confidence in speaking and moving freely. Even today, Romani, Ashkali and Egyptian individuals are cautious and reluctant to express their safety concerns.

In Kosovo, access to justice remains elusive for Romani, Ashkali and Egyptian communities. Many of the persons responsible for inter-ethnic crimes enjoy impunity, including those committed against Roma, Ashkali and Egyptians.

7.4 Employment

Described by many Roma, Ashkali and Egyptians as the biggest problem they face, the unemployment rate is highest among these communities in Kosovo. Although many Roma, Ashkali

and Egyptians were previously employed, the privatisation process eliminated a significant number of jobs. The high unemployment rate today is due in part to lower levels of education and qualification, and in part to discrimination. Thus, many Roma, Ashkali and Egyptians live in poverty, turning to informal, seasonal employment; collecting garbage for recycling; or surviving on social assistance or remittances from abroad.

Discrimination is perceived as a significant obstacle to employment. Romani, Ashkali and Egyptian job applicants reported being passed over for Albanians and seeing the jobs allocated for Kosovo communities go to Serbs only. Despite the existence of quotas, Roma, Ashkali and Egyptians are underrepresented in public sector employment and in publicly-owned enterprises, including in the Kosovo Police Service.

7.5 Education

Levels of education among Roma, Ashkali and Egyptians in Kosovo are below average; many children, especially girls, don't finish compulsory primary school and even fewer access secondary school. Literacy rates are low, and more alarmingly, appear to be decreasing, particularly among Romani, Ashkali and Egyptian women. Poverty and foregone income are significant barriers to education, particularly secondary or higher education, which is often located further away from home, entails a higher cost and the sacrifice of a potential earner. Although Roma, Ashkali and Egyptians can access secondary and higher education, and quotas are allocated for them in the latter, in practice, these opportunities are difficult for many students to access.

Segregation in education remains an issue for Roma, Ashkali and Egyptians, both in schools following the Kosovo curriculum and those that follow the Serbian curriculum. In several communities, segregation through separate schools, separate classrooms or within the classroom was reported, either justified by segregated residential patterns, the "difficult" living conditions of the Romani, Ashkali or Egyptian students or the allegation that those students had enrolled late. Several communities indicated that they had to complain to authorities repeatedly before the schools were fully integrated.

Romani, Ashkali and Egyptian children face discrimination, as well as verbal and physical abuse at school. Insults are common from other students and teachers, and Romani, Ashkali and Egyptian children are bullied in school or while going to and from school.

There is a lack of accurate information about Roma, Ashkali and Egyptians in the mainstream curriculum. Many face language issues because their home language is different from the language used in school. Among the returnees from Western Europe are many children who have grown up speaking and attending school in German and know little or no Albanian or Serbian. For a series of reasons, including the absence of basic language support, trouble with identification documents and school registration, fear and unstable living arrangements, many of these children do not enrol in school in Kosovo.

7.6 Health

Health among Roma, Ashkali and Egyptians is generally poor, worsened by poor nutrition and cramped homes which lack adequate infrastructure. Roma, Ashkali and Egyptians report being generally able to access medical facilities and healthcare, but ambulances are unwilling to visit some communities. High costs for treatment, medicines and ambulances remain the greatest obstacles. Although many people in Kosovo are unable to afford medicines, the cost disproportionately poses a barrier to Roma, Ashkali and Egyptians. Some Roma, Ashkali and Egyptians also reported facing discriminatory or substandard treatment at healthcare institutions. Discrimination was noted in the access of Roma, Ashkali and Egyptians to basic essential medicines.

8 Recommendations

Based on the findings of this report and joining with other international and Kosovar organisations, the following recommendations on how the situation of Roma, Ashkali and Egyptians might be improved are provided:

8.1 To European Governments:

- Work with Kosovo authorities to develop and implement adequate programmes of support and security to all returnees to Kosovo, ensuring full and equal access by Roma, Ashkali and Egyptians; and
- Temporarily halt forced returns to Kosovo, pending the stabilisation of conditions in Kosovo, the dismantling of all IDP camps and the implementation of support/reception programmes for all returnees in Kosovo.

8.2 To National Authorities in Kosovo:

- Fully and proactively implement the extensive rights and legal protections provided under Kosovo law;
- Disseminate information about the Strategy for the Integration of Romani, Ashkali and Egyptian Communities in Kosovo to all Romani, Ashkali and Egyptian communities, including those displaced within Kosovo, in the region and in Western Europe. Allocate adequate funds to implement the Strategy;
- Immediately evacuate the residents of the Osterode and Leposaviq/Leposavič IDP camps to safe locations and provide sustainable long-term housing solutions for all residents;
- Support the access of Roma, Ashkali and Egyptians, including returnees, to their former properties: reintroduce measures to accept alternative forms of property identification such as those suggested by the UNMIK Housing Reconstruction Guidelines; promptly assist in resolving property issues such as the presence of occupiers; waive property registration fees;
- Carry out individual assessments of potential returnees and ensure that opportunities and reintegration support is provided, in accordance with UNHCR guidelines;
- Increase relocation and reintegration support for returnees by supporting and advising municipalities in the development and implementation of strategies which prioritise the socio-economic integration of returnees;
- Improve technical co-operation in the areas of justice, property rights registration, education, healthcare and other public services with Serbia's institutions to better protect the rights of displaced persons;
- Train judges and prosecutors to effectively incorporate human rights standards and principles of non-discrimination in investigations and legal cases;
- Train and employ more Roma, Ashkali and Egyptians as police officers to build trust and good relationships between the communities and Kosovo police;

- Invest in training programmes and positive action programmes to boost employment of Romani, Ashkali and Egyptian men and women in professional positions in the public and private sectors;
- Implement policies and programmes to ensure quality education is enjoyed by all children in Kosovo, particularly to overcome poverty-related barriers to education;
- Undertake proactive measures to ensure no segregated education exists in Kosovo; and
- Ensure the free provision of essential basic medicines, particularly to persons accessing social assistance.

8.3 To Local Authorities in Kosovo:

- Support civil registration among Roma, Ashkali and Egyptians, removing barriers such as fees, burdensome document requirements and lack of information;
- Request funds for supporting the reintegration needs of returnees and ensure the prompt allocation of such funds from the municipal budget to reintegration plans for returnees;
- Facilitate the legalisation of properties through providing official documentation, waiving fees charged for property documents to Roma, Ashkali and Egyptians for existing properties and including all settlements in urban development plans;
- Provide social housing to those in need, particularly vulnerable communities, including the Roma, Ashkali and Egyptians. Ensure that housing is of good quality, is well maintained and promotes integration;
- Employ Roma, Ashkali and Egyptians in municipal jobs, in all levels of public administration, to meet at least the minimum standards of employment for communities set out by law;
- Ensure enrolment of all children in compulsory education. Actively reach out to the community, address barriers to enrolment and offer supplemental educational support (particularly language support where needed); and
- Allocate sufficient finances and monitor the provision of healthcare to ensure that essential basic medicines reach vulnerable populations, such as Roma, Ashkali and Egyptians.

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The European Roma Rights Centre (ERRC) is an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma. The approach of the ERRC involves strategic litigation, international advocacy, research and policy development and training of Romani activists. The ERRC has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations.

Roma, Ashkali and Egyptians are among the most vulnerable of the communities in Kosovo. More than 10 years after the ethnic conflict in Kosovo they remain marginalised and unable to rebuild their lives. In Kosovo, many live in segregated informal settlements offering substandard, overcrowded conditions. Many are displaced, unable to rebuild and return to their original homes. Several IDP camps and social housing complexes housing members of these groups continue to provide unhealthy and even toxic conditions. Unemployment is one of the biggest problems facing Roma, Ashkali and Egyptian communities. Privatisation, lack of education and professional qualifications and discrimination all represent obstacles to work. Minority quotas in public and private employment are often filled by other groups. Many Roma, Ashkali and Egyptian pupils do not complete primary school and very few access secondary school or tertiary education. Access to education is compromised by serious poverty and school segregation is a problem in some places. The unaffordable cost of medicines, substandard or discriminatory treatment and inadequate service from ambulances contribute to poor health conditions among Roma, Ashkali and Egyptian communities. Violence and intimidation remain concerns among Roma, Ashkali and Egyptians, as does the lack of justice for past crimes committed against them. A great number of Roma, Ashkali and Egyptians remain outside Kosovo, facing forced return to a place unprepared to support their integration. Kosovo's excellent legal, policy and institutional framework to support Roma inclusion is undermined by inadequate information, funding, implementation and insufficient employment in public and private institutions of Roma, Ashkali and Egyptians.

CHALLENGING DISCRIMINATION PROMOTING EQUALITY