

UNITED NATIONS
United Nations Interim
Administration Mission
in Kosovo



NATIONS UNIES
Mission d'Administration
Intérimaire des Nations Unies
au Kosovo

12 February 2013

Dear Ms. Chanet,

Reference is made to your letter dated 12 November 2012 regarding follow-up to examination of the report submitted by the United Nations Interim Administration Mission in Kosovo on the human rights situation in Kosovo since June 1999 and to my letter of 13 February 2012 providing the Human Rights Committee with additional information about follow-up to its recommendations in paragraphs 13 and 18 of the Committee's Concluding Observations.

UNMIK acknowledges that during its 106th Session the Human Rights Committee analyzed the complementary replies and decided to request further information on the access of the relatives of disappeared or abducted persons to information on their fate and to adequate reparation (para. 13 CCPR/C/UNK/CO/1) as well as on the actions taken to create the conditions of security that are necessary for the sustainable return of displaced persons (para. 18).

UNMIK has been liaising with other actors involved in the promotion of human rights in Kosovo and has prepared the attached documents in reply.

In submitting this document, UNMIK does not, in any way, purport to make any comment on the status of Kosovo, in line with UNMIK's mandate under Security Council Resolution 1244 (1999).

Please be assured of UNMIK's full commitment to continue to cooperate with the Human Rights Committee.

Yours sincerely,

Farid Zarif

Special Representative of the Secretary-General

Ms. Christine Chanet
Special Rapporteur for Follow-up on Concluding Observations
Human Rights Committee
Palais des Nations
Geneva

OHCHR REGISTRY

12 FEB. 2013

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Access of the relatives of disappeared or abducted persons to information on their fate and to adequate reparation (paragraph 13)

1. The EULEX forensic experts have handed over the remains of 330 victims to families so far. Of these, 250 were formerly missing persons. About 80 are subject to ongoing criminal investigations. This is the result of almost 380 field operations and an intense case review of the unidentified remains held at the Pristina mortuary, which has yielded more than 40 new identifications.
2. There are still 1760 persons missing from the Kosovo conflict which is the reason why EULEX assists the Department of Forensic Medicine (DFM) of the Kosovo Ministry of Justice in its intensive efforts to determine the fate of the Missing. Additionally, EULEX/DFM coordinates intensively with family associations, individual families and several other stakeholders in order to exchange information. Nevertheless, access to information is enshrined in the Law on Missing Persons (Law No.04/L.023). Article 5 notes, *inter alia*, that this right is to be safeguarded by the Government Commission on Missing Persons.
3. With regard to access to adequate reparation, Article 6, paragraph 4 of the abovementioned Law which provides: "A family member of the missing person, who can prove his or her material dependency on the incomes of the missing person may apply to the Basic Court of the last residence address of the missing person to receive a payment from the properties of the missing person so that the family member could fulfill their needs."

"OHCHR special rapporteurs" Actions taken to create safe conditions for the sustainable return of the displaced persons (para. 18)

4. EULEX is actively operating within the framework of the Kosovo Property Claims Commission (KPCC) and a staff of EULEX assists the mass claims processing mechanism in the field of post-conflict property restitution under KPA/KPCC portfolio.
5. Two EULEX judges are assigned to work in the Supreme Court KPA Appeal Panel and they adjudicated more than 300 cases since the moment the said Panel became functional on 15 March 2011.
6. EULEX judges are also exercising their authorities in property related civil cases since the Mission became operational in December 2008 and in cases falling under the jurisdiction of the Special Chamber of the Supreme Court of Kosovo (SCSC – more than 240 decisions have been finalized by SCSC EULEX judges sitting in mixed panels in the past 6 months). In many of such cases justice was brought in situations concerning the rights of displaced persons, hence indirectly improving the conditions for their sustainable return in Kosovo.

7. In response to the most significant security incidents affecting returnees, their property or sites of religious and cultural heritage, and in an effort to combat the resulting negative perceptions of security among (potential) returnees, international organizations issue public condemnations strongly urging Kosovo institutions to take swift and decisive actions to enhance the security of returnees, as well as to reach out to the affected community.
8. The OSCE implements training and capacity building activities to enhance the effective functioning of community protection mechanisms – notably the Municipal Community Safety Councils (MCSCs) and Local Public Safety Committees (LPSCs) that are established at municipal level to improve information sharing on security incidents and to co-ordinate follow-up action between relevant stakeholders at the local level are backed with trainings and capacity building activities. In addition, the OSCE implements activities aimed at enhancing the effectiveness of community policing, including in returns sites.
9. Where there is resistance to the returns process among receiving communities, due to allegations of unresolved war crimes or missing persons cases, international organizations, namely UNHCR, OSCE, UNMIK, Danish Refugee Council, etc. facilitate inter-ethnic dialogue activities to improve inter-community relations and reinvigorate the returns process. One such activity was successfully implemented in the village of Nerodime e Epërme/Gornje Nerodimlje in December 2011. OSCE has designed to implement similar activities across Kosovo in 2013.
10. UNMIK and OSCE monitor freedom of movement of communities, including returnees, notably through reports on the provision of humanitarian bus transportation (HBT) by Kosovo institutions. Through targeted interventions, the OSCE has secured the reinstatement of two suspended HBT lines to areas servicing members of non-majority communities.
11. UNMIK, OSCE, EULEX, UNHCR, OHCHR, etc. have a monthly meeting that discusses the trends of minority related crimes and security incidents. The group collects data and discusses mechanisms to curb the problem. It also brings its findings to the attention of the Kosovo authorities to take action and solve the problem in order to create a safe and secure environment.