

ANNEX 1

Initial report of SERBIA

CERD/C/SRB/1

Population by Sex and Age															
Republic of Serbia, 2002															
Age															
Ethnicity	Sex	Total	Total %	0-19	0-19 %	20-39	20-39 %	40-59	40-59 %	60 and more	60 and more %	80 and more	80 and more %	Unknown	Unknown %
Sum Total	Total	7498001		1672421		1979451		2113919		1684289				47921	
Sum Total	Male	3645930		857616		992973		1040717		732306		53320		22318	
Sum Total	Female	3852071		814805		986478		1073202		951983		92157		25603	
Serb	Total	6212838	82.9	1358514	81.2	1639862	82.8	1760968	83.3	1421165	84.4	118895	81.7	32329	67.5
Serb	Male	3030356	83.1	696556	81.2	825373	83.1	870276	83.6	623330	85.1	44345	83.2	14821	66.4
Serb	Female	3182482	82.6	661958	81.2	814489	82.6	890692	83.0	797835	83.8	74550	80.9	17508	68.4
Montenegrin	Total	69049	0.9	14113	0.8	18121	0.9	21191	1.0	15420	0.9	1082	0.7	204	0.4
Montenegrin	Male	37923	1.0	7691	0.9	10065	1.0	12016	1.2	8038	1.1	497	0.9	113	0.5
Montenegrin	Female	31126	0.8	6422	0.8	8056	0.8	9175	0.9	7382	0.8	585	0.6	91	0.4
Yugoslav	Total	80721	1.1	17869	1.1	23224	1.2	24565	1.2	14878	0.9	1425	1.0	185	0.4
Yugoslav	Male	37481	1.0	9058	1.1	10695	1.1	11258	1.1	6384	0.9	592	1.1	86	0.4
Yugoslav	Female	43240	1.1	8811	1.1	12529	1.3	13307	1.2	8494	0.9	833	0.9	99	0.4
Albanian	Total	61647	0.8	24460	1.5	18439	0.9	10931	0.5	6735	0.4	595	0.4	1082	2.3
Albanian	Male	31245	0.9	12729	1.5	9144	0.9	5460	0.5	3426	0.5	264	0.5	486	2.2
Albanian	Female	30402	0.8	11731	1.4	9295	0.9	5471	0.5	3309	0.3	331	0.4	596	2.3
Bosniak	Total	136087	1.8	47430	2.8	40533	2.0	30876	1.5	15989	0.9	1243	0.9	1259	2.6
Bosniak	Male	67171	1.8	24446	2.9	19122	1.9	15236	1.5	7793	1.1	565	1.1	574	2.6
Bosniak	Female	68916	1.8	22984	2.8	21411	2.2	15640	1.5	8196	0.9	678	0.7	685	2.7
Hungarian	Total	293299	3.9	55416	3.3	71264	3.6	89531	4.2	76493	4.5	9017	6.2	595	1.2
Hungarian	Male	138165	3.8	28382	3.3	36072	3.6	43431	4.2	29998	4.1	2688	5.0	282	1.3
Hungarian	Female	155134	4.0	27034	3.3	35192	3.6	46100	4.3	46495	4.9	6329	6.9	313	1.2

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Muslim	Total	19503	0.3	4966	0.3	5861	0.3	5670	0.3	2865	0.2	179	0.1	141	0.3
Muslim	Male	9772	0.3	2582	0.3	2909	0.3	2797	0.3	1411	0.2	82	0.2	73	0.3
Muslim	Female	9731	0.3	2384	0.3	2952	0.3	2873	0.3	1454	0.2	97	0.1	68	0.3
Bulgarian	Total	20497	0.3	2825	0.2	4170	0.2	5745	0.3	7567	0.4	866	0.6	190	0.4
Bulgarian	Male	10669	0.3	1458	0.2	2349	0.2	3152	0.3	3641	0.5	392	0.7	69	0.3
Bulgarian	Female	9828	0.3	1367	0.2	1821	0.2	2593	0.2	3926	0.4	474	0.5	121	0.5
Bunjevac	Total	20012	0.3	3002	0.2	4334	0.2	6486	0.3	6158	0.4	656	0.5	32	0.1
Bunjevac	Male	9306	0.3	1560	0.2	2310	0.2	3180	0.3	2244	0.3	179	0.3	12	0.1
Bunjevac	Female	10706	0.3	1442	0.2	2024	0.2	3306	0.3	3914	0.4	477	0.5	20	0.1
Vlach	Total	40054	0.5	6723	0.4	7897	0.4	10684	0.5	14384	0.9	1626	1.1	366	0.8
Vlach	Male	19685	0.5	3519	0.4	4430	0.4	5589	0.5	5982	0.8	564	1.1	165	0.7
Vlach	Female	20369	0.5	3204	0.4	3467	0.4	5095	0.5	8402	0.9	1062	1.2	201	0.8

Population by Sex and Age															
Republic of Serbia, 2002															
Age															
Ethnicity	Sex	Total	Total %	0-19	0-19 %	20-39	20-39 %	40-59	40-59 %	60 and more	60 and more %	80 and more	80 and more %	Unknown	Unknown %
Gorani	Total	4581	0.1	1374	0.1	1677	0.1	1053	0.0	457	0.0	15	0.0	20	0.0
Gorani	Male	2365	0.1	709	0.1	855	0.1	558	0.1	232	0.0	9	0.0	11	0.0
Gorani	Female	2216	0.1	665	0.1	822	0.1	495	0.0	225	0.0	6	0.0	9	0.0
Greek	Total	572	0.0	65	0.0	122	0.0	166	0.0	205	0.0	22	0.0	14	0.0
Greek	Male	297	0.0	36	0.0	71	0.0	92	0.0	88	0.0	10	0.0	10	0.0
Greek	Female	275	0.0	29	0.0	51	0.0	74	0.0	117	0.0	12	0.0	4	0.0
Egyptian	Total	814	0.0	339	0.0	280	0.0	147	0.0	41	0.0	2	0.0	7	0.0
Egyptian	Male	452	0.0	195	0.0	141	0.0	86	0.0	26	0.0	1	0.0	4	0.0

Egyptian	Female	362	0.0	144	0.0	139	0.0	61	0.0	15	0.0	1	0.0	3	0.0
Jew	Total	1158	0.0	126	0.0	205	0.0	395	0.0	430	0.0	110	0.1	2	0.0
Jew	Male	461	0.0	61	0.0	88	0.0	164	0.0	148	0.0	38	0.1	0	0.0
Jew	Female	697	0.0	65	0.0	117	0.0	231	0.0	282	0.0	72	0.1	2	0.0
Macedonian	Total	25847	0.3	2893	0.2	6057	0.3	10225	0.5	6596	0.4	519	0.4	76	0.2
Macedonian	Male	11627	0.3	1564	0.2	2632	0.3	4221	0.4	3185	0.4	258	0.5	25	0.1
Macedonian	Female	14220	0.4	1329	0.2	3425	0.3	6004	0.6	3411	0.4	261	0.3	51	0.2
German	Total	3901	0.1	405	0.0	632	0.0	986	0.0	1857	0.1	243	0.2	21	0.0
German	Male	1625	0.0	204	0.0	380	0.0	466	0.0	565	0.1	32	0.1	10	0.0
German	Female	2276	0.1	201	0.0	252	0.0	520	0.0	1292	0.1	211	0.2	11	0.0
Roma	Total	108193	1.4	44504	2.7	33025	1.7	21332	1.0	7379	0.4	285	0.2	1953	4.1
Roma	Male	54531	1.5	22584	2.6	16976	1.7	10811	1.0	3256	0.4	117	0.2	904	4.1
Roma	Female	53662	1.4	21920	2.7	16049	1.6	10521	1.0	4123	0.4	168	0.2	1049	4.1
Romanian	Total	34576	0.5	6878	0.4	8994	0.5	9376	0.4	8880	0.5	1136	0.8	448	0.9
Romanian	Male	15787	0.4	3557	0.4	3889	0.4	4508	0.4	3718	0.5	393	0.7	115	0.5
Romanian	Female	18789	0.5	3321	0.4	5105	0.5	4868	0.5	5162	0.5	743	0.8	333	1.3
Russian	Total	2588	0.0	220	0.0	870	0.0	674	0.0	731	0.0	82	0.1	93	0.2
Russian	Male	684	0.0	116	0.0	147	0.0	163	0.0	252	0.0	16	0.0	6	0.0
Russian	Female	1904	0.0	104	0.0	723	0.1	511	0.0	479	0.1	66	0.1	87	0.3
Ruthenian	Total	15905	0.2	3055	0.2	3931	0.2	4736	0.2	4155	0.2	466	0.3	28	0.1
Ruthenian	Male	7682	0.2	1592	0.2	1998	0.2	2398	0.2	1683	0.2	170	0.3	11	0.0
Ruthenian	Female	8223	0.2	1463	0.2	1933	0.2	2338	0.2	2472	0.3	296	0.3	17	0.1
Slovak	Total	59021	0.8	11591	0.7	14969	0.8	17973	0.9	14361	0.9	1465	1.0	127	0.3
Slovak	Male	28178	0.8	5888	0.7	7797	0.8	8801	0.8	5640	0.8	496	0.9	52	0.2
Slovak	Female	30843	0.8	5703	0.7	7172	0.7	9172	0.9	8721	0.9	969	1.1	75	0.3

Population by Sex and Age															
Republic of Serbia, 2002															
Age															
Ethnicity	Sex	Total	Total %	0-19	0-19 %	20-39	20-39 %	40-59	40-59 %	60 and more	60 and more %	80 and more	80 and more %	Unknown	Unknown %
Slovenian	Total	5104	0.1	406	0.0	688	0.0	1611	0.1	2385	0.1	336	0.2	14	0.0
Slovenian	Male	1979	0.1	206	0.0	337	0.0	683	0.1	749	0.1	96	0.2	4	0.0
Slovenian	Female	3125	0.1	200	0.0	351	0.0	928	0.1	1636	0.2	240	0.3	10	0.0
Turk	Total	522	0.0	110	0.0	140	0.0	168	0.0	99	0.0	12	0.0	5	0.0
Turk	Male	302	0.0	65	0.0	71	0.0	100	0.0	62	0.0	7	0.0	4	0.0
Turk	Female	220	0.0	45	0.0	69	0.0	68	0.0	37	0.0	5	0.0	1	0.0
Ukrainian	Total	5354	0.1	949	0.1	1544	0.1	1499	0.1	1325	0.1	96	0.1	37	0.1
Ukrainian	Male	2339	0.1	465	0.1	688	0.1	675	0.1	505	0.1	26	0.0	6	0.0
Ukrainian	Female	3015	0.1	484	0.1	856	0.1	824	0.1	820	0.1	70	0.1	31	0.1
Croat	Total	70602	0.9	9392	0.6	15077	0.8	22746	1.1	23196	1.4	2126	1.5	191	0.4
Croat	Male	28727	0.8	4777	0.6	7008	0.7	9141	0.9	7728	1.1	560	1.1	73	0.3
Croat	Female	41875	1.1	4615	0.6	8069	0.8	13605	1.3	15468	1.6	1566	1.7	118	0.5
Czech	Total	2211	0.0	304	0.0	459	0.0	742	0.0	696	0.0	111	0.1	10	0.0
Czech	Male	971	0.0	167	0.0	237	0.0	314	0.0	249	0.0	28	0.1	4	0.0
Czech	Female	1240	0.0	137	0.0	222	0.0	428	0.0	447	0.0	83	0.1	6	0.0
Šokac	Total	717	0.0	51	0.0	121	0.0	218	0.0	327	0.0	38	0.0	0	0.0
Šokac	Male	260	0.0	25	0.0	55	0.0	80	0.0	100	0.0	10	0.0	0	0.0
Šokac	Female	457	0.0	26	0.0	66	0.0	138	0.0	227	0.0	28	0.0	0	0.0
Ashkali	Total	584	0.0	233	0.0	171	0.0	132	0.0	45	0.0	5	0.0	3	0.0
Ashkali	Male	302	0.0	121	0.0	79	0.0	72	0.0	30	0.0	5	0.0	0	0.0
Ashkali	Female	282	0.0	112	0.0	92	0.0	60	0.0	15	0.0	0	0.0	3	0.0
Aromanian	Total	293	0.0	37	0.0	57	0.0	108	0.0	89	0.0	9	0.0	2	0.0
Aromanian	Male	137	0.0	12	0.0	30	0.0	57	0.0	38	0.0	3	0.0	0	0.0

Aromanian	Female	156	0.0	25	0.0	27	0.0	51	0.0	51	0.0	6	0.0	2	0.0
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Table 1

Table 2

<p align="center">OVERVIEW OF THE TOTAL ALLOCATED BUDGET RESOURCES PER MUNICIPALITIES AT THE SOUTH OF THE CENTRAL SERBIA IN THE PERIOD BETWEEN DECEMBER 16, 2000 TO DECEMBER 31, 2008</p>										
MUNICIPALITY	2000	2001	2002	2003	2004	2005	2006	2007	2008	TOTAL
PREŠEVO	33,054,000.00	138,288,117.00	145,288,083.05	274,460,660.90	64,829,539.39	181,518,280.00	207,403,690.98	75,856,534.30	80,565,282.70	1,201,264,188.32
BUJANOVAC	31,455,000.00	139,116,899.10	319,705,609.78	248,390,719.71	64,451,172.66	111,607,267.86	234,209,224.32	156,754,066.24	146,417,791.31	1,452,107,750.98
MEDVEDA	19,999,960.00	148,687,705.01	408,529,763.33	360,157,376.00	99,349,624.40	123,210,917.88	174,330,000.00	53,725,034.57	73,533,386.86	1,461,523,768.05

TOTAL	84,508,960.00	426,092,721.11	873,523,456.16	883,008,755.71	228,630,336.45	416,336,465.74	615,942,915.30	286,335,635.11	300,516,460.87	4,114,895,706.45
OTHER MUNICIPALITIES		43,741,070.73	44,550,097.90	34,634,999.62	11,269,600.00	126,787,638.54	17,142,573.93	27,544,571.05	27,575,388.57	333,245,940.34
SUM TOTAL	84,508,960.00	469,833,791.84	918,073,554.06	917,643,755.33	239,899,936.45	543,124,104.28	633,085,489.23	313,880,206.16	328,091,849.44	4,448,141,646.79

Table 3

CONCLUDED MARRIAGES BY ETHNICITY OF GROOM AND BRIDE, 2007.

Ethnicity of Bride	Total	Ethnicity of Groom								
		Serbian	Montenegrin	Yugoslav	Albanian	Bosniak	Bulgarian	Vlach	Hungarian	Macedonian
REPUBLIC OF SERBIA										
Total	41083	34369	211	93	700	1306	83	15	1309	104
Serbian	34246	32752	141	47	8	20	31	8	193	75
Montenegrin	205	140	41	1	-	1	-	-	6	1
Yugoslav	87	43	-	31	-	-	-	-	3	-
Albanian	694	22	-	-	661	1	-	-	1	-
Bosniak	1279	13	1	-	2	1249	-	-	1	-
Bulgarian	95	40	-	-	-	-	50	-	2	-
Vlach	4	1	-	-	-	-	-	3	-	-
Hungarian	1485	349	11	6	2	-	1	-	995	6
Macedonian	114	83	-	-	1	-	-	-	2	17
Muslim	303	42	1	1	3	-	-	-	3	-
Roma	600	38	-	1	1	1	1	1	7	3
Romanian	173	81	-	1	-	-	-	3	1	-
Ruthenian	80	31	3	-	-	-	-	-	6	-
Slovak	315	103	2	2	-	1	-	-	9	-
Croats	303	130	3	1	-	2	-	-	31	-
Other	531	317	7	-	15	30	-	-	28	1
Undeclared and undecided	74	34	-	1	-	-	-	-	5	-
Regional affiliation	20	8	1	-	-	-	-	-	-	-
Unknown	475	142	-	1	7	1	-	-	16	1
Central Serbia										
Total	30490	26849	70	12	687	1303	79	15	2	39
Serbian	26828	26167	57	7	6	17	28	8	1	34
Montenegrin	88	75	7	1	-	1	-	-	-	-
Yugoslav	11	7	-	4	-	-	-	-	-	-
Albanian	678	18	-	-	652	1	-	-	-	-
Bosniak	1277	13	-	-	2	1249	-	-	-	-
Bulgarian	83	31	-	-	-	-	50	-	-	-
Vlach	4	1	-	-	-	-	-	3	-	-
Hungarian	27	25	1	-	-	-	-	-	1	-
Macedonian	61	53	-	-	1	-	-	-	-	2
Muslim	254	20	-	-	3	-	-	-	-	-
Roma	428	21	-	-	1	1	1	1	-	2
Romanian	51	45	-	-	-	-	-	3	-	-
Ruthenian	4	2	-	-	-	-	-	-	-	-
Slovak	17	11	-	-	-	1	-	-	-	-

Croat	46	39	-	-	-	2	-	-	-	-
Other	315	201	4	-	15	30	-	-	-	1
Undecided and undeclared	7	3	-	-	-	-	-	-	-	-
Regional affiliation	7	6	1	-	-	-	-	-	-	-
Unknown	304	111	-	-	7	1	-	-	-	-

	Vojvodina									
Total	10593	7520	141	81	13	3	4	-	1307	65
Serbian	7418	6585	84	40	2	3	3	-	192	41
Montenegrin	117	65	34	-	-	-	-	-	6	1
Yugoslav	76	36	-	27	-	-	-	-	3	-
Albanian	16	4	-	-	9	-	-	-	1	-
Bosniak	2	-	1	-	-	-	-	-	1	-
Bulgarian	12	9	-	-	-	-	-	-	2	-
Vlach	-	-	-	-	-	-	-	-	-	-
Hungarian	1458	324	10	6	2	-	1	-	994	6
Macedonian	53	30	-	-	-	-	-	-	2	15
Muslim	49	22	1	1	-	-	-	-	3	-
Roma	172	17	-	1	-	-	-	-	7	1
Romanian	122	36	-	1	-	-	-	-	1	-
Ruthenian	76	29	3	-	-	-	-	-	6	-
Slovak	298	92	2	2	-	-	-	-	9	-
Croat	257	91	3	1	-	-	-	-	31	-
Other	216	116	3	-	-	-	-	-	28	-
Undeclared and undecided	67	31	-	1	-	-	-	-	5	-
Regional affiliation	13	2	-	-	-	-	-	-	-	-
Unknown	171	31	-	1	-	-	-	-	16	1

Table 4

2007 Data

Radio Programs by Broadcast Language in Hours

BROADCAST LANGUAGE	SUM TOTAL
SERBIA - TOTAL	1315069
SERBIAN	1243361
ALBANIAN	14523
BULGARIAN	4781
HUNGARIAN	23808
ROMANIAN	916
RUTHENIAN	5037
ROMANI	5190

SLOVAK	6262
UKRAINIAN	305
LANGUAGES OF OTHER NATIONAL MINORITIES	1184
OTHER LANGUAGES	9702
CENTRAL SERBIA - TOTAL	1177154
SERBIAN	1143795
ALBANIAN	14523
BULGARIAN	4781
HUNGARIAN	365
ROMANI	3981
SLOVAK	1
LANGUAGES OF OTHER NATIONAL MINORITIES	56
OTHER LANGUAGES	9652
VOJVODINA - TOTAL	137915
SERBIAN	99566
HUNGARIAN	23443
ROMANIAN	916
RUTHENIAN	5037
ROMANI	1209
SLOVAK	6261
UKRAINIAN	305
LANGUAGES OF OTHER NATIONAL MINORITIES	1128
OTHER LANGUAGES	50

TV Programs by Broadcast Language in Hours

BROADCAST LANGUAGE	SUM TOTAL
SERBIA - TOTAL	536022
SERBIAN	500132
ALBANIAN	1217
BULGARIAN	91
HUNGARIAN	1445
ROMANIAN	285
RUTHENIAN	274
ROMANI	2395
SLOVAK	325
TURKISH	2
UKRAINIAN	20
LANGUAGES OF OTHER NATIONAL MINORITIES	5578
OTHER LANGUAGES	24258
CENTRAL SERBIA - TOTAL	486910
SERBIAN	456134
ALBANIAN	1217
BULGARIAN	91
HUNGARIAN	5
ROMANI	1955
TURKISH	2
LANGUAGES OF OTHER	

NATIONAL MINORITIES	5568
OTHER LANGUAGES	21938
VOJVODINA - TOTAL	49112
SERBIAN	43998
HUNGARIAN	1440
ROMANIAN	285
RUTHENIAN	274
ROMANI	440
SLOVAK	325
UKRAINIAN	20
LANGUAGES OF OTHER NATIONAL MINORITIES	10
OTHER LANGUAGES	2320

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ANNEX 2

AP KOSOVO AND METOHIJA REPORT

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General Information

The armed conflicts of the 1990s in the former Socialist Federative Republic of Yugoslavia (SFRY) forced hundreds of thousands of persons to flee for their lives to other parts of their former country or to other parts of the world. Many left between 1991 and 1995, during a period of great turmoil and armed conflicts in the region. The signing of the Dayton Agreement towards the end of 1995 brought peace. However, violence in the southern Serb province of Kosovo and Metohija intensified several years later. Clashes between the Serb security forces and the paramilitary rebel Kosovo Albanian forces started in late 1998 and saw their peak during the bombing of the former Federal Republic of Yugoslavia by the North Atlantic Treaty Organization (NATO), lasting from March 24 to June 10, 1999. The fighting ceased following the signing of the Kumanovo Military Technical Agreement. The Resolution 1244 of the United Nations Security Council was adopted on June 10, 1999, establishing an international security and civilian presence in Kosovo. The international “Kosovo Force” (KFOR), led by NATO, entered Kosovo and Metohija as peacekeeping forces under the United Nations mandate on June 12, 1999. As part of its duties, KFOR was entrusted with establishing and maintaining security in Kosovo and Metohija, creating a safe environment that would allow refugees and displaced persons to return to their homes without fear or any preconditions or limits. Since the Serb security forces had pulled out of the province and the international forces entered, the Kosovar Albanians that had fled during the confrontations swiftly returned to Kosovo and Metohija in massive numbers, while a large number of non-Albanians were forced to flee to avoid violence and retribution, often due to nothing more than their ethnic descent.

More than 200,000 Serbs and other non-Albanians were exiled from their homes following June 1999. Of those, 26,606 persons found residence elsewhere in Kosovo and Metohija, while 209,722 persons were temporarily displaced in other parts of the Republic of Serbia. At this moment, 73 collective centers (19 of them in Kosovo and Metohija) house 5,283 internally displaced persons from Kosovo and Metohija, while the largest number of exiled Serbs and other non-Albanians live as subtenants or find residence with relatives. Following March 17, 2004 and the renewed violence by ethnic Albanians against Serbs in Kosovo and Metohija, the number of exiled Serbs and other non-Albanians increased since another 3,870 citizens of the southern Serb

province had to leave their homes, with 3,620 of them remaining in Kosovo and Metohija. To this day 2,092 persons are still quartered away from their pre-war residence, while only 250 left Kosovo and Metohija and found refuge in other parts of Serbia.

At this moment, 153,197 Serbs and other non-Albanians live in Kosovo and Metohija (the data refers to non-Albanians in Serb communities and the municipality of Gora). Of this number, 68,405 Serbs and non-Albanians live in municipalities in the north of the province (Kosovska Mitrovica, Zvečan, Zubin Potok, Leposavić), while 84,792 live “south of the river Ibar”, in isolated enclaves, on the territory of central Kosovo, the Kosovo Pomoravlje region, Metohija and the Šar Mountain.

Of the 437 settlements where Serbs once lived, excluding municipalities in the north of Kosovo and Metohija – Leposavić, Zvečan and Zubin Potok, 312 settlements have been fully ethnically cleansed. Following the arrival of UNMIK and international armed forces in Kosovo in 1999, there have been more than 7,000 ethnically motivated attacks wherein over one thousand Serbs and 104 members of other ethnically discriminated communities have been killed, 841 Serbs have been kidnapped and 960 persons have suffered grave bodily harm.

Today, most internally displaced persons in Serbia are ethnic Serbs (75%), Roma, Ashkali and Egyptians (10%), having fled Kosovo and Metohija in 1999, after the United Nations took over control of the province in accordance with the mandate of the provisional United Nations Mission in Kosovo (UNMIK).

Following the year 2000, the international community invested more resources per capita in the stabilization and development of Kosovo and Metohija than any other post-conflict zone in the world. However, the political framework changed significantly during the first part of 2008. Provisional self-government institutions unilaterally proclaimed independence, while the European Union initiated the deployment of the EULEX mission. The International Civilian Office was set up, while UNMIK diminished its presence in Kosovo and Metohija. Today, nearly ten years after the conflicts in Kosovo and Metohija ended, 206,879 internally displaced persons are unable to return to their homes, still living in other parts of the Republic of Serbia. At the same time, 16,202 displaced persons from Kosovo and Metohija still reside in

Montenegro, where their status is still unresolved. Approximately 22,000 Roma, Ashkali and Egyptians have been registered as internally displaced persons, even though it is well known that the number of such persons is much greater, with estimates ranging from 40,000 to 50,000 persons. Most of the internally displaced persons in Serbia are concentrated around the central and southern regions of the Republic. According to UNHCR sources, 15,859 persons have returned to Kosovo and Metohija since 1999. This number includes the return of internally displaced persons from other parts of the Republic of Serbia and Montenegro, along with displaced persons in other countries of the region. According to these sources, 7,052 of the persons are Serbs from Kosovo and Metohija, 4,324 are Ashkali and Egyptians, 1,858 are Roma, 1,403 are Bosniak, 585 are Gorani, while 637 are ethnic Albanians.

Implementation of Article 5 of the Convention

DISCRIMINATION IN KOSOVO AND METOHIJA

Varied treatment of people in essentially similar situations due to their past, financial or social status, nationality, sex or physical abilities is a constant social problem in Kosovo and Metohija. This type of discrimination is a direct result of irresponsible behavior by the central and local government and the arbitrary application of the rule of law. Both problems make unequal treatment of vulnerable or less privileged groups easier. Combating these issues is additionally laden by the fact that people are unaware of the concept of discrimination and thus cannot define their own varied treatment of others as discriminatory. Vulnerable groups in Kosovo and Metohija are often used to having people treat them different and thus they do not complain of such instances, or do not believe that such appeals might change their unfavorable position. People do not complain, for example, about the fact that their families are unable to pay additional money to nurses and doctors, or do not complain of not having received their registration documents from a public office in months, mostly because they do not know the relevant clerks in person. Even in cases where people complain of discrimination due to irregularities at the University in Priština, nepotism in the public employment sector or the fact that they cannot respond to bills or administrative documents because they are written in a language they cannot understand, many of these appeals remain undisclosed. The ombudsman has been able

to help certain persons in some cases through direct intervention, but it is difficult to track appeals against discrimination due to corruption or nepotism, and they are mostly left to be resolved by themselves. Even the Law on Discrimination of the self-proclaimed Kosovo Assembly, based on international standards, notes that if the victim of discrimination can provide facts that imply discrimination to have happened, then it is up to the defendant to prove that discrimination did not occur (thus shifting the burden of proof in cases of discrimination). In many cases of alleged discrimination the victims cannot or do not know how to provide evidence. On the other hand, the goal of public debates on discrimination appeals is often merely to score cheap political points.

Most people tend to simplify the issue of discrimination. Contrary to popular belief, not every type of differential treatment is discrimination. Discrimination only occurs when people in a similar situation are treated different due to objectively unjustified reasons, such as those listed above or provided in Article 2(a) of the Law on Discrimination (“sex, years of age, marital status, language, mental or physical disabilities, sexual preference, political preference or beliefs, ethnic descent, nationality, religion or belief, race, social position, wealth, birth, or any other type of status). If, for example, a person is not accepted for work at a construction site because they are unable to carry heavy weight, then differential treatment in such a case is objectively justified. But if they are not accepted for work for belonging to a different national community, the reason for not being accepted is not objective and based on the prejudice that they would not be reliable, honest or good workers due to their national affiliation. Discrimination can also occur in cases when people are treated the same in entirely different situations. One example of this is the unpleasant position of persons with physical disabilities. Until specific efforts are made to create special conditions for persons with disabilities, they will still be discriminated against every day. People in wheelchairs and mothers with baby carriages will still depend on the good will of others to access certain public offices. Even in newly built houses ramps that enable unimpeded access for persons with disabilities are not being built.

Another form of discrimination is the fact that many public documents are not accessible to people not speaking both of the official languages for the territory of Kosovo and Metohija. This problem occurs in all places where a part of the population

of a municipality does not understand the majority language in this municipality, but also in the correspondence between the central government and municipalities where the majority does not speak the Albanian language. Even though this type of discrimination mostly occurs due to a lack of translation units or financial resources to pay for them, a frequent occurrence is that informing the entire population on issues relevant for them is not a priority for most public administration offices in Kosovo and Metohija. The language problem is but one of the issues that local minority communities have to contend with. National discrimination is likewise a widespread problem in the field of employment and healthcare, with members of certain minority communities (mostly Serbs and Roma, but Ashkali and Egyptian as well) still the object of regular instances of intimidation and abuse. In cases involving criminal offences against these communities, such as cattle theft, seizure or damage to property, perpetrators are seldom found, while members of these communities often complain that the police do not conduct proper investigations on these crimes. Members of the Serb community still complain of being kept out of the privatization process for public enterprises they were employed with. In certain cases, all forms of discrimination are based on ages-old prejudices one community holds against the other. In other cases (especially with victims being members of the Serb community) they are the result of poor relations between the Albanian and Serb community in the last 20 or more years. This process intensified during the talks on the future status of Kosovo and Metohija, due to high tensions between the two communities, making any kind of normal communication extremely difficult. Access to public offices was hindered by the factual or noted inability of members of these communities to move freely throughout all regions of Kosovo and Metohija. Another reason for ethnic or other forms of discrimination is the current economic situation in Kosovo and Metohija, marked by high unemployment levels and widespread poverty. In a situation where the number of workplaces is limited, many employers openly admit that they would not even consider employing persons from a different national community, or that they would rather employ someone they know. As long as the economic situation in Kosovo and Metohija is as bad as it is at the moment, this phenomenon is not likely to change. A lot more needs to be done in order to raise awareness in the Kosovo communities of the concept of discrimination and ways of combating it. Years or even decades are necessary to understand these issues. However, the more laws there are in place for its

prevention and the more campaigns and programs for implementing these laws and raising awareness are initiated, the sooner will the current situation change. Most experts from Kosovo would agree that the Law on Discrimination, enacted by the Kosovo Assembly in 2004 and ratified by the representative of the Secretary General, is a good mechanism to this end. It contains definitions on what constitutes discrimination, what forms of discrimination exist and what conditions cause it, as well as where appeals can be lodged. As is often the case, the problem is not with the Law itself, but with its implementation. Many of those living in Kosovo and Metohija do not even know that a Law on Discrimination exists, and even if they did they would not know how to lodge an appeal. The courts have not registered a large number of discrimination appeals either, and it seems as if many of the judges do not know how to handle these appeals when they turn up. During the last several years international and local governments have become increasingly aware that this Law is not implemented. The Kosovo Government approved an action plan for the implementation of the Law on Discrimination in November 2005, while the Prime Minister signed the Administrative Instructions on the Implementation of the Law on Discrimination in August 2006. These Administrative Instructions were to create practical rules and structural and physical capacities for the implementation of the Law on Discrimination, alongside additional promotion of equal treatment towards all. A smaller number of individual ministries and other administrative offices also introduced administrative instructions on the implementation of this Law, while individual trainings and events for raising awareness of this Law and similar issues are still being held. As noted above, the discrimination issue is twofold, with a general lack of knowledge on what constitutes discrimination and the ways of combating it on one side, and poor administrative, executive and judicial structures in Kosovo and Metohija enabling discrimination and preventing its removal on the other. Equal treatment of all citizens of Kosovo and Metohija will only occur once its population is capable of determining situations where discrimination occurs and the public administration is willing to support and work on appeals presented.

**a) RIGHT TO EQUAL TREATMENT IN COURT AND ALL
OTHER JUDICIAL BODIES**

To this date, human rights and freedoms in Kosovo and Metohija can be said to be greatly endangered and often violated, especially with regard to the members of non-Albanian communities. The specific circumstances are further complicated by the entire civil government (legislative, executive and judicial) being executed by the International Civil Mission and/or UNMIK, while the military government is handled by KFOR, as envisaged by the Resolution 1244 of the UN Security Council. Since the withdrawal of military and security forces of the FRY and the Republic of Serbia from the territory of Kosovo and Metohija in June 1999, the factual and legal government of the territory of the Province has been handled by UNMIK and KFOR, therefore these organizations, representing the international community, are responsible for observing and upholding human rights in Kosovo and Metohija. Following 2001 and the implementation of the Constitutional Framework for Provisional Self-government in Kosovo in May 2001, whereby UNMIK, to a large extent, transferred authorities to the Provisional Self-government Institutions (hereinafter: PSI). These are, primarily, Albanian and they have undertaken all measures with the goal of creating another Albanian state in the Balkans by violating the territorial integrity and sovereignty of the FRY and subsequently the Republic of Serbia. The consequence of these actions was the illegal proclamation of the self-styled Republic of Kosovo by the PSI Assembly on February 17, 2008 and the proclamation of the Constitution on June 15, 2008.

The legal system is one of the weakest institutions in Kosovo and Metohija. The greatest problem with the work of the judicial system in Kosovo and Metohija is still the issue of the currently applicable law and/or the hierarchy of legal documents. This reality is reflected in the efforts by the European Union to direct its activities in Kosovo and Metohija towards resolving police and judicial problems. In a legal-formal sense, the ultimate legal document in Kosovo and Metohija is still the UN Security Council Resolution 1244. According to the Regulation No. 1999/24 by the UN special representative in Kosovo and Metohija, the Regulations of the special representative and/or UNMIK, still apply, along with the laws in effect up to March 22, 1989, the date when the legislative authority of the Republic of Serbia was taken over by the

Autonomous Province of Kosovo, with the Regulations having priority in case of conflict. In accordance with said Regulation, the laws of the Republic of Serbia brought into effect after March 22, 1989 shall be applicable as well, provided they regulate legal issues not covered by prior regulations unless they were introduced with the aim of implementing discrimination in Kosovo and Metohija. The Regulation introduced by the Provisional Self-government Institutions (hereinafter: PSI) formed in accordance with the Constitutional Framework of the Provisional Self-government in Kosovo introduced in May 2001 is acceptable as legal, so long as it is approved by UNMIK by Regulations of the Special Representative. Apart from the said regulation, the authorities are bound to adhere to international standards on human rights, including the International Convention on the Elimination of All Forms of Racial Discrimination and the European Convention on Human Rights and Fundamental Freedoms.

Of the laws relevant to the field of protecting human rights in Kosovo and Metohija, the following legal instruments are in effect: the Provisional Criminal Code of Kosovo (PCCK), the Provisional Criminal Procedure Code (PCPC) – enacted by UNMIK Regulations No. 2003/25 and 2003/26 (in effect as of April 6, 2004), the Law on the Execution of Penal Sanctions (UNMIK Regulation No. 2004/46) and the Juvenile Justice Code of Kosovo – JJCK (UNMIK Regulation 2004/8). The listed international standards on human rights are directly implemented as well.

There is no legal certainty as to the implementation of regulations. In a large number of cases, neither citizens nor the judicial authorities are aware of which regulation applies to a certain legal issue. Specifically, criteria were never introduced to discern which law, brought into effect by the Republic of Serbia or FRY after 1989, is considered inapplicable due to discrimination. In most cases the judges themselves make the decision on which law to use for a given legal issue, introducing uncertainty and discrimination with parties receiving different verdicts for the same type of legal issue depending on the judge.

Even in cases when the applicable laws are not an issue, there are frequent situations when individuals, administrative workers and courts are uncertain on how to apply a certain legal regulation. This is frequently the case with UNMIK Regulations,

many of which introduced new concepts and structures not part of the existing applicable legal system. In other parts of Europe and the world, legal experts provide comments applied to interpret the most important laws, while there are no such comments in Kosovo and Metohija, other than those relating to old Yugoslav laws, many of which have been superseded by different laws.

Additional confusion was introduced to the Kosovo legal system by laws enacted by the Assembly of the self-styled “independent Kosovo” following the illegal proclamation of the so-called independence on February 17, 2008. The laws in question is the set of laws envisaged by the so-called Ahtisaari Plan for the Status of Kosovo. These laws replace UNMIK Regulations regulating certain issues (i.e. the issue of returning the assets of displaced persons, privatization, security service). However, UNMIK has neither approved nor annulled these laws by new Regulations thereby making it unclear which laws are in effect in Kosovo and Metohija.

There is confusion relating to the implementation of the introduced laws, since certain provisions are open to varied interpretation. For example, Article 254 of the Provisional Law on Criminal Proceedings of Kosovo allows for the public prosecutor or judge to order field investigations or reconstruction as part of a criminal proceeding. This in turn has the effect that neither the judge nor the public prosecutor is certain what their competencies are. The courts consider the public prosecutor to be competent, while the public prosecutor does not want to infringe upon the competency of the courts. The fact that the courts, public prosecutor or the police have the right to conduct investigations or reconstructions adds further to the confusion.

A large issue in the legal system of Kosovo and Metohija noted in annual reports of the OSCE is the constant absence of *vacatio legis* in nearly all laws enacted by the Assembly (PSI) or UNMIK regulations. *Vacatio Legis* is the delay from the moment a law is enacted to the moment it becomes effective, providing an opportunity for the public and those institutions implementing the law to adjust and prepare for the new legal situation. Thus far neither UNMIK nor PSI has accepted the need to introduce the said institution. Without this delay, UNMIK regulations and PSI laws come into effect immediately when enacted.

A dualism exists within the judicial system of Kosovo and Metohija as a result of the presence of international judges and prosecutors operating in the Justice Department of UNMIK, elected by the Special Representative for a period of six

months. Local judges and prosecutors exist as well, also elected by the Special Representative at the proposal of the Judicial Council of Kosovo.

The system of appointing international judges and prosecutors indicates that there is no independent judicial authority in Kosovo and Metohija since these bearers of judicial functions are appointed and relieved of duty by the Special Representative. Bearers of judicial functions are periodically appointed, mostly for six months, endangering their independence and impartiality. Detailed UNMIK procedures for electing judges are completely non-transparent to the outside world and depend solely upon the Special Representative. The general rules of relieving of duty do not apply to international judges and prosecutors, who are governed by the rules applicable for all UN officials. Therefore, they still sign contracts with the UNMIK Justice Department for a period of six months with the option to extend. The said facts imply that there is no basic presumption of independence and impartiality by international judges and prosecutors. Instead, they are, in effect, merely clerks depending on the Justice Department of UNMIK and/or the Special Representative as the highest authority in Kosovo and Metohija. Regulations applicable to these persons are the UNMIK Regulation 2000/06 as of February 15, 2000, supplemented by the Regulation 2000/34 as of May 27, 2000 and the Regulation 2001/2 as of January 2001.

There is no independent judiciary in Kosovo and Metohija. This means that the parties to a process, executive authorities or third parties cannot exert pressure on the judge, nor interfere with court affairs. This general concept of judicial independence does not dominate Kosovo and Metohija, because there are indications that the international and local administration, though unofficially, contacted judges on multiple occasions in relation to various legal issues.

Typical examples of the influence exerted upon the judiciary are the damage claims for destroyed property by the non-Albanian population from June 1999. Namely, immediately upon the entry of KFOR into the Province in 1999, a large number of residential and other real estate owned by non-Albanians was destroyed by Albanian extremists. The March riots in 2004 brought a new wave of destruction upon this property.

The persons affected by the destruction of property requested their cases be resolved in the regular courts of Kosovo and Metohija (local courts established by the UNMIK administration). In 2004, thousands of Kosovo Serbs filed claims for damages caused after June 1999 with the regular courts. A significant number of these claims were filed against UNMIK, KFOR, Provisional Self-government Institutions – the Government of Kosovo and local self-governments as public authorities responsible for damage due to inaction in protecting property (in accordance with Article 180 of the Law on Obligatory Relations of the SFRY No. 29/78). The OSCE, UNMIK and the Ministry of Kosovo and Metohija estimate these claims to an approximate number of 22,000 claims.

The UNMIK Department of Justice issued instructions on August 24, 2004, in the form of a circulated memo, to presidents of the Supreme, County and Municipal Courts not to process the said cases due to there being no adequate solution for them. The Department of Justice issued new instructions on November 15, 2005, demanding of the courts to process only those damage claims caused by identified natural persons after October 2000. The explanation provided for these instructions by the UNMIK Department of Justice was that a massive influx of claims would put further strain on the work of the courts, increasing the otherwise already large number of unresolved cases. These instructions also affect human rights, due to the fact that it makes access to courts for plaintiff Serbs from Kosovo and Metohija difficult and endangers their right to have their cases resolved within a reasonable period. At this moment, the said cases still await resolution with courts in accordance with the instructions from the Department of Justice. Likewise, there is no legal instrument to ease the prolonged court proceedings.

There is insufficient rule of law and legal safety within the territory of Kosovo and Metohija. This is the result of the general legal chaos often noted in reports by OSCE, Amnesty International and other international non-governmental organizations. The core of this problem lies in a lack of responsibility and awareness of human rights among public officials, both in the international and local administration. Likewise, the legal chaos causes legal insecurity with citizens, especially with representatives of minority national communities in Kosovo and Metohija.

Kosovo and Metohija is one of the few regions in Europe where the European systems of human rights protection of the European Council are not applied. Even though the Government of the Republic of Serbia ratified the European Convention on Human Rights in 2003, it is not being implemented within the territory of Kosovo and Metohija under UNMIK jurisdiction. The status of UNMIK as an international mission prevents the signing of this Convention, which is a multilateral agreement between countries.

Kosovo and Metohija residents are, in most cases, insufficiently informed on existing regulations and their rights, while there is no independent system for the protection of human rights in place.

The situation relating to the disregard of human rights became especially severe by the expiry of the international ombudsman's mandate in December 2005 (Mr. Marek Novicki). The UNMIK Regulations No. 2006/06 and 2006/15 transferred the ombudsman to local self-government institutions. Complaints against UNMIK have been excluded from the competency of the Kosovo ombudsman. Limiting the competency of the ombudsman resulted in the absence of a single competent body to perform investigations against UNMIK on human rights violations and abuses of official position. This means that the UNMIK administration is exempt from all forms of legal responsibility. Having its competency limited, the ombudsman constantly requested instructions from UNMIK on handling unresolved cases against the UNMIK administration. Since no reply was ever received, these cases were closed due to a lack of jurisdiction.

Attempting to fill the void that would regulate the UNMIK accountability, the Special Representative issued Regulation 2006/12 establishing the Human Rights Advisory Council. The Council was established to deal with human rights violation complaints against UNMIK or the local administration. The Council is composed of three international law experts nominated by the president of the European Human Rights Court and elected by the Special Representative. The Council makes rulings on the complaints filed, that can only be implemented if the Special Representative endorses them by special decision. It is clear that this advisory council is essentially a part of the UNMIK mission in Kosovo and Metohija, since its members are chosen by

the Special Representative as the executive authority and it does not represent an independent system for the protection of human rights.

The OSCE mission in Kosovo and Metohija has the competency to monitor the status of human rights in Kosovo and Metohija and the control of public authorities as regards human rights. However, this Mission does not have control systems in place for sanctioning human rights violations, while in itself it represents the so-called third pillar of UNMIK and/or it is part of the executive authority, which is a unique case in OSCE activities throughout the world.

The KFOR, as the international armed mission to Kosovo and Metohija, likewise does not have systems in place for the protection of international standards on human rights and freedoms violated by KFOR operations. There are frequent cases of KFOR using private land for building and maintaining bases with no reimbursement to the owners. The owners can only obtain a certain reimbursement if an agreement is made with the Command of the National Contingent of KFOR utilizing the land, with the practice varying between contingents. In most cases KFOR, using the "take it or leave it" principle, offers reimbursement far below the actual value, only for the period when the agreement is made, and not the full period while the land is under KFOR use. The owners can only complain about the insufficient reimbursement to a special commission with the KFOR High Command which in turn mostly dismisses these requests. There are no courts or other bodies in Kosovo and Metohija where the owners could request compensation for their property in use by KFOR.

In cases where a person was inflicted grave bodily harm or was killed in a traffic accident caused by KFOR vehicles, the victims or family members were unable to obtain damages from KFOR through courts, since UNMIK made KFOR personnel exempt from civil and criminal prosecution by Regulation 2000/47.

A typical case of limiting human rights by local Albanian authorities in Kosovo and Metohija is the decision as of July 4, 2007 preventing the registration of motor vehicles in Kosovo and Metohija unless evidence is provided on paid electrical power bills.

This decision was made in the form of the Memorandum of Cooperation and Understanding on July 4, 2007 between the Kosovo Ministry of Internal Affairs, the Ministry of Energy and Mining and the Kosovo Energy Corporation, Ltd. Article 3 of

the Memorandum prescribes that in registering a motor vehicle, every owner or user of the vehicle is required to provide, along with other documents, evidence on settled electrical power bills, evidence on debt reprogramming or other evidence proving an absence of debt towards the Kosovo Energy Corporation (KEC).

Such a decision by the provisional self-government authorities cannot be the legal basis for introducing additional obligations for citizens registering motor vehicles. This obligation can only be established by law or amendments to the law enacted by the Assembly and approved by the Regulation of the Special Representative of the UN Secretary General. The Memorandum on Cooperation between bodies and institutions may establish technical cooperation between them, but cannot establish citizen obligations, because these can only be established by laws or by-laws enacted in accordance with law and the prescribed procedures.

Even though the decision relates to all citizens, it affects mostly the Serb community. Most Serbs have been exiled from their houses and apartments and live as internally displaced persons in Serbian enclaves, mostly in very difficult financial situations. Even those Serbs remaining in their homes have, mostly, lost their jobs and do not have any source of income. Under these circumstances the Serbs cannot meet their obligations and pay for electrical power. Likewise, it should be noted that the Kosovo Energy Corporation is not fulfilling its obligations towards beneficiaries either, failing to provide them with regular electrical power. According to unofficial data, 70% of households in Kosovo and Metohija do not pay for electrical power, including Serbs. Furthermore, in a large number of cases, persons of Serbian nationality were handed bills by KEC for electrical power used by Albanian nationals that have violently overtaken their residential facilities after June 1999.

**b) RIGHT TO PERSONAL SAFETY AND STATE PROTECTION
FROM VIOLENCE AND ABUSE, EITHER BY
GOVERNMENT OFFICIALS OR ANY OTHER PERSON,
GROUP OR INSTITUTION**

Human trafficking is still the most prominent human rights issue in Kosovo. Monitoring human trafficking cases in 2006 and 2007, the OSCE discovered an alarming lack of willingness by Kosovo authorities to manage these cases. According

to the OSCE Report on Human Trafficking in Kosovo and Metohija as of November 2007, there have been 41 cases of human trafficking initiated since the beginning of 2006 that have thus far failed to be resolved in Kosovo courts. During this period, several other cases of possible human trafficking have reached the courts as well, where the prosecutors qualify these as minor criminal offences. The number of unreported cases is probably much greater. The OSCE supervised several cases where the prosecutors failed to initiate or extend investigations against persons suspected of human trafficking. Due to the lack of prosecutor diligence in investigations on whether there is evidence establishing a basis for proving a case of human trafficking, the courts have not proclaimed a single defendant guilty, despite strong evidence of all elements of the crime. Investigations can include telephone surveillance of the suspects, video surveillance, obtaining financial documents (such as receipts on salary payment or bank reports for the defendants) or obtaining medical reports indicating abuse the victims have suffered. The prosecutors were noted not to be leading investigations on persons known to make use of sexual services by human trafficking victims. Persons making use of sexual services by trafficking victims must be charged with a crime, since they create demand for sexual exploitation of trafficked persons. In fact, those trading in women and children would have no interest in pursuing these activities if there were no persons making use of these sexual services. Furthermore, users of sexual services consciously contribute to the exploitation of human trafficking victims. Thus it is of utmost importance that the police and prosecutors act correctly in investigations and criminal prosecution. However, even though the alleged victims have reported the names of persons (for example, customers of inns and motels) making use of their sexual services in many cases of trafficking, in most of these cases the authorities did not conduct investigations or pursue the alleged perpetrators. In several cases which were monitored, the authorities did not prosecute persons allegedly involved in trafficking for other crimes against the victims. The OSCE noted an alarming tendency of the courts to treat crimes such as assault, inflicting bodily harm and rape, when performed in a situation where the victim is being exploited, as the main element of human trafficking crimes, and not as separate crimes.

All authorities involved in prosecuting the human trafficking crime need to primarily dedicate their efforts to resolving and securing the safety of the victims of

human trafficking. It has been noted that the police, prosecutors and courts do not understand the role and position of human trafficking victims. Several problem areas arise. The competent bodies often do not recognize human trafficking victims as such, or only provide victim status if they can provide evidence against the alleged traffickers. Secondly, the OSCE has observed cases of illegal prosecution of (probable) human trafficking victims for prostitution or illegal residence in Kosovo. Third, it is a widespread practice that victims are not being informed on their rights in criminal proceedings, and often are not assigned defense lawyers or authorized representatives. Finally, the OSCE has observed cases where court authorities have incorrectly or improperly questioned human trafficking victims. Since it is the duty of public authorities to identify potential human trafficking victims, the victims should have maximum protection and care regardless of the level of cooperation with the police and prosecutors. An alarming tendency was also noted with the police for unjustified imprisonment of possible human trafficking victims and/or threatening them with charges unless they provided solid evidence against alleged human traffickers.

d) OTHER CIVIL RIGHTS

I) RIGHT TO FREEDOM OF MOVEMENT AND CHOICE OF RESIDENCE IN A STATE

A considerable lack of safety and freedom of movement for Serbs and members of other non-Albanian communities yet remains within the territory of Kosovo and Metohija. This has the effect that persons exiled from the territory of Kosovo and Metohija in 1999 do not return to their place of residence.

Following the NATO interventions more than 230,000 persons of Serbian and other non-Albanian nationalities have been exiled from Kosovo and Metohija, while 22,000 of them remained in the Province as internally displaced persons (living in Kosovo and Metohija, but exiled from their homes). Full ten years after the UNMIK mission was established, according to UNMIK data fewer than 16,000 returnees have been registered, but even this small number of returnees represents a so-called fictitious return in relation to the exiled population. According to the data from the

Refugee Commissariat of the Republic of Serbia, there are fewer than 2,000 true returnees, since most people simply register in Kosovo and Metohija to be able to obtain certain refugee privileges, while in fact they reside in central Serbia with their families.

These facts indicate that the non-Albanian populace does not have freedom of movement or security in Kosovo and Metohija, both due to direct pressures and threats by openly declared Albanian extremists, as well as due to hidden pressures by the local administration. We note the example of the pre-war president of the municipality of Klina Sveto Dabižljević who was forbidden to return to the town by the local municipal authorities in Klina in 2006 due to alleged crimes he had committed during the armed conflicts, even though no charges had ever been filed against the named person, nor had a procedure instituted against him.

Another example of the pressure by Albanian local authorities on potential returnees is the case of Momčilo Jovanović, arrested in March 2008 in Peć while visiting his destroyed property in the village of Vitimirica.

The situation in Dečani is especially grave, since three Serb returnees moved out of this town on June 6, 1999, these being Milanka Popović, Vesna Ilić and Božidar Tomić. These persons had their houses and apartments destroyed, their fields usurped, yet they returned to Dečani expecting the local authorities would return their property and refurbish their houses and apartments. On May 21, 2008 the returnee Božidar Tomić was physically assaulted and injured. His Albanian neighbors had usurped most of his property and did not allow him passage to his house.

On July 17, 2008 in the center of Istok, the Serb Žarko Orović, a displaced person from this town, was severely beaten and robbed visiting his destroyed property in the village of Dobruša and the Istok municipality in order to learn of the conditions for potential return. Orović and his wife were stopped by two Albanian persons in the center of Istok, demanding their ID cards, whereupon they beat Orović and took 350 Euros. The KPS did not find the attackers.

In the village of Preoce at Lipljan, Albanian neighbors attacked the brothers Branko and Dragan Nedeljković as they worked on their family property, causing them grave bodily harm for refusing to comply with orders by the Albanians to cease the work. The property of the Nedeljković brothers is close to a place where the illegal construction of a facility intended for Albanians had been initiated.

In the Suvi Do village nearby Kosovska Mitrovica, residents of Albanian nationality have been trying to build a water pipeline across Serbian property for months. There are no official plans for building the pipeline, nor are there clearly resolved property relations leading to conflict with the Serbs who own the land. In conflicts on July 7, 2008 the Albanians caused grave bodily harm to Predrag Jeftić, because of the disagreement on the works. 40 Serb households were settled in Suvi Do, otherwise completely surrounded by Albanians. It is presumed that the goal of the works forced by the president of the Albanian municipality of Kosovska Mitrovica Bajram Rexhepi, a former KLA leader, is the exile of the Serb populace.

Likewise, as an example of institutional pressure on non-Albanians, we note the case of the village Berivojce near Kosovska Kamenica where the local self-government assembly made a decision to construct a mosque in the part of the village inhabited by Serbian residents. Due to the Serbian residents being upset, the UNMIK municipal representatives suspended the decision to build, but the municipality later continued building, causing a conflict between the Serbian and Roma population on one side and the Albanian population on the other.

- The Case of Marko Simonović -

We note the case of Marko Simonović, arrested under suspicious circumstance in Priština on September 25, 2007 by the Kosovo Police Force. Marko Simonović was arrested under charges of having been part of a group which executed the murder of four and attempted the murder of another two persons of Albanian nationality on June 15, 1999 in the Aktaš settlement in Priština. Simonović was 16 years of age at the time of the alleged crime. In June 1999 Simonović was forced to leave Priština along with his family, as were most Serbs in that city. During the time between June 1, 2005 and May 31, 2007 Marko Simonović worked in the Ministry for Communities and Return of the Provisional Self-Government Institutions in Priština and during the employment process he obtained an HPN certificate No. 5878/2005 on May 10, 2005 from the Municipal Court in Priština, indicating that he was not under investigation and had never been imprisoned. He was also in possession of a UNMIK personal ID card. During all this time no processes or investigations had been initiated against Simonović and he lived in relative peace in Priština for nearly two years. He was

imprisoned on May 29, 2007 at the Centar police station in Priština upon his second visit to the station to request help and intervention on account of repeated squatting in the family building owned by his maternal grandfather Živorad Krstić, who was removed from a bus by the members of KLA on June 25, 1999 on the Priština-Prizren route in Crnovljevo and had been registered as missing ever since. The house was taken over immediately after the war by Miljajim Zeka, reputedly a publicist and employee of TV Priština. The Simonović family reported this case to the Housing and Property Directorate (HPD) which called for Miljajim Zeka to be evicted from the premises and the property to be returned to the Simonović family. Having been evicted once by the HPD, Zeka once again broke the lock on the front door and returned to the house. In the process that the Simonović family initiated with the HPD for the return of the family house, Miljajim Zeka showed a contract on the sale of the house allegedly signed by Živorad Krstić as the seller on August 15, 2001, three years after he had been kidnapped. The HPD ruled in favor of the Simonović family, however, when Marko requested police intervention against Miljajim Zeka, who refused to vacate of his own volition, he was arrested in the station. There are serious indications that the usurper Miljajim Zeka initiated the arrest of Marko Simonović in order to cover up illegal dealings regarding the family house.

Other than being questioned immediately after he was imprisoned by the local county prosecutor in Priština, no investigative action was undertaken other than the identification by alleged witnesses. Identification was performed in a suspicious manner. Recognition was announced on April 10, 2008. Prior to this, Simonović was brought in twice and returned to the County Court in Priština, and during this time he was held tied up on a bench in a yard, while his photograph was published in the newspapers. On the day of identification only Simonović had an item of clothing which was blue. It is also indicative that all of the persons performing identification stated that they had not seen him since 1999. At the time of the crime he was 16 years old. This raises the objective issue of whether there were no physical changes after eight years at this stage of human development. During the time Marko Simonović was in custody no other investigative activities were undertaken, even though all regulations call for the swiftest resolution of cases involving custody. Likewise, custody should be reduced to the minimum possible duration considering the fact that Simonović was treated as juvenile in this process, since he was 16 when the crime

was allegedly perpetrated. Due to all of the above, on April 10, 2008 Marko Simonović started a hunger strike demanding that his case be resolved as soon as possible.

Marko Simonović was convicted to 10 years in prison on February 10, 2009 in Priština, against charges of being a member of a group that had committed the murder of four, and attempted the murder of two more persons of Albanian nationality on June 15, 1999.

There is reasonable suspicion of the charges against Marko Simonović for the alleged murder being constructed so as to prevent the Simonović family from returning to their usurped house in Aktaš street number 80 in Priština. The house was usurped by a Miljajim Zeka from Priština, after creating a false contract on the purchase of the house in 2001, as claimed by the Simonović family. Marko Simonović visited the KPS Priština and requested the eviction of the usurper, but was instead arrested when suddenly murder charges from 1999 magically appeared.

- The Case of Momčilo Jovanović –

A typical case is that of Momčilo Jovanović (47 years of age), a displaced person from Vitimirica near Peć, who fled to Aranđelovac with his family after June 1999. Jovanović was arrested on March 12, 2008 in Peć as a member of a group of displaced persons visiting their destroyed homes in Vitimirica, organized by UNHCR and the Danish Refugee Council. Jovanović was arrested based on a report by his former Albanian neighbor Delija Prelvukaj for the alleged crime from May 12, 1999 – being the member of a group of persons that killed his two brothers and kidnapped his sister. Even though there were no charges or reports against Jovanović for crimes during the armed conflicts in 1998-1999 prior to this point, and he had already visited Peć twice without having any problems, the international prosecutor Marija Bamijeh requested custody. On March 15, 2008, the international judge Lolita Dumlao refused the request for court custody for lack of material evidence. Unfortunately, due to pressures from the Albanian side and the UNMIK Department of Justice, the initial ruling was overturned by the decision of the County Court in Peć PPH number 33/08 from March 18, 2008. Jovanović was assigned court custody for 30 days. In the

meantime, another Albanian family, the Grabovci, appeared with claims of Momčilo Jovanović having killed three of its male members.

On March 27, 2008 the County Court in Peć overturned the custody ruling upon objections by the defense, by transferring Momčilo Jovanović to house arrest instead of prison. Since all of the family property of Jovanović was destroyed, and his family lived in Arandelovac, the court appointed the home of the Serb Miodrag Dašić in the neighboring village of Brestovik as the place of residence for Jovanović. The Ministry for Kosovo and Metohija filed a request with the UNMIK Department of Justice and the Special Representative that Jovanović be allowed to defend himself from freedom, with guarantees by authorities from the Republic of Serbia that he would be available for investigating authorities at all times. The international council of the Supreme Court of Kosovo refused the request of the Ministry for Kosovo and Metohija on April 11, 2008, with the explanation of there being no Agreement on Technical Cooperation between UNMIK and the Republic of Serbia in cases such as this. The ruling of the Supreme Court of Kosovo on April 25, 2008 extended house arrest for Momčilo Jovanović until June 11, 2008 in relation to him allegedly being a member of the group that took part in the murder of the Prelvukaj family, but the house arrest was retained as per charges of the murder of members of the Aliju family.

Even though neither investigation nor any type of investigative activities have been held against Momčilo Jovanović, other than hearings of the alleged witnesses, the Municipal Court in Peć extended house arrest until October 10, 2008. At no point did Momčilo Jovanović break the rules of house arrest or attempt escape, yet the international prosecutor Marija Bamijeh, at one point, suggested that he be returned to prison custody with the explanation that Miodrag Dašić no longer had adequate conditions for housing the defendant. This is a unique example in judicial practice of requesting harsher measures for the presence of the defendant in a process where he never broke the conditions of the existing measures. Even the international judge and international prosecutor state that there is no valid suspicion of Momčilo Jovanović having committed the murders of the Prelvukaj family that he had initially been arrested for.

This case is a typical form of pressure directed against other potential returnees of Serbian nationality to prevent them from considering return to Kosovo

and Metohija due to the fact that they would be arrested and processed based solely upon testimony from Albanians, while the UNMIK administration would assist in the charges and the proceeding.

II) RIGHT TO LEAVE ANY COUNTRY, INCLUDING THEIR OWN, AND THE RIGHT TO RETURN TO THEIR OWN COUNTRY

Nearly ten years after the end of the conflicts in 1999, there are still a large number of displaced persons living away from their former residences in Kosovo and Metohija. Some of them, mostly ethnic Albanians, were displaced during or immediately prior to 1998-1999, while the others, mostly Serbs and other non-Albanians, were displaced after the NATO intervention in 1999. The right of all refugees and IDPs to return to their homes is an internationally recognized right and, following the spring of 1999, only ethnic Albanians made use of it, returning voluntarily, sometimes making use of help by their host countries. However, not all of them chose to return in this way, therefore their host countries started returning them by force several years after the conflicts had ended. Some of these countries have signed agreements to this effect with UNMIK, and up to this point 47,738 persons have thus been returned to Kosovo and Metohija, according to UNMIK statistical data from end March 2007. UNMIK does not accept forced returnees from Serbian and Roma communities, nor ethnic Albanians in places where they would represent a minority.

When speaking of returnees to Kosovo and Metohija, we usually focus on voluntary and sustainable return. The biggest challenge in relation to this is the return of the members of minority communities, primarily Serbs, Roma, Ashkali and Egyptians. These internally displaced persons still face founded or apparent fear for their safety upon return. The long-standing political situation, marked by constant discussion on the future status of Kosovo and Metohija, merely served to additionally fuel the existing interethnic tensions and eliminate motivation for displaced members of minority communities to investigate whether sustainable return to their homes is possible. The difficult economic situation in Kosovo and Metohija and the depressing return information from those that had returned merely increased the worries of

potential returnees. In June 2006, one of the returnees of Serbian nationality was murdered in his home in Klina, while in September 2006 a bomb was thrown at the house of two returnees of Serbian nationality whereby four persons were injured. These incidents were condemned by international and local politicians and, thus far, have not occurred again. However, potential returnees often fear that these incidents might recur, and many of them still suffer from sporadic disturbances, including intimidation, attacks on persons and property or having their buses stoned. These types of incidents cause the potential returnees to reevaluate their decision to return, wonder if it is at all possible to return and have full safety and finally make the call to postpone return for better times. Still, it should be noted that the general safety situation in Kosovo and Metohija has somewhat, though not considerably, improved and that the number of ethnically motivated attacks on returnees has decreased.

Returnees of Serbian descent are having difficulties accessing their agricultural land, for two reasons. The land is either in use by others, or it is not close to their place of residence. The Kosovo Property Agency (KPA) is responsible for the return of this land and once the eviction process starts in earnest, the problem of access to land for some of these people will be resolved. Returnees, mostly from the Serbian and Roma communities, thus rather choose the second phase of expectation and find solace in true or imagined fear for their own safety. These fears preclude the freedom of movement in Kosovo and Metohija and reduce access to employment and public services. As preventive measures, the Kosovo Police Service (KPS) performs more frequent and intensive patrols in regions inhabited by returnees, while the so-called humanitarian bus lines, financed from the Consolidated Budget of Kosovo, connect returnee villages with larger Serb enclaves where returnees can purchase the basic life necessities or visit healthcare institutes.

Most IDPs from Kosovo of Serbian and Roma minority communities – but also some Ashkali and Egyptians – still live with their families or friends in central Serbia or parts of Kosovo and Metohija where Serbs represent the majority. A smaller percent resides in collective centers on the territory of Serbia proper or Montenegro, often in poor living conditions.

According to the UNHCR in Montenegro, most IDPs that arrived to Montenegro in 1999 still reside there. Approximately 6,500 IDPs are members of the Roma, Ashkali and Egyptian communities residing in temporary settlements and also

risk losing their citizenship for lacking adequate documents. Thus far, a lot of the children cannot be registered, do not have citizenship and are unable to exercise their civic, economic, social and political rights. In some cases, their parents never registered while still living in Kosovo and Metohija, while in other cases these documents were lost when they fled their homes in 1999. In order to solve this problem, the UNHCR initiated the program of free legal assistance in 2006 in order to assist in locating lost documents and provide help in issuing new documents in Serbia and Montenegro. Since November 2006 executive legal partners of the UNHCR have helped approximately 150 persons in Montenegro to obtain birth certificates and/or citizenship.

According to unconfirmed information, the Government of Montenegro has initiated several projects to permanently resolve the fates of these internally displaced persons in Montenegro, in cooperation with the UNMIK, PSI and UNHCR, as well as the Peć, Klina, Dečani and Đakovica municipalities. They have organized “go – see visits” and according to unconfirmed data, more than 400 IPDs from Montenegro have become able to return. In fact, 80% of potential returnees are members of the Roma, Ashkali and Egyptian community, while 20% are Serbs and Montenegrins.

The protocol on the voluntary and sustainable return of IDPs to Kosovo, signed between the PSI, UNMIK and Government of Serbia on June 6, 2006 was not successful in increasing the number of returnees from Serbia proper to Kosovo thus far. This protocol recognizes the obligation of all sides to provide for a safe and free return of IDPs to their places or origin in a safe and dignified manner, along with the return of their rights to property. The protocol also includes the obligation to create adequate conditions for freedom of movement and to establish systems that shall enable cooperation between returnee municipalities in Kosovo and the current host municipalities in Serbia proper.

The lack of significant results in the number of returnees stems in part from the nature of the document itself, since effectively it represents a political guideline issued by the UNMIK and the Office of the Prime Minister, one that the Kosovo Assembly never approved. Many municipalities thus consider this document not to be legally binding and have not included it in the return strategy.

Thus far there has been little return to urban parts of Kosovo. Many potential returnees from the minority communities, mostly Serbs, fear for their safety if they return to their homes or houses in cities. It would seem that the Kosovo Ministry for Return and Communities, under pressure by the international community, intends to accelerate the return to urban environments. On the other hand, various forms of significant aid and support for persons that have returned to Kosovo and Metohija are only starting.

V) RIGHT OF EVERY PERSON TO PROPERTY, EITHER INDIVIDUAL OR AS PART OF A COMMUNITY

The legal and institutional framework regulating and protecting property rights in Kosovo and Metohija is still weak. These weaknesses affect all communities, especially the community of Kosovo Serbs since many of them remain displaced from their homes or await the return of residential, agricultural or business property.

With the goal of returning usurped Serbian residential property in Kosovo and Metohija, the UNMIK established the Housing and Property Directorate (HPD) with the mandate to decide on requests on property return by enacting decisions on usurper eviction and their implementation. This was regulated by Regulations No. 1199/23 and 2000/60. During the period 2000 – 2005 this Directorate received 29,000 requests. The HPD made numerous errors in their work to the detriment of Serbs because it did not deal merely with returning apartments and houses taken from persons of the Serbian nationality. Instead, its primary task was to return property that was allegedly stolen during the period of 1989 – 1999 from Albanians by the Serbian government, or handing over apartments and houses to Albanians, allegedly purchased from Serbs through purchase contracts, but ones which could not be validated and thus the purchased real estate could not be registered due to the alleged discriminatory regulations of the Republic of Serbia on the prohibition of real estate trade in Kosovo and Metohija.

In 2006 the UNMIK established a new organization – the Kosovo Property Agency (KPA) with the competency of not just returning usurped houses and apartments, but also returning usurped business spaces, agricultural and construction land. The KPA also took over the implementation of decisions made by the HPD. The

HPD committee continued working in cases where a decision was not yet reached and these decisions are still made in accordance with HPD procedures.

There are a large number of cases where the HPD received a request for the return of an apartment by Serbs who received that apartment from their employer, initially as bearer of the right of residence and subsequently purchased, while at the same time a request for the return of the same apartment was made by an Albanian working at the same company as the Serb, but having lost the apartment on the ranking list for awarding apartments in the company due to alleged discrimination against Albanians. The practice in the HPD was, in most cases, to award the apartment to the Albanians, while the Serb requests were denied, despite the fact that they had purchased the apartment in full and had become the owners. In those cases the Serbs have no right of appeal or complaint against the final (second degree) decision of the HPD committee, while in cases where the Serb request for the return of an usurped apartment is accepted, the Albanians are instructed by the HPD to apply to the municipal court to provide legal protection, even though Regulation 2000/60 regulating the HPD procedures does not prescribe such an option. Until the court proceedings are completed the Serbs have no right of use for the apartment and/or it cannot be sold, which makes their position difficult, since the apartments are mostly located in environments where there are no safety or existential conditions for Serbs, while the sale of the apartment would provide money to resolve the residential problems in the community where they currently reside.

The HPD does not recognize decisions by courts of the Republic of Serbia made during the 1989 – 1999 period which deal with the apartments in question since, according to their interpretation, the decisions of all state authorities during the period were discriminatory against Albanians.

Likewise, there are a large number of cases where the request of the Serbs was accepted, they were handed over the keys to the apartments and the Albanian usurper was evicted. However, since these are urban environments where Serbs have no access, these apartments are then immediately usurped again by Albanians that simply change the locks and continue living in the same apartment. The Serbian requests that these usurpers be evicted again are met with the Agency response that handing over

the keys has resolved the case on their side and that this is now the jurisdiction of the Kosovo Police, which in turn mostly turns a deaf ear to Serbian requests.

The use of forged documents to certify false real estate sale is one of the problems interfering with the ability of courts in Kosovo and Metohija to properly assess evidence in property disputes. Despite of there being a legal framework regulating formal real estate sale requests, the courts are unable to implement these provisions effectively. Many individuals use the current displacement and poor cooperation between Kosovo and Serbian institutions to perpetrate property fraud by using forged documents issued in Serbia or Montenegro. These documents are subsequently certified by courts in Kosovo and Metohija, without awareness of their being forged. Forging authorizations is present in out-of-court proceedings related to the certification of property transactions. Persons acting as legal representatives of the owner or buyer of the property are usually involved in these cases. According to current law, “a contract used as the basis for the transfer or rights to use real estate or real estate ownership shall be set forth in writing, and the signatures of the contracting parties shall be certified in court.” The law further prescribes that a contract failing to meet these formal requirements is not legally binding. In cases where the party in real estate transfer is not the signatory party, the signatory must have court-certified authorization of representing the party in the signing and certification of the contract. Therefore, in certifying a real estate sale contract in cases where the seller is represented by a third party, the court official must confirm that the third party, acting as signatory, is legally authorized by the seller to represent them. Once the process is over, the court is obliged to send the contract to the cadastre service to have the transfer recorded. Even though according to the Law on Extra-Judicial Proceedings a legal representative can represent one of the contracting parties in the transfer of real estate, the judge is obliged to examine “whether the representative or person with authorization are capable of acting as such and whether they are authorized to perform the legal action.” Finally, the Law on Obligatory Relations demands that “the prescribed form [...] of contract or other legal documents shall likewise be valid for the authorization of making such contract [...].”

Despite these legal regulations the use of invalid authorizations has been noted in representing, thereby constituting fraud in property transactions in dealing with the property of Serbs living as displaced persons since June 1999 that have left the

property and estates in Kosovo and Metohija. According to the OSCE report there have been 37 instances of charges being pressed in Kosovo and Metohija courts due to this type of fraud since mid-2006. Of these, 26 have been cases of forged authorizations (14 from Peć, 11 from Klina and one from Istok), while 11 represented charges of forged contracts. In a typical case, a person would forge the personal ID of the absent property owner and use the documents thus forged to obtain authorization of representation issued outside of Kosovo and Metohija and, as shown by recent cases, likewise in courts on the territory of Kosovo and Metohija. The person would then sell this property to another person in Kosovo and Metohija. During this process, the court where the property is located would certify the sale of the real estate based on such invalid authorizations.

The following cases may be used as examples:

1. On September 19, 2005, a Serb plaintiff filed charges with the public prosecutor in Peć against two persons of Albanian nationality charging them with forging his personal ID in order to obtain authorization to sell his property in Peć. On September 21, 2005 the prosecutor filed charges to the Municipal Court in Peć demanding the annulment of the sales contract with the defendant Albanians as certified by the court on July 5, 2005, due to the defendants having used forged authorization. This authorization was certified by the court in Mitrovica on June 9, 2005, based on forged personal ID. The prosecutor provided both the real ID card and the forged one used to obtain authorization as evidence. Both cases are still awaiting resolution in court.

2. Likewise, in a property dispute before the Municipal Court in Peć, a Serb plaintiff filed charges on April 4, 2005 demanding the annulment of the sales contract certified in Peć on October 6, 2004 for being based on invalid authorization. The contract was made in the name of the seller by a lawyer submitting authorization certified by the Mitrovica Municipal Court on October 5, 2004. However, the plaintiff claims never to have given authorization to the lawyer to sell the property. The case is as yet unresolved.

3. In the property dispute of May 29, 2006 before the Istok Municipal Court, a Serb plaintiff demanded the annulment of the sales contract certified in the court on

May 19, 2006. The plaintiff claimed that the defendants had forged the ID cards of the property owner (a relative of the plaintiff) and had thus obtained invalid authorization certified in the Mitrovica Municipal Court on the same day, May 19, 2006. As evidence, the plaintiff submitted the death certificate of one of the owners who had been dead long before he allegedly signed the authorization, along with the forged and real ID cards of two other persons that had allegedly signed the authorization. This case has not been resolved yet.

4. Before the Vučitrn Municipal Court, on January 24, 2006 four Serbs demanded the annulment of the property transaction between two defendants of Albanian nationality (father and son). The Court certified the contract on October 30, 2003. One of the defendants was acting as the seller based on authorization of the owner allegedly certified in Belgrade, while the other defendant was acting as the purchaser. The prosecutor claimed that this authorization was forged because one of the persons alleged to have signed it had died in 2001. Likewise, the First Municipal Court in Belgrade confirmed that on April 26, 2006 they did not certify this authorization. On October 18, 2006 the Vučitrn Municipal Court declared itself territorially ineligible for resolving this issue. This case is still unresolved in the Peć Municipal Court.

In the first two cases, the lawyers took part in illegal transactions as legal representatives. If the lawyers were aware of the facts and acted accordingly, it not only represents a felony, but also a breach of attorney ethical code. As for the protection of the Kosovo judiciary, when property transactions or authorizations are certified, forged documents might be difficult to uncover since they may visually appear like original documents. However, in the said fourth case, the court should have prevented the illegal transaction. Before certifying the transaction the court was obliged to request a confirmation from the Department of Justice of the court in Serbia having previously certified the authorization. In response to the increased number of illegal transactions in Kosovo and Metohija based on false authorizations certified by courts in the Republic of Serbia and Montenegro on the basis of forged documents, the Department of Justice issued an internal memo on February 12, 2004 requiring the judges to request evidence from parties that the stamps of the courts in Serbia and Montenegro are not forgeries. The UNMIK Department of Justice is tasked with verifying the authenticity of these authorizations, in cooperation with the

Ministry of Justice of the Republic of Serbia. However, the internal memo only speaks of the issue of forged authorizations certified in courts outside Kosovo and Metohija, not within Kosovo and Metohija. During the mandate of the Coordination Center for Kosovo and Metohija (September 2005 – May 2007), the UNMIK Department of Justice requested and received answers in verifying over 117 authorizations and/or extracts from the central registry allegedly certified by the Courts of the Republic of Serbia and its municipalities. Of the 117 cases 8 authorizations submitted as evidence in Kosovo and Metohija courts were determined never to have been certified in the courts in the Republic of Serbia, as was the case with two extracts from central registries. Following the establishment of the Ministry for Kosovo and Metohija, the tasks of the Kosovo and Metohija Coordination Center related to verifying the authenticity of authorizations were transferred to the Ministry of Justice of the Republic of Serbia.

The basic method of giving the impression of authorized representation is the use of forged documents for making illegal property transactions to the detriment of Serbs, as noted by the OSCE. This practice is not only illegal, but it aggravates and discourages the return of displaced persons and creates additional obstacles to the resolution of the already overly complicated property situation in Kosovo and Metohija.

According to the OSCE report, the criminal department of the UNMIK Department of Justice initiated investigations into 43 cases of invalid transactions based on forged documents, following complaints by displaced persons. In a case before the Klina Municipal Court, two Albanian defendants forged the ID card of the owner of the disputed residential property, a Serb who had died 12 years ago, and used it for issuing a certificate from the Kragujevac Court in Serbia. This enabled one of the defendants to sell the residential property to the other defendant in the name of the deceased owner. Using the certificate thus forged the defendants signed a contract and certified the property transaction before the Klina Municipal Court, which had no way of learning that the authorization was issued based on a forged ID card. The plaintiff in this case, a Serb displaced to Serbia following the conflict and having returned to Kosovo and Metohija in the meantime, is the only son of the true owner

and the only heir to this residential property. On September 27, 2004 he demanded of the court to annul this false property transaction certified by the Klina Municipal Court and to proclaim him the legal owner, as if the property was never sold. On October 20, 2005 the Court accepted these charges, found them to be valid and decided that the defendants had made the sale contract based on forged documents and awarded the residential property to the plaintiff.

In 11 similar cases before the Klina Municipal Court, a certain number of Serbs from this municipality displaced to Serbia upon the arrival of KFOR filed charges against Albanians that have illegally seized their houses. They listed the defendants obtaining ownership of their property without their knowledge using forged authorizations issued in courts in Serbia and Montenegro, enabling third parties to sell the residential property, pretending to act in the name of the plaintiffs. Using authorizations thus forged the defendants certified these false property transactions before the Klina Municipal Court, whose officials ignored the fact that the authorizations issued in Serbia and Montenegro were forged. Since the plaintiffs were displaced in Serbia and had no physical contact with their residential property, they learned of the sales of their houses only after the property transactions had already been formally entered into the records of the Klina Municipal Court, after some of the plaintiffs had returned to Kosovo and Metohija.

In a case before the Prizren Municipal Court on August 10, 2005 a Serb currently residing in Serbia demanded of the court to recognize his property rights as per a house in Prizren which was taken over at that point by the second defendant, an Albanian. According to these charges, the second defendant purchased this residential property without the knowledge or intervention of the plaintiff, using forged documents used for issuing authorization in the Mitrovica Court, enabling a Belgrade-based lawyer to sell the house in the name of the plaintiff. Since the authorization conferred the ability to provide representation authorization, the authorized person from Belgrade issued a second authorization before the same court, in the name of a Turk lawyer from Prizren, likewise a defendant in this case, whereby this lawyer was entitled to conduct the sale of the disputed residential property, supposedly representing the plaintiff. With this second authorization, the defendants certified the sales contract before the Prizren Municipal Court. The plaintiff learned of this false

transaction at a later time, when the HPD initiated the process of evicting the second defendant from the house.

As these cases and many others show, the use of forged personal ID cards for the issuing of official authorizations in Serbia and Montenegro, enabling certain persons in Kosovo and Metohija to sell residential property owned by Serbs displaced to Serbia, is a frequent practice in courts. Besides the use of forged ID cards to obtain false legal authorization and certify false property transactions, the OSCE also noted that other evidence is forged in the same way and provided to courts in property disputes.

In one case presented before the Istok Municipal Court, five persons of the Roma nationality currently residing in Germany filed a request on May 24, 2004 for the Court to annul the sales contract whereby the defendants, two persons of Albanian nationality, purchased the family house belonging to the plaintiffs. According to the charges, the defendants made use of the forged death certificate of the plaintiff's father, the legal owner of the house, to certify that the heir to the house is the first plaintiff. Furthermore, the defendants used a forged ID card for the first plaintiff to obtain false authorization issued in Montenegro, enabling a lawyer from Serbia to sell the house in the name of the first plaintiff as the sole heir of the deceased person. Using these false documents the defendants certified the sales contract at the Istok Municipal Court and entered the house into the cadastre records in their own names. According to the charges, the first plaintiff never issued an authorization for the house to be sold to the defendants. In a second example before the Priština Municipal Court, the plaintiff, an Albanian woman, claimed to have purchased an apartment in Priština from the defendant, a Serbian national, on April 7, 1996. Since the sales contract provided by the plaintiff as evidence was not court certified, the presiding judge found its validity to be suspect and requested the Crime Directorate of the KPS to examine the signatures of the parties and assess their authenticity. The expert report provided by the Police confirmed the defendant's signature on the sales contract to be forged, and thus the court dismissed the charges as unfounded. Even though the use of forged official documents already represents a difficult problem, especially if they have value as evidence, once these documents are used as the basis for registering property rights

the problems are compounded. This happens whenever the use of irregular cadastre documents is accepted, since they should, in theory, be the most reliable proof for property rights, since every real estate transaction needs to be registered in the cadastre service. If these documents are abused and the court is unable to uncover irregularities, the credibility of the judiciary in resolving property disputes is seriously threatened.

To this end, the OSCE identified a number of cases where the owners' documents submitted as evidence were irregular. Some of these documents did not contain the entry number in the municipal register, a signature by the official issuing the owners' documents, the signature of the manager of the municipal cadastre service or the stamp of the official cadastre service, even though these are all formal requirements for the owners' documents to be valid.

According to current law, once it is issued in its legal form, a public document proves the validity of the contents of the document. The law likewise prescribes that whenever the court has any doubts as to the authenticity of a document, they can request the issuing agency to provide their opinion on the matter. Despite this legal framework, in several cases where doubt should have been expressed as to the authenticity due to irregular owners' documents, the courts not only accepted these documents as valid, but used them as evidence in reaching a final verdict, without having them previously submitted to the Municipal Cadastre Service which allegedly issued them, in order to confirm their authenticity. Aside from breaking the law, this practice endangers the property transaction system in Kosovo and Metohija, whereby fraud is allowed and it has a negative impact on the authenticity of cadastre records.

In a property dispute initiated on February 26, 2004 before the Gnjilane Municipal Court, the plaintiffs submitted as evidence owners' documents lacking a (protocol) number showing when it was entered into the municipal register, the signature (or name) of the clerk, as well as the signature of the manager and the municipal stamp. The court accepted these owners' documents as evidence during the main inquest. In the ruling, the court admitted to accepting the disputed owners' documents as evidence and concluded that "based on all that was said [and] the accepted evidence, [...] the court considers the charges filed by the plaintiffs to be founded and has reached a decision as noted in the ruling." In another property dispute before the Gnjilane Court a similar situation occurred. The plaintiffs filed

charges on October 12, 2004 and provided two owners' documents as evidence. One of these was a valid document containing all the required data and the stamp. The second document, on the other hand, lacked the (protocol) number showing it to have been entered into the register, the signature of the manager, or even the municipal stamp. Again, the court accepted both documents as evidence during the main inquest, and in the ruling, issued on the same day, the court admitted that, among other evidence, they accepted both documents as valid. In these examples the courts certifying property transactions failed to note the forged authorizations or death certificates issued by courts in Serbia and Montenegro, or relied on obviously irregular owners' documents. Consequently, the courts did not forward these forged or irregular documents to the Department of Justice or the cadastre service to verify their authenticity. Therefore, several transactions with forged documents were certified, and the courts enabled the legalization of illegal property transactions thereby interfering with the process of minorities returning to Kosovo and Metohija.

VII) RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

UNMIK regulations and the Constitutional framework envisage freedom of religion, which is generally observed in practice by UNMIK and the PSI. There are no specific regulations relating to issuing permits for the activities of religious groups. However, in order to be able to purchase assets or receive financial assistance from UNMIK or other international organizations, religious organizations have to register with UNMIK and the Ministry of Public Services as non-government organizations. Religious groups have complained that the status of a non-government organization fails to reflect their religious character adequately, while the Protestant Evangelical Church refused to register as a non-government organization.

Pursuant to the Law enacted in 2002 stipulating that national educational institutions should refrain from religious instruction and other activities promoting a specific religion, the Ministry of Education prohibited the wearing of scarves. The Ministry continued to implement the prohibition, in particular in schools which regulate the wearing of uniforms, in spite of the opinion issued by the Ombudsman in 2004 that the regulation should only apply to the teaching staff and other employees

and not to the students. On September 20, 2004, the *Koha Ditore* gazette reported that three student girls from two secondary schools in the municipality of Srbica were not allowed to enter school for wearing scarves but were, eventually, permitted to attend the classes.

Protestant groups still report discrimination in terms of access to media, in particular to the Radio Television of Kosovo (RTK). The Protestant Evangelical Church of Kosovo, also known as the Community of God's People, also reported that the municipality of Dečani did not issue a permit in 2006 to build a church facility on the land they had purchased, stating the negative reaction of the local population as the reason. The case reached the Supreme Court of Kosovo before the end of the year.

The Muslim community keeps reiterating that the UNMIK's refusal to issue a radio frequency for a Muslim radio station and the decision to close the praying rooms in the National Library are examples of a lack of religious freedoms.

Freedom of religion is violated for adherents of the orthodox religion through the demolition and burning of orthodox edifices, while abuse of religion in committing criminal offenses is tolerated for radical Muslims in Kosovo and Metohija. The American Representative for the Balkans, Robert Gelbard, labeled the Kosovo Liberation Army (KLA) unequivocally as a terrorist group. KLA members were trained by combatants from Kuwait, Saudi Arabia and Germany, as well as by Afghanistan and Turkish trainers. At the request of Abdullah Duhayman, a Saudi citizen and Head of the Global Bureau for Islamic Calling and a direct associate of Osama bin Laden, the Albanians Ekrem Avdiu and Kopriva Spend organized a jihad unit (Saudis, Ethiopians and Albanians). After the unit was dissolved by the Ministry of Internal Affairs of the Republic of Serbia, the defendants were convicted in 2000 by the Serbian judiciary and granted amnesty by the competent bodies of the Federal Republic of Yugoslavia in 2001, allegedly under pressure by the international community. The name of Abdullah Duhayman was directly linked to September 11; he was convicted to a single year of imprisonment in 1996 since he apparently had powerful patrons, as did his comrades from Kosmet and Afghanistan. After the arrival of international security forces, a number of terrorist groups continued their activities in Kosovo and Metohija, operating against the Serbian population, members of international forces and members of the Serbian army and the police in the Preševo and Bujanovac regions, across the administrative line from the territory of Kosovo

and Metohija. The terrorist activities are financed (identified as a criminal offence of facilitating terrorist acts under Article 112 of the Provisional Criminal Procedure Code, prescribing a punishment of 15 years imprisonment) largely from the funds of non-government organizations financing the construction and work of religious facilities and activities under the control of radical Islamic movements such as the Salafi and the Wahabbi.

The Serbian Orthodox Church is in a particularly difficult situation, since a large number of churches, monasteries and other places of worship have been destroyed or severely damaged since June 1999.

After the NATO air-raids against the Federal Republic of Yugoslavia and the Republic of Serbia in 1999, the signing of the military-technical agreement and the adoption of the UN Security Council Resolution 1244, Kosovo and Metohija were placed under the security and civil administration of UN and/or KFOR and UNMIK.

Almost 10 years have passed since the arrival of the international administration and five years since the March pogrom over the Serbian people and their cultural heritage. The destruction, burning and endangering of 117 churches, monasteries and an innumerable number of graveyards occurred in the second half of 1999 in the presence of several thousand soldiers of international forces and UNMIK. This cannot be forgotten or diminished in importance as the previous destruction, in spite of the repeated and thus far unprecedented and globally unseen destruction of other and same monasteries, churches, cultural monuments, graveyards and other constructions reminiscent of Serbia and the orthodox religion which took place on March 17-18, 2004. A total of 34 facilities and places owned by the Serbian Orthodox Church were destroyed, burnt down or damaged in the two-day March pogrom alone, which are under the auspices of the Bishopric of Raška and Prizren and Kosovo and Metohija. Churches and monasteries sustained the most severe damage. Of the said number, 18 edifices are cultural monuments of the Serbian cultural heritage in Kosovo and Metohija, while 60 out of the total number of destroyed edifices (monasteries and churches) are cultural monuments of Serbian cultural heritage. The numbers are unfathomable in any context. It is incomprehensible that in this century the largest and unparalleled persecution takes place in Kosovo and Metohija, along with usurpation

of land, civilization and cultural genocide against the Serbian people and their heritage. The term “crime against cultural heritage” in Kosovo and Metohija was included in Resolution 26 at the XXXI General Conference of UNESCO.

The events of March 17 resulted in new persecution, displacement and pogrom over the population and cultural monuments in Kosovo and Metohija. By expelling the Serbian population and “erasing” their cultural heritage as evidence of the creation of the state of the Serbian people, Albanians from Kosovo and Metohija are attempting to recreate and falsify history. The destruction thereof surpassed the destruction of 1999 (postwar). Two monuments were burnt down then (St. Archangel Monastery, Tsar Dušan Mausoleum and the unique town church of Bogorodica Ljeviška) which were categorized in the Report of the UNESCO Mission in Kosovo 2003 as monuments of universal value (of the total of six such monuments in Kosovo and Metohija.)

Almost all churches and numerous monasteries sustained damage (for example, churches of Prizren, in particular churches of *Bogorodica Ljeviška* and *Sv. Spas*, *Sv. Andrija Prvozvani* of Podujevo, *Bogorodičino Vavedenje* of Belo Polje, *Sv. Ilija* of Vučitrn, etc) or were fully destroyed (for example, monasteries: *Zočište* of Orahovac, *Sveta Trojica* of Mušitište, *Devič* of Srbica, *Dolac* of Klina, *Sv. Marko* of Koriša, *Sveti Arhanđeli* of Gornje Nerodimlje, *Sv. Arhanđelo Mihailo* of Buzovik, etc. and churches: *Sv. Đorđe* of Prizren, Rečani and Siga, *Bogorodica Odigitrija* of Mušitište, *Bogorodičina Crkva* of Suva Reka, *Saborna Crkva Svete Trojice* of Đakovica, *Rođenje Presvete Bogorodice* of Softovići, *Sv. Nikole* of Priština, Prizren, Slovinj, Đurakovac, Štimlje, Popovljan, Mlečani, Kijev, Donje Nerodimlje, Sičevo, Bistražin, Ljubižda and Čabići, *Sv. Petke* of Drsnik, *Uspenje Presvete Borodice* of Šajkovo, etc), and even eradication- with a removal of all traces – church foundations (for example: *Uspenje Bogorodice* Church and rectory in Đakovica.) In addition to the destruction of monasteries, churches, graveyards and other places, more than 10,000 icons were destroyed, as well as ecclesiastical, artistic and liturgical objects. It is interesting that, while Albanian hordes burned and mined the edifices, the invaluable movable orthodox wealth was pilfered from many churches and treasuries, being sold away in the global illegal market of antiquities, artwork, old manuscripts and other rarities.

Immediately following the NATO bombing and entering of international peace corps in Kosovo and Metohija, the British journalist Tim Judah made photographs in mid-June 1999 of Albanians looting the church of Sveti Ilija in Vučitrn. He informed Bishop Artemije thereof and handed in a few icons that he had managed to save. The Bishopric of Raška and Prizren was informed that church bells had also been stolen from the destroyed Serbian church in Đakovica in spite of protection by UNMIK police, while a German KFOR corporal tasked with protecting the property of the Serbian Orthodox church in Prizren stole a 300-year-old valuable icon – a diptych (a liturgical book) and a number of smaller church items, wherefore he was sentenced to a year of probation in Germany.

In the South of Europe - Greece, according to a report by the local police, “four smugglers of Serbian religious and artistic items” were arrested in Thessalonica. The leader of the group and his wife were caught with 17 stolen 19th century books, stolen 18th century engravings and icons from and some valuables from Roman times, and the smugglers confessed to having bought the items in Albania from local dealers and that they originated from Kosovo and Metohija. These are but a few of the numerous examples.

No Albanian authority reacted, condemned the crimes or spoke in public of the incidents. It may be deduced that some political forces or formations in Kosovo and Metohija performed the crime against the cultural heritage of the Serbian people on purpose, targeting heritage which stands as evidence of the creation of its state, church and culture.

In some of the cases of March 2004 unrest, the defendants were convicted for minor misdemeanors, while the facts stated in the indictment indicated more severe offenses. Two defendants were convicted before the Municipal Court of Uroševac on July 16, 2004 for having participated in the group which had committed a criminal offense. There was no doubt that on the basis of evidence the court had determined that at least one of the defendants had thrown a Molotov cocktail at an orthodox church on March 17, 2004. These facts indicate severe criminal offenses such as the incitement of national, racial, religious or ethnical hatred, conflicts or intolerance and/or reckless endangerment. The District Court of Priština ratified the first instance

decision on July 24, 2007. The prosecutor was to state charges for severe offenses based on the facts given in the indictment. As a result, several defendants received insufficiently severe punishments because they were not punished and convicted for the criminal offenses they had committed.

Following March 17, 2004, the international community severely condemned the pogrom, and the Kosovo Government was pressured into reconstructing an insignificant number of the destroyed houses which were re-inhabited by a small number of people – expelled Serbs and Roma. However, no rebuilding and reconstruction of churches and monasteries has been initiated, or cultural monuments of the Serbian cultural heritage, while the rebuilding and reconstruction of damaged mosques and minarets has already been completed.

The violence of March 17, 2004 in Kosovo and Metohija has revived the issue of preservation, reconstruction and protection of cultural monuments in a dramatic way. Following these events, the reconstruction of destroyed and protection of other cultural monuments has become more prominent in the engagement of the international community, taking into account that there were no results in terms of reconstruction and protection prior to these events. The Serbian cultural heritage in Kosovo and Metohija still lies in ruins, as along with numerous churches, facilities and graveyards which were, just like some of the churches, desecrated and ploughed over. Despite all the above mentioned, nothing has been done, in spite of the promises given by the international community and UNMIK that the rebuilding, reconstruction and protection of the Serbian cultural heritage in Kosovo and Metohija would be initiated as soon as possible. Furthermore, in some individual cases no access was allowed, not to mention rebuilding and reconstruction of destroyed cultural monuments and other facilities.

As an example of institutional usurpation of assets, we provide the example of the Serbian Orthodox Church, specifically the church of Đakovica. The Church of *Sveta Trojica* in Đakovica was destroyed by Albanian extremists in 1999. The municipality of Đakovica started constructing a town park on the land of the destroyed church in spite of the fact that the land is registered in the Cadastre to the name of the Serbian Orthodox Church. Bishop Teodosije of Lipljani filed a protest note to UNMIK and the Council of Europe with regard to the case.

The municipality of Dečani refused to implement the executive decision of Head of UNMIK Joachim Rucker adopted on May 17, 2008 which stipulated the return of 24 ha of land which had been taken away by the communist authorities after the Second World War. The Government of the Republic of Serbia adopted a Decision in 1996 on returning the land to the monastery. After the year 1999, municipal authorities of Dečani still treated the land as socially-owned and erased the monastery as an owner from the cadastre. At the insistence of Bishop Teodosije, Rucker adopted the Decision on May 17, 2008 that the land be returned to the monastery and ordered the municipal authorities to re-inscribe the monastery as the owner into the cadastre. The Municipal Assembly of Dečane declaratively refused to implement the UNMIK decision and decided to discontinue all contacts with local UNMIK staff. Bishop Teodosije notified the UN Headquarters in New York thereof.

VIII) FREEDOM OF THOUGHT AND EXPRESSION

Article 40 of the Constitution of the self-proclaimed so-called Republic of Kosovo guarantees the freedom of expression. The freedom of speech includes the right of expression, the right to impart and receive information, ideas and other messages, without impediment. The freedom of expression may be restricted by law if necessary to prevent the incitement and provocation of violence and hostility based on racial, national, ethnic or religious hatred. However, the European norm which has been inscribed in the Kosovo Constitution seems not to have been fully integrated and implemented by competent institutions, which may be seen in the following examples from the judiciary practice.

- The Case of the Stojanović Brothers -

The Decision of the Municipal Misdemeanor Court in Kosovska Kamenica UP.I No. 1271/2008 as of May 30, 2008 proclaimed brothers Momčilo and Milorad Stojanović of Kusci, the Gnjilane municipality, accountable for having been noticed on May 29, 2008 by the Kosovo police at the “Gate 5” administrative border at the town called Bela zemlja, wearing T-shirts with the statement “Kosovo is Serbia” inscribed in the front and the statement “Support Serbia” inscribed in the back of the shirts and were punished with a fine of EUR 250 and were forced to pay the fine on the spot.

Wearing the said shirts was characterized by the court as a misdemeanor under Article 18, paragraph 1, item 2 of the Law on Public Order and Peace (Official Journal of the Social Autonomous Province of Kosovo No. 13/81) with the justification that the appellants offended the national feeling and public moral of the majority of Kosovo citizens by wearing the statements “Kosovo is Serbia” and “Support Serbia”.

The said qualification of the court was issued without any legal and factual argumentation. The appellants wore the inscriptions to express their personal opinions and ideas as members of the Serbian national community and citizens of the Republic of Serbia without an intention to offend a single person or to jeopardize public order and peace. Article 10 of the European Convention on Human Rights prescribes that everyone shall have the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. Namely, Article 21 of UNMIK Regulation 1999/24 envisages that the European Convention on Human Rights be directly enforced in Kosovo.

The incomplete statement of reasons of the judgment failed to refer to any details on the manner in which the public morals or national feelings of the citizens had been offended and/or how the Stojanović brothers had offended the members of the majority community by wearing said inscriptions. Not a single piece of evidence or argument for making the decision is stated. As members of the Serbian national community and inhabitants of Kosovo and Metohija, the Stojanović brothers are entitled to expressing their affiliations and opinions in line with internationally recognized human rights. The Stojanović brothers did not offend the Albanian people or incite rioting which may jeopardize public order and peace, nor was this proven or stated in the misdemeanor proceedings.

- The Tučep Case -

A representative example is given in the case of Tomislav Zuvčić, Branimir Golac and Radomir Džolić from the Tučep village close to Istok . Namely, two persons of Albanian nationality stoned their car and broke its windows on May 7, 2008. When one of the Albanians, Jakup Tahiuakaj was taken into custody by the Kosovo police service, he stated that he was provoked by the Serbs who showed the

three-finger sign through the window of the car. The Municipal Misdemeanor Court of Istok sentenced the Albanian offender to 60 days in prison, while the Serb victims of the attack were fined EUR 150 with the justification that they had violated public order and peace by displaying the Serbian sign.

MEDIA-RELATED FREEDOMS

Freedom of expression and freedom of media are well-protected by positive legislation. The Law on the Radio Television of Kosovo (No. 02/L-47, promulgated by the UNMIK Regulation 2006/14 as of April 11, 2006) envisages the establishment of a broadcasting agency, the Radio Television of Kosovo, which shall be autonomous from the editorial and financial viewpoint. The independence of the regulatory broadcasting agency, the Independent Media Commission, is stipulated by the Law on the Independent Media and Broadcasting Commission (No. 02/L-15, promulgated by the UNMIK Regulation 2005/34 as of July 8, 2005). Namely, Kosovo has enacted a very advanced legislative framework in this respect.

The legislation instrumental for establishing free and independent media have been developed in close cooperation with the Council of Europe and meet high standards. The Kosovo legislative framework in the field of media is advanced, in particular in relation to the issue of libel. The civic law against libel and slander, being the sole such law in the region, identifies the self-regulatory Kosovo Print Council as a mitigating factor. The petitioners are stimulated to first turn to the Kosovo Print Council before they press charges for libel or slander. No significant changes in the normative framework regulating the operations of independent media occurred, nor were they expected. The Law on Libel and Slander favoring print media was promulgated in February 2007, in accordance with the Recommendations of the Council of Europe. However, in spite of these recommendations, libel is still defined as a criminal offense according to the still valid Provisional Criminal Law and is not treated simply as a civic offense. This allows for political misuse, enabling politicians criticized by the media to press criminal charges against the media professionals. There are two independent regulatory institutions – the Independent Media Commission (IMC) and the Kosovo Print Council. The Independent Media

Commission represents an independent regulatory body in charge of broadcasting activities in Kosovo. It disposes of and manages the broadcasting frequency range, promotes ethical and technical standards among broadcasting media and enforces the set of regulations ensuring that local broadcasting stations act in line with European professional standards and equity in reporting. The Kosovo Print Council represents a self-regulatory body in charge of and comprised of print media, tasked with representing freedom of speech and ensuring the observance of the Print Code of Conduct, undertaken by 90 percent of the print media. There are no formal limitations to utilize media in minority languages in Kosovo and Metohija and the national legislation guarantees the right to communities and their members to receive and impart information in their respective languages, to create media in their mother tongue and to special representation in public broadcasting media.

The Law on Broadcasting of Kosovo was enacted in April 2006, stipulating the existence of public broadcasting stations independent from the editorial and financial viewpoint and promoting the broadcasting of programs in non-Albanian languages. Paragraph 6.6 of the Law obliges the Radio Television of Kosovo to “serve and be a voice for all ethnic minorities of Kosovo, dedicating no less than 10 percent of the budget to programs and no less than 15 percent of their program time – including the broadcasting of news in prime time – to non-minority communities and their languages on a proportional basis”.

During the course of 2006, the Fund for Providing Assistance to the Media of Minorities, Multiethnic or Disadvantaged Environment was established within the Prime Minister’s Office. The Fund, representing an integral part of UNMIK’s requirements in terms of standards, is predominantly funded by five percent of the fees for watching the public service. Subsidies should be provided on a regular basis to the minority media broadcasting program of good quality.

The reporting standards have risen after the unrest that took place in March 2004. Not a single case of hate speech was reported during the reporting period. The OSCE report on the role of Kosovo media in the events that took place in March 2004 notes that, had it not been for the “imprudent and sensationalistic reporting”, ethnic unrest might never have taken place. The Albanian TV channels were particularly criticized for “unacceptable levels of emotions, partiality, negligence and false ‘patriotic’ zeal” in their reporting.

However, a large number of public media in Kosovo and Metohija, the small advertising market, many young and inexperienced journalists and the absence of a formally recognized professional development system contributed to the financially and editorially weak media, which are open to political interference. These factors hinder the distribution of diverse opinions. Currently there are eight daily newspapers in the Albanian language issued in Kosovo. Out of the 114 broadcasting stations owning a permit for performing such activity in Kosovo, 44 stations broadcast programs in minority languages (34 in Serbian, four in Bosnian, three in Russian, two in the language of the Gorani and one in Romani). Two stations broadcast evenly in Albanian and Serbian (with an additional program in Romani). 35 radio stations broadcast additional programs in other languages other than their first language, including the 19 stations which also broadcast programs in Romani.

A well-conceptualized institutional framework does not prevent the political manipulation of media. Politicians and political parties still consider the media their spokespersons. In April 2008, on the day of the first 100 days of their mandate, the Prime Minister's Office arranged that all daily papers and main radio stations broadcast the Prime Minister's speech in full, free of charge and in a coordinated manner. The print media were ordered to issue the Government's report on 145 pages on the first 100 days of management on the set date, free of charge as a supplement. Due to a highly politicized media environment, only one paper reported with criticism on the violation of the freedom of media. The regulatory broadcasting body and the Print Council reacted with a delay of two weeks.

As of January 2008, the newly constituted Assembly has been misinterpreting more and more its supervisory role over independent institutions, in particular over the regulatory broadcasting body and over the public broadcasting station. It violated the independence of these institutions by interfering in their internal decision-making procedures and by altering the internal decisions of these independent bodies. At the beginning of 2008, two Parliamentary committees were under the impression that they had the mandate to approve or discard the annual reports of the independent institutions, wherefore they "discarded" the annual reports of the Radio Television of Kosovo and the National Council of Kosovo and Metohija, requiring from both

institutions to insert the corrections drafted by the committees to the final versions, instead of asking a clarification or justification from these institutions. In March 2008, the Parliamentary Committee for Public Services, Local Government and Media proclaimed the decision of the Independent Media Commission on closing an illegal broadcasting station “illegal”.

The Law establishing the Radio Television of Kosovo (RTK), the Kosovo public broadcasting station, has not been fully enforced. Three years after its coming into force, the RTK Board has not been nominated. Moreover, the public broadcasting station is striving to sustain its operations in spite of the absence of sustainable financing mechanisms. The RTK found themselves in an unenviable position after the Kosovo Energy Corporation (KEC), their representative accountable for collecting the fee for broadcasting their program, terminated the contract with the RTK. After lengthy negotiations, the KEC agreed to continue collecting the fee until November 2008, allowing the Parliament to enact the relating law.

The temporary financing mechanism is yet to be replaced with legal provisions which shall ensure a stable and sustainable financing of the RTK, which is of key importance for the issue of security and achievement of the public broadcasting service’s goals. The financially unstable public radio broadcast service will have a negative impact on access to information, especially among minority communities.

Exemption from paying VAT for newspapers and educational publications was envisaged by the draft Law on Value Added Tax, based on European standards. However, the law has not been enacted by the Parliament. Contrary to a majority of European countries, Kosovo and Metohija applies the full VAT rate to papers and magazines, thus aggravating the economic conditions for print media. Kosovo and Metohija account for one of the lowest paper circulation rates in Europe. It is estimated that eight daily papers together account for a daily circulation of 25,000-30,000 copies. The VAT exemption would decrease the price of papers, which may result in an increase of demand, circulation and access to information.

In April 2005, the Prime Minister’s Office adopted the policy of stimulating and protecting the media relating to the non-majority and disadvantaged communities in Kosovo, which speaks in favor of stimulating the diversity of print media by decreasing the value added tax on selling print media and books, which would also be in accordance with the common European practice (between zero and 25 percent of

the generally applicable value added tax). In July 2006, the OSCE representative in charge of the freedom of media even recommended a full VAT exemption for print media in his latest report on Kosovo. In October 2006, the Kosovo Print Council and a number of print media representatives also recommended to exempt the print media from paying the VAT, which is a practice common in a number of European countries. Namely, the majority of European countries apply the zero percent tax rate or a reduced tax rate for papers, magazines and books. The reduced tax rate most commonly does not exceed 25 percent of the standard rate.

The minority communities living in distant regions complain of difficulties in accessing electronic media in their mother tongues. The instruments established to increase the access to information by minority communities are not effective.

The Government and the Parliament have demonstrated very poor understanding of the role of free media and the relevance of media being independent of political interference in terms of developing a sustainable democracy. The politicians fail to respect the work of independent media institutions, such as the regulatory broadcasting body and the public broadcasting station. These institutions are exposed to political pressure and interference and lack the financial resources. They are unable to adequately fight attempts of political interference. The media of minority communities in Southern Kosovo lack the financial resources necessary for their work, which is why many of them are not sustainable.

The OSCE Mission has provided support to the Independent Media Commission and the Kosovo Print Council to face to the attempts of the Kosovo government to interfere in their work and has been stimulating media to resist the attempts of political interference.

e) ECONOMIC, SOCIAL AND CULTURAL RIGHTS, IN PARTICULAR

II) RIGHTS TO ESTABLISH AND ENTER LABOR UNIONS

UNMIK regulations allow employees to enter and establish labor unions of their choice without prior authorization or excessive requirements. However, the exercise of this right has been prevented on several occasions. The only significant labor unions have included the Association of Independent Labor Unions of Kosovo

(*Udruženje nezavisnih sindikata Kosova – BSPK*) and the Confederation of Free Unions (*Konfederacija slobodnih sindikata – CFU*). UNMIK regulations forbid the discrimination of labor unions. However, in practice, some union officials have reported cases of discrimination. The BSPK has reported that only a few companies follow the regulation on the prohibition of discrimination against labor unions and states that labor rights are violated in all sectors, including international organizations, failing to cover social and pension insurance for the employees.

UNMIK regulations allow labor unions to implement their activities unimpeded and UNMIK has protected this right in practice. UNMIK regulations also envisage the right to organizing and collective negotiation without interference, and the Government has not limited this right in practice. However, there has been no collective negotiation throughout the year. UNMIK regulations do not recognize the right to strike, however, strikes in practice are not forbidden and they have occurred throughout the year.

V) RIGHT TO EDUCATION AND VOCATIONAL TRAINING

The Law stipulates that all members of minority communities have the right to education in their respective languages, from pre-school education to university education. The Ministry of Education, Science and Technology of Kosovo developed a single plan and program applicable for Albanians and all minority communities, excluding Serbs. However, the law stipulates that the Ministry shall develop plans and programs for the subjects relating to nurturing and protecting the national identity, such as language, history and arts, in cooperation with cultural institutions of these communities. Furthermore, the Law prescribes that the Ministry shall ensure the same quality of teaching both for the majority population and for students learning in minority languages.

When it comes to the Serbian community, the law prescribes that the Serbs may be educated in their own language, in line with the plan and program of the Ministry of Education of the Government of Serbia, if they notify the Kosovo ministry thereof in accordance with the procedures stipulated in the *Law on Education in Municipalities*. Pursuant to the *Law on the Promotion and Protection of*

Communities and their Members, the University of North Mitrovica is an autonomous higher education public institution providing diplomas in the Serbian language.

Pursuant to the Law, the municipality of North Mitrovica has the competence over the institution. The *Law on Education in Municipalities* stipulates the thresholds and/or the minimum number of students necessary to organize tuition in minority languages. This is reiterated in the provisions of the *Law for Promoting and Protecting the Rights of Communities*. However, the Government of Kosovo is mandated to subsidize transportation to a location where students may be educated in their respective languages, in case of an insufficient number of students. The Turks, Bosniaks, Ashkali, Egyptians and a number of Gorani who attend classes in Bosnian attend schools which are under the competency of the Ministry of Education, Science and Technology of Kosovo.

Serbs and Gorani who receive tuition in Serbian are educated in schools which are under the competency of the Government of Serbia. The Roma are educated in institutions under the competency of the Government of Kosovo and the Government of Serbia. However, not a single school organizes tuition in the Roma language. The Roma language is an optional subject in primary schools under the competency of the Government of Serbia, attended by the Roma. A similar initiative has not been organized in schools under the competency of the Government of Kosovo.

The Ministry of Education, Science and Technology has launched the development of the strategy for the integration of the Roma, Ashkali and Egyptians. The project of the standardization of the Roma language was launched towards end October 2008, which shall facilitate the drafting of the plan and program in the Roma language. The plan envisages that the Roma students receiving tuition in Albanian or Serbian shall have classes in their mother tongue twice a week. The Ministry shall also provide teacher staff to teach in the Roma language. One of the biggest problems faced by pupils and students educated in Bosnian and Turkish is the lack of schoolbooks and reference literature. In view of the primary, nine-year education for pupils receiving tuition in Turkish, the schoolbooks for I, II, III, IV, VI, VII and VII grades have been published, partly for IX grade, while there are no schoolbooks for V grade. In view of the nine-year schools providing tuition in Bosnian, the schoolbooks

for I, II, III and IV grade have been published, while only certain subjects are covered with schoolbooks for V, VI, VII, VII and IX grade.

There are still no schoolbooks for secondary schools for students studying in these languages. According to the statements of MONT representatives, all missing schoolbooks shall be printed in the course of 2009. The ones that are not printed shall be supplied directly from Bosnia and Herzegovina and/or Turkey. When it comes to higher education, Turks may receive higher education in their language at the Teachers' College in Prizren as a branch of the University of Priština, as well as at the Department for the Turkish Language and Oriental Studies at the University of Priština. Turkey also provides scholarships and enables a number of Kosovo students to study in their universities. Bosniaks may obtain higher education diplomas in their language at the Faculty of Applied Business Sciences in Peć, at the Teachers' College in Prizren and at the Faculty of Technology and Computer Science in Peć. These are the only higher education institutions under the competency of the Government of Kosovo where Bosniaks may receive university education in their language. The Ministry has ensured that a number of members of the minority communities, Bosniaks and Turks specifically, are educated at the faculty in Priština in Albanian. In order to motivate the members of minorities to enroll the studies, they are exempted from taking the entrance exam. Although the Ministry has enabled that the members of minorities enter the University of Priština, the decision did not include Serbs and the Roma who, hypothetically speaking, may wish to apply for studies in the university, nor did it ensure that students from minority communities may receive tuition in their respective languages.

Enforcement of Article 6 of the Convention

**RIGHT TO APPEAL BEFORE NATIONAL COURTS AND
OTHER COMPETENT STATE BODIES**

The UNMIK police members and KFOR members are protected by the regulations on immunity stipulating that the originating country is the only country to take action against them, usually after the defendant has been sent home, which practically prevents the possibility that the plaintiff learns about the outcome of investigation, if any. It is, therefore, necessary to subject the EU police and judiciary

mission in Kosovo and Metohija to the jurisdiction of the Constitutional Court and Ombudsman, which would facilitate the achievement of the obligation arising from Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination relating to the right to appeal even before the national courts. The OSCE has been following the cases in which authorities failed to investigate properly on alleged inhumane and degrading treatment and/or alleged criminal offenses committed by officials or natural persons. The OSCE states that the police arrested a person in one case investigated by the prosecutor's office, allegedly for having committed a criminal offense. The defendant admitted to having committed the criminal offense during the first interrogation conducted in the police station. Later on the defendant told the prosecutor that he had admitted to the crime only because the police threatened and beat him. He also showed the prosecutor the torn clothes in which the signs of the alleged mistreatment were visible. The victim of the alleged criminal offense confirmed in the statement given before the prosecutor that the person witnessed the ill-treatment of the defendant by the police. Despite all this, the prosecutor did not institute investigation over the alleged ill-treatment. Instead the pre-hearing judge ruled for a one-month detention for the defendant. In another case, the public prosecutor turned down the criminal charges of the police stating that a husband assaulted and inflicted wounds on his wife, thus committing a criminal offense to be prosecuted per official duty. According to the information collected by the police, there had been previous similar violent incidents between the spouses. In a nutshell, the prosecutors did not urgently investigate and institute the prosecution against the possible inhumane and degrading treatment. This represented a breach of due care standards and the legal obligations of prosecutors in accordance with national legislation.

Particularly important is the uncovered fate of the missing and abducted Serbs and other non-Albanians in June 1999, in light of the data published in the book by Carla del Ponte "The Hunt: Me and War Criminals", stating that the potential victims of human organ trafficking were taken from Kosovo and Metohija to Albania, also stating claims against the current Prime Minister of Kosovo Hashim Tachi and the former Prime Minister and one of the commanders of the Kosovo Liberation Army

(KLA) Ramush Haradinaj, who has been freed from all the claims by the Hague Tribunal. Although notified thereof, the UNMIK administration did not react, and the involvement of the highest officials of provisional Kosovo institutions in the stated crimes and the absence of an efficient protection of witnesses in the criminal proceedings does not give hope that the judiciary of Kosovo and Metohija shall somehow react in the said case. So far the Prosecutor's Office for War Crimes of the Republic of Serbia has reacted, submitting the proposal to the War Crimes Panel of the District Court of Belgrade to undertake specific investigative actions.