



ANALYSIS OF OBSTACLES IN THE PROCESS OF RETURN OF DISPLACED PERSONS FROM THE WAR IN KOSOVO BETWEEN 2017 AND 2021

Publisher

National Convention on the European Union
Working Group for Chapter 35

Authors

Milica Radovanović, New Social Initiative (NSI)
Marko Milosavljević, Youth Initiative for Human Rights (YIHR Serbia)

Year

2022

The publication was produced within the project "Support to Monitoring the Dialogue between Belgrade and Pristina" financed by the Embassy of the Kingdom of Norway in Belgrade and the Balkan Trust for Democracy of the German Marshall Fund of the United States. The opinions and views expressed in this publication are those of the authors and do not necessarily reflect the official views of the Embassy of the Kingdom of Norway in Belgrade, Balkan Trust for Democracy of the German Marshall Fund of the United States, National Convention on the European Union, or the Institute for Territorial Economic Development.

Analysis of obstacles in the process of return of displaced persons from the war in Kosovo between 2017 and 2021

Milica Radovanović, New Social Initiative (NSI)

Marko Milosavljević, Youth Initiative for Human Rights (YIHR Serbia)

December 2022

CONTENTS

<i>INTRODUCTION</i>	<i>1</i>
<i>BASIC DATA AND PROBLEMS OF INTERNALLY DISPLACED PERSONS IN SERBIA.....</i>	<i>3</i>
<i>KOSOVO'S LEGAL FRAMEWORK FOR RETURN OF DISPLACED PERSONS</i>	<i>8</i>
<i>HOW DOES THE RETURN PROCESS TO KOSOVO WORK</i>	<i>12</i>
<i>RETURN TO KOSOVO – DESCRIPTION OF THE SITUATION.....</i>	<i>16</i>
<i>RESISTANCE TO RETURN AND SECURITY INCIDENTS IN KOSOVO.....</i>	<i>21</i>
<i>REALIZATION OF PROPERTY RIGHTS</i>	<i>28</i>
<i>FINDINGS OF ORGANISATIONS AND INSTITUTIONS ABOUT THE RIGHTS OF RETURNEES</i>	<i>32</i>
<i>RECOMMENDATIONS</i>	<i>36</i>

ABBREVIATIONS

IDPs	Internally displaced persons
UN	United Nations
UNMIK	United Nations Interim Administration Mission in Kosovo
UNHCR	United Nations High Commissioner for Refugees
MWGR	Municipal Working Groups on Return
CRM	Central Review Mechanism
MOCRs	Municipal Offices for Communities and Return
OSCE	Organization for Security and Co-operation in Europe
MCR	Ministry of Communities and Return
CRC	Central Review Commission
KFOR	NATO-led international peacekeeping force in Kosovo
Office for K&M	Office for Kosovo and Metohija of the Government of the Republic of Serbia
HPD	Housing and Property Directorate of the Government of Kosovo
KPA	Kosovo Property Agency of the Government of Kosovo
KPCVA	Kosovo Property Comparison and Verification Agency
KP	Kosovo Police

INTRODUCTION

The right of displaced persons to voluntarily return to their homes with safety and dignity, as well as the return of property (or appropriate compensation) is proclaimed in the principles of displacement (the so-called Pinheiro Principles).¹ According to the Pinheiro Principles, voluntary return with safety and dignity must be based on free, informed, individual choice. Also, refugees and displaced persons should be provided with complete, objective, up-to-date and accurate information, including information on issues of physical, material and legal security in countries or places of origin. Furthermore, this right cannot be subject to arbitrary or illegal time limits by countries.²

In addition, the right to property, freedom of movement, as well as the right to return to the country of origin are prescribed by international human rights law norms and instruments that are directly applicable in Kosovo*. In addition, as emphasized in principle no. 28 of the Guiding Principles on Internal Displacement, IDPs have the right to a permanent solution and often need assistance in this regard. This means that the competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in other locations. Apart from state authorities, the role of humanitarian and international actors is of key importance in the return process. They provide support and direct assistance in finding sustainable solutions.³

1 UN Economic and Social Council, Final report of the Special Rapporteur, Paulo Sérgio Pinheiro: Principles on Housing and Property Restitution for Refugees and Displaced Persons, downloaded from <https://digitallibrary.un.org/record/552535>

On 11 August 2005, the UN Sub-Commission on the Promotion and Protection of Human Rights has officially adopted the 'Pinheiro Principles, Principles on Housing and Property Restitution for Refugees and Displaced Persons, E/CN.4/Sub.2/2005/17;

2 Tamara Vučenović, Rastko Brajković, Milena Šošić, Sustainable return of IDPs to Kosovo: a Step Forward, 2019, p. 17; <http://idcserbia.org/wp-content/uploads/2019/05/Studija-o-odrzivom-povratku-na-Kosovo.pdf>;

3 Ibid, p. 17-18;

According to the study “Sustainable Return of Internally Displaced Persons: A Step Forward”, four criteria can be highlighted as key to measuring sustainable return: a) physical security (ethnically motivated violence and property, freedom of movement); b) material security (housing and property issues, employment and economic status); c) social security (education, health, social protection system and infrastructure); d) legal security (access to documents and information, access to courts, etc.).⁴

This analysis aims to map and explain the main obstacles in the previous four years to the return of displaced persons to Kosovo after the armed conflict in Kosovo in 1998-1999, as well as after the wave of ethnically motivated violence in March 2004. The main focus of the analysis is on the security problems of returnees, as well as unresolved property and legal relations. The analysis consists of chapters on the basic problems faced by internally displaced persons in the Republic of Serbia as a result of poor integration, the legal framework for the return of displaced persons to Kosovo, as well as an overview of obstacles in terms of security issues and difficult restitution. Also, the analysis contains the findings of international and local governmental and non-governmental organizations regarding the issue of the return of displaced persons to Kosovo, as well as a series of recommendations that can be guidelines for the sustainable return of displaced persons to Kosovo.

⁴ Ibid, p. 18;

BASIC DATA AND PROBLEMS OF INTERNALLY DISPLACED PERSONS IN SERBIA

At the end of 2021, there were 196,140 registered internally displaced persons (IDPs) from the territory of Kosovo in the Republic of Serbia. The Commissariat for Refugees and Migration, in accordance with its competences established by the Law on Refugees, provides care and assistance in the integration and return of refugees. In accordance with the National Strategy, the Commissariat for Refugees and Migration provides support in improving the living conditions of internally displaced persons from Kosovo.⁵

According to the report on the work of the Commissariat, in the course of 2021, 713 refugees integrated in the Republic of Serbia (regulated residence and identity card of the Republic of Serbia). In 2021, in the Republic of Serbia, four collective centers were closed in the territory of Kosovo, so there are five collective centers operating in the Republic of Serbia, of which four collective centers are in the territory of Kosovo, and one in Bujanovac. A total of 186 persons are housed in the aforementioned five collective centers in the Republic of Serbia: 18 refugees and 168 internally displaced persons. The Commissariat for Refugees and Migration plans to continue the closure of collective centers, in accordance with the provided funds for the implementation of projects that follow the closure of collective centers, i.e. the purchase of rural houses with a garden, providing assistance in construction materials and construction of prefabricated houses.⁶

The research on the situation in informal collective centers conducted by A 11 - Initiative for Economic and Social Rights in October and November 2019 included seven municipalities with ten informal collective centers

⁵ Izveštaj o radu Komesarijata za izbeglice Republike Srbije za 2021. godine: <https://kirs.gov.rs/lat/izvestaji/izvestaji>;

⁶ Ibid;

(one third of which are informal Roma settlements) and a sample size of 95 households in which a total of 395 members live.⁷

The units of the conducted research were households, and a convenient quota sample was used, with at least one third of the estimated number of households from each informal collective center. The research was conducted in response to the preparation of the new National Strategy for Resolving Problems of Refugees and IDPs. In addition, the research sought to improve existing knowledge about the needs of one of the most vulnerable categories within the displaced population - internally displaced persons living in informal collective centers. Specific objective 3.6 of the National Strategy for Resolving Problems of Refugees and IDPs until 2020 states, as one of the measures, that it is necessary to “create conditions for the closure of informal collective centers and unsanitary settlements by solving the housing needs of internally displaced persons who are housed there.”⁸

As a result, with this research Initiative A 11 tried, by analyzing the position of displaced persons living in those centers, and especially their position in terms of realizing the right to housing, education, health care, social protection and work and employment, to point out their marginalization and the need for a priority solution to the problems they face.⁹

Although significant progress has been made in the area of exercising status rights, as stated in several reports by A 11 - Initiative for Economic and Social Rights, IDPs still encounter problems in the procedures for registering residence at the addresses of centers for social work, as well as when registering the residence of new family members of users of social

7 A 11 - Inicijativa za ekonomska i socijalna prava, Kako izgleda život u neformalnim kolektivnim centrima u Srbiji, 2020:

https://www.a11initiative.org/wp-content/uploads/2020/06/Kako-izgleda-%C5%BEivot-u-neformalnim-kolektivnim-centrima_kona%C4%8Dna-verzija.pdf;

8 Ibid;

9 Ibid;

housing or housing intended for their accommodation. Possession of personal documents and the possibility of registering residence are still a necessary prerequisite for access to other guaranteed Guiding Principles of Internal Displacement.¹⁰

The availability of most social protection services is therefore directly related to permanent and temporary residence. This means that the services of centers for social work are available to persons who cannot register their place of permanent and temporary residence only in cases where urgent intervention is necessary. Considering the high rate of poverty, the restrictive provisions of the regulations in the field of social protection greatly affect the possibilities of integration of IDPs. The obligation to file a claim for maintenance against relatives, time-limited social assistance and the discretionary right to calculate missed earnings, discrimination of users of financial social assistance and the implementation of the Decree on Social Inclusion Measures for Recipients of Financial Social Assistance, as well as improper and illegal application of the regulations are some of the main identified problems .

Realizing the right to adequate housing is also burdened with problems. Particularly important are the problems related to the taxation of social housing and the housing of internally displaced persons, guaranteeing the security of housing status, as well as numerous irregularities in the application of regulations relevant to the eviction procedures of residents of informal settlements where a large number of Roma IDPs live. The availability of permanent housing solutions for the most vulnerable internally displaced persons further complicates the realization of this right.¹¹

10 A 11 - Inicijativa za ekonomska i socijalna prava, Interno raseljena lica u Srbiji: Kako do prava na dostojanstven život, 2020, p. 9: http://www.a11initiative.org/wp-content/uploads/2018/11/Advocacy-Brief_SR_Web.pdf

11 Ibid, p. 10;

In addition to problems in exercising certain rights, the absence of a functional system of free legal aid for years further complicates the position of these persons and limits access to justice for internally displaced persons. Numerous criticisms of the Draft Law on Free Legal Aid, which primarily related to its insufficient inclusivity, are the first signal that the most vulnerable internally displaced persons will have problems in exercising their right to access justice when its implementation begins. In the context of the current situation of internally displaced persons in Serbia, local integration, and thus the solution to the issue of IDPs, is conditioned precisely by the improvement of access to socio-economic rights, on the one hand through the improvement of the legal framework and the removal of administrative obstacles for access to rights, and on the other through the creation of policies and support programs that will be based on respect for human rights and interdependence of human rights.¹²

The difficult situation of displaced persons from Kosovo living in Serbia has been pointed out for years by the European Commission through annual Serbia's Progress Reports on European integration. The European Commission's 2022 Progress Report for Serbia states that there are still 196,140 internally displaced persons (IDPs) in Serbia, of which 68,154 are still vulnerable and have displacement-related needs. The Report recommends that the only remaining collective center in Bujanovac should be closed. The related strategy expired in 2020.¹³

The report further states that the law on permanent and temporary residence should be consistently applied to enable Roma IDPs living in informal settlements to obtain registered residence and access to basic socio-economic rights. IDPs of the Roma national minority remain the most marginalized and vulnerable group, especially in terms of unequal access to health care. Finally, it is noted that Serbia is still involved in the regional

¹² Ibid, p. 10;

¹³ Annual Progress Report of the European Commission for Serbia (2022):

https://www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/ec-report-2022.pdf

dialogue on “permanent solutions for displaced persons from Kosovo” (“Skopje Process”).¹⁴

¹⁴ Ibid;

KOSOVO'S LEGAL FRAMEWORK FOR RETURN OF DISPLACED PERSONS

The provisions of the Universal Declaration of Human Rights (Article 13, 2),¹⁵ the International Covenant on Civil and Political Rights (Article 12, 4)¹⁶, and the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5 d,ii)¹⁷ in accordance with Article 22 of the Constitution are directly applicable in Kosovo.

Accordingly, every person is guaranteed the right to return to their country, and no one can be arbitrarily deprived of the right to return.

Additionally, the Constitution defines Kosovo's obligation to promote and facilitate a safe and dignified return of refugees and internally displaced persons, and to help them recover their property and personal belongings.¹⁸

In addition to general provisions confirming the right to return in accordance with international standards and individual acts that partially regulated the return process, Kosovo only received a more comprehensive legal framework regulating the return process in 2018, with the adoption of the *Regulation on the Return of Displaced Persons and Durable Solutions*.¹⁹

Until 2018, the legal and institutional frameworks establishing the right to return in accordance with international standards were contained in the following documents.

15 Universal Declaration of Human Rights (1948), <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/02/Univerzalna-deklaracija-o-ljudskim-pravima-1948.pdf>

16 International Covenant on Civil and Political Rights (1966), <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/02/Me%C4%91unarodni-pakt-o-gra%C4%91anskim-i-politi%C4%8Dkim-pravima.pdf>

17 International Convention on the Elimination of All Forms of Racial Discrimination (1965), <https://unmik.unmissions.org/sites/default/files/regulations/05bosniak/BRacialdiscrimination.pdf>

18 Constitution of Kosovo (2008), article 156 (Refugees and Internally Displaced Persons), https://www.assembly-kosova.org/Uploads/Data/Files/6/UstavRepublikeKosovo_4NLeWNWqGD.pdf

19 Regulation 01/2018 on the Return of Displaced Persons and Durable Solutions, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=15942>

The Protocol on Voluntary and Sustainable Return²⁰ of the United Nations Interim Administration Mission in Kosovo (UNMIK), the Government of Kosovo and the Government of the Republic of Serbia (2006) by which the parties undertook to ensure the basic preconditions for voluntary and sustainable return of displaced persons regardless of their ethnicity.

Revised UNMIK's Manual for Sustainable Return (2006)²¹ which guarantees refugees and displaced persons the right to return to their homes, as well as the right to return property and personal belongings. This manual defines the roles and responsibilities of all relevant government and municipal institutions in order to enable the safe return of refugees. The manual stipulates the establishment of Municipal Working Groups on Return (MWGRs) and Central Review Mechanism (CRM) as the main mechanisms for coordination at the municipal and central levels. Returning to the place of previous residence was seen as the most favorable permanent solution for all displaced persons.

The Law on the Protection and Promotion of the Rights of Communities and Their Members (2008)²² does not explicitly mention the right to return. However, provisions regarding language rights, education, security, social and economic opportunities directly affect the sustainable reintegration of returnees.

Regulation for the Municipal Offices for Communities and Return (2010)²³ provides for the establishment of these offices (MOCRs) in all

20 Protocol of Cooperation on Voluntary and Sustainable Return between UN Interim Administration in Kosovo, Provisional Institutions of Self-Government in Kosovo* and the Government of Serbia, 6 June 2006 <https://www.ian.org.rs/arhiva/kosovo-info/srpski/files-index/Protocol%20on%20Returns%20SRP.pdf>

21 Revised Manual for Sustainable Return, 2006, <https://www.ian.org.rs/arhiva/kosovo-info/srpski/files-index/Prirucnik%20za%20odrziv%20povratak%20-%20juli%202006.pdf>

22 Law 03/L-047 on the protection and promotion of the rights of communities and their members, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2840>

23 Regulation 2/2010 for the Municipal Offices for Communities and Return,

municipalities in Kosovo, which are responsible, among other things, for coordinating and creating conditions for the sustainable return and reintegration of refugees and internally displaced persons, developing action plans in relation to the process of return and reintegration, as well as maintaining an electronic database of displaced persons and returnees.²⁴

Guidelines of the Ministry of Communities and Return (MCR) for the Provision of Assistance in the Implementation of Return (2012) supplemented the UNMIK's manual from 2006. The Guidelines concentrate the responsibilities for coordination on the Ministry of Communities and Return, and the responsibilities for making decisions on the provision of assistance to the Central Review Commission (CRC) managed by MCR. At the municipal level, the Guidelines recognize the role of the MOCRs and expand their responsibilities listed in the MOCR Regulation.²⁵

Regulation on the Return of Displaced Persons and Durable Solutions²⁶ from January 2018 and the Guidelines for the Implementation of the Regulation from October 2018 are the first documents that regulate the procedure for the return of displaced persons and permanent solutions in a consolidated manner and guarantee certain rights.

Return and assistance is guaranteed to returnees not only in the place of origin, but also in another location within Kosovo. A procedure for return is defined and criteria for assistance to displaced persons established.

The Regulation stipulates the creation of a case management system in which data on displaced persons and voluntary returnees, as well as the

<https://gzk.rks-gov.net/ActDetail.aspx?ActID=10522>

24 Ibid, Art. 7 items 1.3, 1.4, 2

25 Assessment of Voluntary Returns in Kosovo, OSCE, November 2019,

<https://www.osce.org/files/f/documents/e/d/440744.pdf>

26 Regulation 01/2018 on the Return of Displaced Persons and Durable Solutions,

<https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=15942>

This Regulation repealed the Ministry of Community and Return's Guidelines for providing assistance in the implementation of return from 2012

assistance they receive, are registered, processed and archived. The entire process of reintegration of returnees should be done through this system.

Through this system, the Ministry of Communities and Return should produce quarterly reports that should be available to the public. This system is still not fully functional.

When it comes to the legal regulation of the process of voluntary return of displaced persons, there is still uncertainty. The process of drafting the Law on the Return of Displaced Persons, which would establish the right to voluntary return, as well as the scope of rights of returnees, the return procedure, appropriate legal procedures, legal protection and other issues is still ongoing. In 2019, the Ministry of Communities and Return pointed out that there was an initiative to establish a working group for the drafting of laws and political will, but that there were no concrete activities in this matter.²⁷

27 Sustainable return of IDPs to Kosovo*1 as a Step Forward Ref. IDC 11/2018-100/2018, p. 19, <http://idcserbia.org/wp-content/uploads/2019/05/Studija-o-odrzivom-povratku-na-Kosovo.pdf>;

HOW DOES THE RETURN PROCESS TO KOSOVO WORK

A displaced person is a person who was forced to flee or leave their place of residence from 28 February 1998 to 31 March 2004, especially as a consequence or in order to avoid the consequences of an armed conflict, a situation of general violence, human rights violations.²⁸

A displaced person interested in returning submits a completed form with accompanying documentation to the Municipal Office for Communities and Return (MOCR) in the municipality where they wish to return, from which they escaped, or where they currently live.

Displaced persons outside Kosovo submit their applications to the competent authorities that deal with displaced persons in the place of displacement, which they forward to the Ministry of Communities and Return (MCR). MCR further forwards such an application to MOCR of the municipality to which the displaced person has expressed their desire to return. If a displaced person expresses a desire to return to another municipality, and not the one they fled from, MOCR will forward such an application to the municipality of origin for verification and comments.

MCR is responsible for receiving and filing all applications from the MOCR and from the countries of the region.

MOCR conducts an initial evaluation of applications in the field, in the municipality to which the displaced person has expressed the desire to return, within 15 days from the date of receipt of the application.

²⁸ Regulation 01/2018 on the Return of Displaced Persons and Durable Solutions, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=15942>;

After the evaluation of the applications on the ground and the recommendation of the Municipal Return Commission, the complete file of each applicant is submitted to the Central Review Commission, which makes the final decision. Central Review Commission operates within the MCR.

This Commission is obliged to make a decision within 15 days from the date of receipt of the application and recommendation.

The Commission can reject or accept the recommended case, or put the case on hold and request additional information from the Municipal Return Commission. The decision of the Central Review Commission is delivered to the applicant within 10 days from the date of issuing.

According to the Regulation, the applicant has the right to file an appeal against the decision of the Central Review Commission, within 30 days, to the Appeals Commission, personally or through MOCR. However, this Commission has not yet been established.²⁹

In order to promote return and permanent reintegration, the Regulation on the Return of Displaced Persons and Durable Solutions also stipulates measures for assistance to returnees, as well as criteria for receiving it.

The Regulation prescribes a strict selection of users based on needs, with a series of established vulnerability criteria in order to determine priority cases. It introduces the obligation of municipalities and MCR to provide assistance to all applicants who meet the conditions, but to prioritize vulnerable cases based on a number of criteria.³⁰

One of the main criteria is that a displaced person or returnee does not own other residential property in Kosovo, or does not have access to such

²⁹ European Commission, Report for Kosovo 2022, p. 41
<file:///C:/Users/PULSE%20Electronics/Downloads/Kosovo%20Report%202022.pdf>;

³⁰ Ibid;

property, or does not own property in the place of displacement or elsewhere, or has not sold the property. It is also necessary that the person has not used any assistance as a permanent solution in the past and does not have the means to find a permanent solution.

Also, additional criteria are used in order to determine priority cases for the award of aid. In accordance with the Regulation on Displaced Persons, assistance in accessing information before, during and after return in a language they understand is provided in accordance with the Law on the Use of Languages.

If they do not have funds at their disposal, they have the right to assistance in the form of organizing transport, crossing the border and canceling customs duties. Help in the form of a basic three-month food package is also foreseen for returnees who fall into the severe and medium vulnerability category.

Assistance in the form of hygiene packages, furniture and firewood is also planned. The costs of connection to the electricity, water and sewage networks are also covered for displaced persons who receive assistance upon their return.

In addition, the Regulation stipulates the assistance in accommodation and housing in the form of rent, renovation and construction of housing units. The Regulation stipulates that information on the required documents and instructions for filling out the application forms must be available on the website of the municipalities and MCR.³¹

This Regulation represents a significant step in the consolidation of procedures and cooperation among the various mechanisms active in the return process. The Regulation strengthens the supervisory role and

³¹Currently, most forms can only be found on the website of the Ministry of Communities and Return, accessed on 24 November 2022 <https://mkk.rks-gov.net/ministry/application-form>;

responsibility of the MCR in relation to the performance of municipal level institutions and foresees the appointment of regional coordinators in order to ensure a better flow of information between the MCR and the MOCR.³²

What is negative is that the Regulation limits the efficiency of emergency aid, because the authority to make decisions on the provision of emergency aid packages rests with the MCR, not the municipalities.³³

³² [Assessment of Voluntary Returns in Kosovo, OSCE, November 2019](https://www.osce.org/files/f/documents/e/d/440744.pdf), p. 14:
<https://www.osce.org/files/f/documents/e/d/440744.pdf>;

³³ Ibid;

RETURN TO KOSOVO – DESCRIPTION OF THE SITUATION

In March 2000, the Commissariat for Refugees and Migration, in cooperation with the United Nations High Commissioner for Refugees (UNHCR), organized a census of displaced persons from Kosovo, when 187,129 persons were registered. In the period from 2000 to 2005, about 20,000 more persons were registered from Kosovo, and at the end of 2005, the number of displaced persons was 209,021.³⁴ By July 2021, there were 196,140 persons in this register.³⁵

UNHCR estimates that of those displaced by the conflict that took place between 1998 and 1999, around 90,000 still have displacement-related needs and are awaiting solutions. It is estimated that there are 72,000 of them in Serbia, 16,406 in Kosovo, 729 in Montenegro, and 394 in North Macedonia.³⁶

By the end of December 2018, according to UNHCR data, only 28,111 persons returned to Kosovo.³⁷

Until October 2022, the office of the United Nations High Commissioner for Refugees (UNHCR) registered 120 voluntary returns of members of non-majority communities who were displaced in Kosovo and outside

34 Commissariat for Refugees of the Republic of Serbia, <http://arhiva.kirs.gov.rs/docs/statistika/Registracija%20Lica%20Raseljenih%20sa%20Kosova%20i%20Metohije.pdf>;

35 Commissariat for Refugees RS, <https://kirs.gov.rs/media/uploads/Stanje%20izb-ir%20po%20opstinama%202021.pdf>;

36 Displaced persons from Kosovo in the region – a re-assessment of interest to return, UNHCR: <https://www.unhcr.org/see/10873-displaced-people-from-kosovo-in-the-region-a-re-assessment-of-interest-to-return.html>;

37 Office of the Head of Mission of UNHCR in Kosovo, statistical review for December 2018; Assessment of Voluntary Returns in Kosovo, OSCE, November 2019, p. 9: <https://www.osce.org/files/f/documents/e/d/440744.pdf>;

Kosovo. These returnees include 65 women and 55 men (102 Serbs, 9 Egyptians, 6 Ashkali, 2 Roma, and 1 Albanian).³⁸

The report states that this has increased the total number of displaced persons from non-majority communities who have found a permanent solution in Kosovo since 2000 to 29,185, of which 14,335 are women and 14,850 men (12,678 Serbs, 7,752 Ashkali and Egyptians, 4,049 Roma, 1,878 Bosniaks, 1,464 Gorani, 1,320 Albanians, 21 Montenegrins, 19 Turks and 4 Croats). The remaining are 15,683 displaced persons in Kosovo (7,220 women and 8,463 men), as well as 69,627 persons with displacement-related needs throughout the Western Balkans, out of approximately 200,000 displaced persons from Kosovo living in the region, most of them in Serbia.

2015 - 802 persons³⁹

2016 - 582 persons⁴⁰

2017 - 498 persons⁴¹

2018 - 327 persons⁴²

2019 – 191 persons⁴³

2020 – 394 persons⁴⁴

2021 – 368 persons⁴⁵

In 1999, 90% of Albanians were displaced. Between March and June 1999, around 863,000 Albanians were expelled from Kosovo.⁴⁶ According to a

38 Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, October 2022, p. 9, https://unmik.unmissions.org/sites/default/files/s_2022_739-sr.pdf

39 Ibid;

40 Ibid;

41 Ibid;

42 Ibid;

43 European Commission, Report for Kosovo 2020, p. 37

file:///C:/Users/PULSE%20Electronics/Downloads/kosovo_report_2020.pdf;

44 UNHCR data, European Commission, Report for Kosovo 2022, p. 41

<file:///C:/Users/PULSE%20Electronics/Downloads/Kosovo%20Report%202022.pdf>;

45 UNHCR data, European Commission, Report for Kosovo 2022, p. 41

<file:///C:/Users/PULSE%20Electronics/Downloads/Kosovo%20Report%202022.pdf>;

46 An analysis of the human rights findings of the OSCE Kosovo Verification Mission October 1998 to June 1999, OSCE, <https://www.osce.org/files/f/documents/d/d/17772.pdf>;

2018 UNCHR estimate, 5,176 households are still internally displaced in Kosovo:⁴⁷ Albanians: 1,167 households or 5,879 individuals. Albanian IDPs were displaced primarily from the north of Mitrovica (78%). For the majority (93%), the original displacement occurred in 1999.

Roma/ Ashkali/ Egyptians: 137 households or 638 individuals who were displaced primarily from the Mitrovica region and from Pristina (57% combined). For the majority (94%), the initial displacement took place in 1999.

Serbs: 3,872 households or 16,383 individuals living in private accommodation and 140 households living in collective centers. They were displaced from different locations in Kosovo (south of the Ibar River). For the majority (88% of those staying in private accommodation and 92% of those staying in collective centres), the initial displacements took place in 1999.

Many displaced persons and families of victims from Kosovo are financially threatened and marginalized, partly because they were not able to dispose of their property in Kosovo. They also face unemployment and inadequate housing, and 166 of them continue to live in inhumane conditions in collective centers. The status of displaced persons provides them with fewer housing opportunities, because they do not have all the rights granted to refugees.⁴⁸

Displaced persons from Kosovo who worked in state-owned enterprises or public institutions in Kosovo are still formally employed, but instead of a full salary, they receive only a modest monthly allowance. Their inability to dispose of property in Kosovo is another obstacle to improving their socio-economic situation. In recent years, the Office for Kosovo and

47 Profiling internally displaced persons in Kosovo, UNHCR, 2018, p. 4-5 https://www.unhcr.org/see/wp-content/uploads/sites/57/2018/11/UNHCR_KOS_Profiling_Serbian_Pages.pdf;

48 Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Gradanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, p. 32;

Metohija of the Government of Serbia has represented injured parties in property claims before the courts in Kosovo, but that support came too late because many families have already gone through a very difficult period or family members have passed away in the meantime. Additionally, displaced persons from Kosovo do not have the right to participate in the Regional Housing Program, due to Serbia's unwillingness to integrate them. Namely, Serbia considers their displaced position to be temporary and encourages their return to Kosovo.⁴⁹

Displaced persons from Kosovo perceive themselves as victims of war crimes, kidnapping, expulsion, torture, ethnic cleansing, post-war tendency to cover up these crimes, as well as manipulation and neglect from the international community. Displaced persons who are still searching for their missing family members prioritize the issue of enforced disappearance over their status as displaced persons.⁵⁰

The Coalition of Displaced Persons from Kosovo and Metohija has been operating since 2015, but its representativeness is being questioned.⁵¹

Most associations of Serbian victims were focused on internally displaced persons, but most of them were closed when the Ministry of Communities and Return and local government structures, with the help of international organizations, primarily the International Organization for Migration and the United Nations High Commissioner for Refugees (UNHCR), took over the return process. The return process is limited to a few rural areas in Kosovo, predominantly in the Peja/Peć region, which are unsuitable due to the age of returnees and security challenges.⁵²

⁴⁹ Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Građanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, p. 36;

⁵⁰ Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Građanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, p. 20;

⁵¹ Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Građanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, p. 23;

⁵² Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Građanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, p. 60;

There are only two associations of Kosovo Albanians that support internally displaced persons. While many Albanians have experienced forced expulsions, their focus is primarily on other human rights violations related to the war. The majority of organizations representing or supporting internally displaced persons (16) were founded by ethnic Serbs, several of which represent the interests of all minorities.⁵³

⁵³ Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Gradanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, p. 60;

RESISTANCE TO RETURN AND SECURITY INCIDENTS IN KOSOVO

In the period from July 2015 to December 2019, OSCE recorded 1,621 security incidents that potentially affected the security perception of communities in the numerical minority at the municipal level.

These include incidents targeting religious buildings and burial sites, as well as the cultural heritage of communities which are a minority in a given municipality.

Of the security incidents recorded by OSCE, 20 percent were directed against places of return and mostly Kosovo Serb returnees.

Most incidents were break-ins into uninhabited houses of Kosovo Serbs, repeated petty thefts of movable property of returnees, damage to property and illegal logging in forests owned by returnees.

Incidents most often occurred in locations where a significant return rate was recorded, such as the municipalities of Peć, Istok and Klina.⁵⁴

Although many of these acts may have a predominantly economic motive and are reported to the Kosovo Police, OSCE notes that the negative impression of security has increased among returnees, as many perpetrators have escaped justice. This, together with the community's perception of crimes against returnees, contributes to a negative impression of security for returnees and thus hinders the return process.

During its monitoring activities, OSCE noticed that such incidents discourage potential returnees. At the municipal level, perceived security

⁵⁴ The Community Rights Assessment Report 5. issue, OSCE, June 2021, p. 12
<https://www.osce.org/files/f/documents/1/8/493681.pdf>

threats are not always met with public condemnation by municipalities. When cases are condemned, the message does not always reach the affected communities.

In July 2016, an elderly Kosovo Serb returnee in Decani was physically attacked by a Kosovo Albanian in a barber shop.⁵⁵

In December 2016, a municipal official in Dečani accused eight elderly displaced persons of involvement in war crimes and threatened their return if they did not reveal the location of Kosovo Albanians who are listed as missing persons. As a result, the Kosovo Police had to evacuate the displaced.⁵⁶

In April 2017, about 300 Kosovo Albanians protested in the village of Ljubožda, Istok municipality, against the return of 13 Kosovo Serbs who spontaneously returned to the village. Protesters were particularly unhappy with the return of a Kosovo Serb, a former police commander, who they claimed was involved in war crimes in the 1999 Kosovo conflict. The adviser to the mayor of the municipality of Istok gave a statement that all the returnees passed the security check, which was carried out by the Pristina and Belgrade institutions, and that none of them were charged or tried for war crimes.⁵⁷

There were also protests and petitions by local Kosovo Albanians against the planned visits of Kosovo Serb pilgrims to the religious sites of the Serbian Orthodox Church (SOC) in Đakovica.

Close to 100 people, activists of the “Self-Determination” movement, and spontaneously gathered locals, protested against the visit of Serbian pilgrims to Đakovica. About 30 Albanians from Kosovo tried to break

55 Assessment of Voluntary Returns in Kosovo, OSCE, November 2019, p. 27

<https://www.osce.org/files/f/documents/e/d/440744.pdf>;

56 Ibid, p. 27;

57 Ibid, p. 27;

through the Kosovo Police cordon securing a visit to the local Orthodox church and threw paint and firecrackers at the police. One protester was arrested, and two police officers were injured during the arrest. The mass of protesters was dispersed without disturbing the pilgrims.⁵⁸

Since the last incident, in January 2017⁵⁹, no pilgrims have visited this municipality.⁶⁰

In the village of Mušutište in the municipality of Suva Reka, as a place where return is difficult, several incidents were recorded in 2016, including protests and a road blockade carried out by about 500 Kosovo Albanians to prevent the visit of Kosovo Serb pilgrims to the destroyed monastery, as well as the installation of anti-Serb billboards.

On August 28, 2017, after a visit by pilgrims, a potential Kosovo Serb returnee, a member of the working group for the return to Mušutište, was arrested on charges of war crimes. He was released and acquitted of all charges after spending five months in prison.⁶¹

After the incidents on August 28, 2015, 2016 and 2017 in connection with the celebration of the Orthodox religious holiday “Assumption of the Blessed Virgin”, in 2018 Serbian pilgrims celebrated this holiday without incident.

Allegations of war crimes appeared on several occasions; in Ukče, in the municipality of Istok, a displaced person was verbally harassed by a resident, a Kosovo Albanian, who accused him of committing war crimes

58 Ibid, p. 28;

<https://kossev.info/djakovica-srbi-uspeli-da-udju-u-portu-crkve-demonstranti-kamenicama-na-policiju-video/>

59 <https://kossev.info/raseljeni-djakovcani-odustali-od-dolaska-na-badnji-dan/>

60 RSE, 28 August 2018 <https://www.slobodnaevropa.org/a/29457438.html>

KoSSev, 6 January 2019 <https://kossev.info/djakovica-i-za-ovaj-bozic-protest-protiv-posete-raseljenih-srba-crkvi/>;

KoSSev, 6 January 2020. <https://kossev.info/djakovica-ponovo-pripreme-da-se-spreci-poseta-raseljenih-srba-gradskoj-crkvi/>;

61 Assessment of Voluntary Returns in Kosovo, OSCE, November 2019, p. 28

<https://www.osce.org/files/f/documents/e/d/440744.pdf>

during the 1999 conflict. Similarly, in Račak, Štimlje municipality, the village council sent a letter of protest to MOCR with alleged accusations of war crime, against the return of the only family from the Kosovo Serb community that applied to return.

In February 2016, the basic court in Peć/Peja filed an indictment for war crimes against fourteen Kosovo Serbs from Klina, some of whom were potential returnees to villages in the municipality. Also, there were two arrests of potential returnees from Prizren, and two from Klina, including one woman, all based on allegations of war crimes.⁶²

In their report, OSCE noticed that although municipalities are obliged to provide conditions for sustainable return in most places where return is difficult, they have taken no action to mediate with host communities in favour of the return process.⁶³

On the other hand, it was noted that some municipalities have taken positive steps. In one case, the municipality organized a sports event to send a message about peaceful coexistence of communities. The football tournament was organized on 12 March 2016 with the slogan “Building the future together” with the participation of the municipal administration in Klina, Slovenian KFOR and members of the Kosovo Serb community from the municipality.⁶⁴

In other cases, municipalities compensated the victims of security incidents. For example, the Municipality of Klina paid 300 euros to a returnee as compensation for the damage caused by the burning of 1,000 bales of hay, while the Municipality of Istok financially compensated a family of Kosovo Serbs from the returnee village of Sinaje in the amount

⁶² Ibid, p. 28

⁶³ Ibid, p. 28;

⁶⁴ Ibid, p. 29-31;

of 300 euros for the damage caused by the burning of 1,000 bales of hay committed by an unknown person, or persons.⁶⁵

On the initiative of the OSCE Mission, representatives of the municipalities of Peć, Klina, Istok, Dečane, Đakovica and Junik signed the inter-municipal declaration on cooperation on 28 May 2018. The Declaration contains commitments to support initiatives for dialogue between communities. After that, the municipalities participated in a series of activities that brought together people from different communities in Kosovo.⁶⁶

In the middle of 2020, dozens of attacks on the property of returnees and Serbs living in Albanian majority areas in Kosovo were recorded.⁶⁷ As of July 2020, UNHCR recorded 45 incidents that primarily affected returnees and their property, mostly in the Peć region.⁶⁸

The case of opposition to return that has received the most attention concerns the return of a Kosovo Serb, Dragica Gašić, to Đakovica in June 2021. Eleven local civil society organizations have prepared a petition to the Government of Kosovo, asking for legal measures to be taken and for Gašić to move out, stating that Đakovica is not ready to accept the return of Serbs until the remains of the missing persons from this municipality are found. During the conflict in Kosovo, Serbian forces killed around 1,500 citizens of Đakovica, while around 200 missing persons are still being searched for today.⁶⁹

65 Ibid, p. 29-31;

66 Ibid, p. 29-31;

67 KoSSev, 1 May 2020 <https://kossev.info/kancelarija-eu-zabrinuta-zbog-incidenata-nad-srbima/>;
KoSSev, 26 May 2020 <https://kossev.info/jevtic-napad-na-povratnika-u-selu-drenovic-kod-kline-policija-nema-informacije/>;

KoSSev, 4 July 2020 <https://kossev.info/ucestali-napadi-na-povratnike-i-pljacka-imovine-u-klini-i-istoku/>;

KoSSev, 30 July 2020 <https://kossev.info/oebs-napadi-na-imovinu-povratnika-izazivaju-zabrinutost/>;

68 State Department: Country Reports on Human Rights Practices: Kosovo 2021, p. 16-17, https://xk.usembassy.gov/wp-content/uploads/sites/133/HRR_2021_Serbian.pdf;

69 KoSSev, 6 August 2021 <https://kossev.info/srpkinja-prkosi-protivljenju-grada-da-se-vrati-kuci-na-kosovu/>;

Ms Gašić reported that she was being harassed by her neighbors and that she suffered insults and intimidation. They refused to serve her in the local market, her apartment was ransacked, and the municipality then did not allow the installation of new armored doors. Immediately afterwards, a lawsuit was filed against Ms Gašić. The municipality of Đakovica filed a lawsuit demanding that the apartment lease contract be annulled.⁷⁰ Kosovo officials did not publicly support the return of Ms Gašić.

At the request of Ms Gašić, the Ombudsperson conducted an investigation and asked the Municipality of Đakovica to allow the returnee free and unhindered use of the apartment, to allow her to arrange the apartment and to comply with Regulation no. 01-2018, which is related to the return of displaced persons and durable solutions.⁷¹

A year later, in September 2022, in a statement to the media, she stated that she was living better, but that she was being guarded by the police and that she still could not shop at the local market across the street from the building where she lives.⁷²

In the report of the coalition of civil society organizations from Kosovo, it is emphasized that from 1 January to 31 October 2021, 31 incidents involving returnees/internally displaced persons from non-majority communities throughout Kosovo were recorded. Returnees, Kosovo Serbs, are still the target of theft, stoning, property damage and intimidation, which additionally creates a negative perception of the security situation and affects the reconciliation process.⁷³

70 KoSSev, 8 July 2021 <https://kossev.info/fhp-i-yirh-kosova-vlasti-u-djakovici-da-povuku-tuzbu-protiv-gasic-u-suprotnosti-je-sa-ustavom/>;

71 Radio KIM 11 September 2022 <https://www.radiokim.net/vesti/politika/ombudsman-utvrdio-da-su-dragici-gasic-iz-djakovice-prekrшена-ljudska-prava.html>;

72 KoSSev, 26 September 2022 <https://kossev.info/dragica-gasic-godinu-dana-kasnije/>;

73 Civil Society Report on Human Rights, 2021, p. 64-65, <https://newsocialinitiative.org/wp-content/uploads/2022/05/Izvestaj-Civilnog-Drustva-o-Ljudskim-Pravima-na-Kosovu-u-2021.pdf>;

The Office for Kosovo and Metohija of the Government of Serbia recorded 125 ethnically motivated incidents in Kosovo in the period from 1 January 2021 to December 2022.⁷⁴

On the other hand, the Kosovo Police recorded only four cases with a possible ethnic background in the period from January to June 2022. As potentially ethnically motivated cases, they cited damage to the Turkish flag, writing graffiti in the Serbian language and two cases against Albanians in Gazimestan during the Vidovdan celebration.⁷⁵

Due to the political and security situation in North Mitrovica, Albanian internally displaced persons have limited prospects of returning to their place of origin, i.e. their former residence.

Most Serb-majority areas are also opposed to the return of internally displaced Albanians, especially the settlement of Brđani/Kroi and Vitakut in North Mitrovica. However, organized and individual return of Albanian families continues to take place at a slow pace. Given the challenges surrounding the return process in rural areas, some Serb IDPs are instead offered housing in Serb-majority municipalities in northern Kosovo. The media in Albanian language often portray it as illegal, and Kosovo Albanian politicians portray it as “colonization”.⁷⁶

74 Office for Kosovo and Metohija, <https://www.kim.gov.rs/incidenti-kim.php>;

75 KoSSev, 26 August 2022 <https://kossev.info/kp-etnicki-motivisani-slucajevi-u-prvoj-polovini-2022-u-opadanju-u-odnosu-na-isti-period-2021/>;

KoSSev, 26 August 2022 <https://kossev.info/ngo-aktiv-u-prvih-sest-meseci-2022-zabelezen-51-bezbednosni-incident/>;

⁷⁶ Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Gradanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, 61;

REALIZATION OF PROPERTY RIGHTS

Displaced persons continue to face challenges in realizing their property rights. Positive progress was achieved with the adoption of the Kosovo Strategy for Property Rights at the end of 2016, which contains practical policies that ensure the protection of the property rights of displaced persons. Still, displaced persons continue to face problems in the use of their property, primarily with illegal reoccupation of property, non-execution of demolition orders and compensation of returnees whose property was destroyed or damaged as a result of armed conflicts, as well as shortcomings in finding sustainable solutions for returnees without land.⁷⁷

After 1999, after the end of the conflict, as a result of displacement and loss of property rights, UNMIK established mechanisms for mass processing of claims - Housing and Property Directorate (HPD) with its Commission for Housing Property Claims, as a quasi-judicial decision-making body in charge of all housing and property disputes. Non-residential property was not included in the mandate of this institution.⁷⁸

Since 2006, the mandate and name of this institution have changed: the Kosovo Property Agency (KPA) was established, with jurisdiction also including disputes related to non-residential property.

In 2016, KPA changed its mandate into the Kosovo Property Comparison and Verification Agency (KPCVA). In addition to taking over KPA cases, KPCVA also deals with the resolution of discrepancies in the cadastral records between the original cadastral documents on real estate property in

77 The Community Rights Assessment Report 5th issue, OSCE, June 2021, p. 40

<https://www.osce.org/files/f/documents/1/8/493681.pdf>;

Assessment of Voluntary Returns in Kosovo, OSCE, November 2019, p. 20

<https://www.osce.org/files/f/documents/e/d/440744.pdf>;

78 Održivi povratak interno raseljenih lica na Kosovo ka koraku napred, Povratak kao korak napred Ref. IDC 11/2018-100/2018, str. 40, <http://idcserbia.org/wp-content/uploads/2019/05/Studija-o-odrzivom-povratku-na-Kosovo.pdf>;

the territory of Kosovo before June 1999 moved by Serbian authorities and the current data of cadastral documents collected by Kosovo institutions after June 1999.

Until 2003, UNMIK's Housing and Property Directorate, whose exclusive competence was the return of occupied residential property, received 29,610 requests⁷⁹ that can be divided into three categories according to the type of claimants:

Category A claimants (persons who lost their property rights due to discrimination in the period 1989-99), a total of 1,212 claimants.

Category B claimants (persons who entered into informal transactions related to residential real estate in the period 1989-99), a total of 767 claimants.

Category C claimants (persons who lost their residential property after June 1999), a total of 27,182 claimants (93.2% of all cases).

Claimants were not able to directly participate in the proceedings, and sometimes only one paragraph would be devoted to a specific individual case within a group decision. Individual request was resolved in two stages and the final decisions could not be challenged before any other institution. Some cases were referred to local courts without the applicant's knowledge, where they were stuck in long court proceedings. Implementation of decisions in favor of claimants was particularly challenging. Although HPD claimed to have closed 100% of these cases, it is hard to tell from their statistics how many properties were actually returned to their owners.⁸⁰

⁷⁹ http://www.kpaonline.org/hpd/statistics_m.asp;

⁸⁰ Sustainable return of IDPs to Kosovo: a Step Forward, Return as a step forward Ref. IDC 11/2018-100/2018, p. 40, <http://idcsrbia.org/wp-content/uploads/2019/05/Studija-o-odrzivom-povratku-na-Kosovo.pdf>;

The successor of the Housing and Property Directorate is the Kosovo Property Agency (KPA), to which 42,749 requests for property restitution were submitted. Most of the requests were submitted by displaced persons and members of non-majority communities in Kosovo. Kosovo Property Agency has decided on all submitted requests, and all decisions have been registered in the cadastre. By the end of 2016, approximately 29,000 KPA decisions were awaiting implementation.⁸¹

Regarding the implementation of decisions, KPA had the mandate to implement the decisions, including the inherited cases from the Housing and Property Directorate. KPA also did not provide support to claimants in cases where it was necessary to forcibly demolish an illegally constructed building on a plot of land belonging to legal owners. In cases where claimants C were entitled to compensation (a limited number of cases - 143 in total) after more than 10 years, the procedure and criteria for compensation were not designed.⁸²

Since 2016, the Kosovo Property Comparison and Verification Agency (KPCVA) has taken over the responsibilities and duties of the KPA. However, KPCVA does not efficiently fulfill the following aspects of its mandate: forcible eviction of illegal tenants from property belonging to non-majority communities and displaced persons, demolition of illegally built buildings, and enforcement of 143 compensation decisions.⁸³

Amendments to the Law on KPCVA, which would enable multiple forced evictions in cases of illegal occupation of property, have yet to be adopted, as well as amendments to expand the KPCVA management program for property belonging to non-majority communities and displaced persons.⁸⁴

81 Kosovo National strategy on Property Rights, 2016, p. 8,

<https://md.rks-gov.net/desk/inc/media/108185FC-07BD-45DF-B652-35970F60B2A9.pdf>;

82 Sustainable return of IDPs to Kosovo: a Step Forward, Return as a step forward Ref. IDC 11/2018-100/2018, p. 41,

<http://idcserbia.org/wp-content/uploads/2019/05/Studija-o-odrzivom-povratku-na-Kosovo.pdf>;

83 The Community Rights Assessment Report 5th issue, OSCE, June 2021, p. 41

<https://www.osce.org/files/f/documents/1/8/493681.pdf>;

84 The Community Rights Assessment Report 5th issue, OSCE, June 2021, p. 41

KPCVA is still not performing the duty it inherited from the Housing and Property Directorate - providing financial compensation to parties who lost their right to property due to discriminatory practices in the 1990s, and the agency has not demolished the buildings illegally built on the property of displaced persons.⁸⁵

Courts are still largely inefficient in resolving property cases. Finally, KPCVA is not able to compare and verify the right of ownership because the Government of Serbia has not yet submitted the cadastral books to the Kosovo institutions.⁸⁶ To this day, it remains unclear how many people actually managed to recover their property.

<https://www.osce.org/files/f/documents/1/8/493681.pdf>

85 The Community Rights Assessment Report 5th issue, OSCE, June 2021, p. 41

<https://www.osce.org/files/f/documents/1/8/493681.pdf>

86 The Community Rights Assessment Report 5th issue, OSCE, June 2021, p. 41

<https://www.osce.org/files/f/documents/1/8/493681.pdf>

FINDINGS OF ORGANISATIONS AND INSTITUTIONS ABOUT THE RIGHTS OF RETURNEES

European Commission: Kosovo Report 2022

In their Kosovo Report 2022, European Commission states that there are concerns about fraudulent property transactions and illegal transfers of ownership of property mainly belonging to displaced persons.⁸⁷

According to the Report, to ensure a lasting and sustainable return of refugees and displaced persons, it is necessary to create an enabling environment that includes inter-alia, dialogue with the local community, safety provisions for returnees, resolution of long-standing property related issues, access to education, employment opportunities and freely accessing language rights.

In an effort to strengthen policy development and implementation of voluntary return, the Ministry of Communities and Return is recommended:

- to finalize and adopt the Strategy for Protection and Promotion of the Rights of the Communities and their Members (2022-2026) and its Action Plan,
- to fully functionalise returns case management system (returns database),
- to establish an appeals commission as per the Regulation on Returns and Durable Solutions (No. 01/2018).

State Department: 2021 Kosovo Country Report on Human Rights Practices

⁸⁷ European Commission, Report for Kosovo 2022, p. 41;
<file:///C:/Users/PULSE%20Electronics/Downloads/Kosovo%20Report%202022.pdf>;

In the Report, State Department states that the return of ethnic minority refugees from the war remained a challenge. Parliamentary representatives of the Ashkali, Balkan-Egyptian, and Romani communities reported social prejudice prevented the return of nearly 400 members of their communities even though they informed the Office of the UN High Commissioner for Refugees (UNHCR) that they were ready to return from Serbia, North Macedonia, and Montenegro.⁸⁸

Widespread discrimination against members of minority communities, fear of violence or harassment, failure to enforce court decisions (particularly those concerning property), property usurpation, lack of access to educational and economic opportunities, limited representation of minority communities in public institutions and enterprises, and limited coordination and cooperation between governmental bodies to address issues of concern – are barriers to return according to the Ministry of Communities and Return.

UNHCR noted the government lacked a data collection and processing system for displaced populations and voluntary returns to Kosovo and that the lack of a detailed census and adequate profiling data left displaced persons excluded from human rights protections and development plans.

It is underlined that the Government of Kosovo promoted the safe and voluntary return of internally displaced persons (IDPs). Through the Ministry of Communities and Return, it promoted policies and protections for IDPs in line with EU policies and cooperated with domestic and international organizations to ensure IDPs had access to their property and tools for their sustainable return.

Romani, Ashkali, and Balkan-Egyptian displaced persons and returnees continued to face particularly difficult living conditions. One of the main

⁸⁸ State Department: Country Reports on Human Rights Practices: Kosovo 2021, p. 16-17, https://xk.usembassy.gov/wp-content/uploads/sites/133/HRR_2021_Serbian.pdf

challenges was the resistance of some municipalities to allocate land and recognize tenancy or possession rights based on the informal settlements members of these communities occupied prior to displacement. Some municipalities failed to allocate land to Roma, Ashkali, and Balkan-Egyptian communities that had received property rights within the municipalities because they had lived elsewhere prior to their displacement.

The return process in some areas of the country continued to be marked by security incidents and local communities' reluctance to accept the return of, or visits by returnee Kosovo-Serbs.⁸⁹

The report of the civil society on human rights in Kosovo

The report of the coalition of civil society organizations from Kosovo in its report for 2021 states that there are significant inconsistencies in the implementation of the policy that includes returnees and internally displaced persons.⁹⁰

It is pointed out that some returnee families staying in private accommodation are subject to continuous pressure from their landlords to be evicted, due to poor socio-economic conditions, and are unable to cover rent and utilities. Likewise, they state that there are persons whose cases have been approved by the Central Review Commission and who have not yet exercised their right to housing care.

Return support projects continue to target only a group of selected municipalities, so return assistance in other municipalities is neglected. Moreover, Roma and Ashkali returnees from North Macedonia did not benefit from housing assistance because the municipality of Obilić did not take them into account since 2017.

⁸⁹ Ibid;

⁹⁰ Civil Society Report on Human Rights, 2021, p. 64-65, <https://newsocialinitiative.org/wp-content/uploads/2022/05/Izvestaj-Civilnog-Drustva-o-Ljudskim-Pravima-na-Kosovu-u-2021.pdf>;

They also state that the Ministry of Communities and Return has not developed a data management system that would enable prioritization of cases based on vulnerability criteria. A limited number of returnees and internally displaced persons continue to face obstacles during the process of obtaining citizenship documents.

Children who were born outside institutions and do not have parental documentation have difficulties in exercising their rights and accessing services. There are other problems affecting the registration of these children such as the lack of documents from the place of origin (of the mother) and technical errors in the documents compared to the data in the registers. It is also added that parents have a low level of knowledge about the procedures and/or resolution of requests for exercising their rights. Regulating such documentation entails financial costs, so returnees/IDPs do not undertake relevant actions due to their poor economic situation and are unable to apply for social assistance or other social benefits.⁹¹

⁹¹ Ibid;

RECOMMENDATIONS

For the Government of Kosovo:

- Ensure an adequate translation into Serbian of the website of the Ministry of Communities and Return, as well as the availability of all necessary information about the return process,
- Respond quickly and efficiently to incidents affecting minority communities at the municipal level,
- Redirect the resources of the Kosovo Police to reflect the needs of the communities where non-majority communities live for their presence,
- Prime Minister and ministers to publicly support the return process,
- Improve institutional cooperation between government and municipal institutions through responsibilities that will facilitate the return process,
- Solve the issue of illegal repossession of property by amending the Law on KPCVA to include multiple evictions for illegally occupied property,
- Assign responsibility to one body that would deal with coordination between government and municipal bodies on land allocation issues,
- Continue cooperation through working subgroups for the implementation of the Skopje Process in order to help improve the remaining points of action in all thematic areas,
- Invest greater efforts in implementing the points of action resulting from the Skopje Process, including taking ownership of the process itself,
- Regularly publish documents and modalities of the commitment and work of the Working Group for implementation within the scope of the Skopje Process.

For the Government of Serbia:

- Ensure proper and consistent application of the Law on Temporary and Permanent Residence of Citizens in terms of the possibility of registering residence at the address of the center for social work,
- The Office for Kosovo and Metohija to publish a special report on the representation of displaced persons before the Kosovo courts on property restitution,
- Abolish the obligation to file a claim for support as a condition for exercising the right to financial social assistance,
- Repeal the Regulation on measures of social inclusion of financial social assistance beneficiaries,
- Ensure proper implementation of the Law on Housing and Building Maintenance and inform interested parties on time of the new solutions and procedures stipulated by this law,
- Abolish tax on social housing and housing of internally displaced persons,
- Improve the data collection system on internally displaced persons and ensure greater comparability, especially in relation to the general population,
- Create special monitoring reports on the position of internally displaced persons by national human rights institutions,
- Create and publish a report on the implementation of the National Strategy on Refugees and Internally Displaced Persons.



NATIONAL CONVENTION ON THE
EUROPEAN UNION
KNEZA MILOŠA 4
11000 BELGRADE

WWW.EUKONVENT.ORG
OFFICE@EUKONVENT.ORG



INSTITUTE FOR TERRITORIAL
ECONOMIC DEVELOPMENT (INTER)
VLAJKOVIĆEVA 29
11000 BELGRADE

WWW.REGIONALNIRAZVOJ.ORG
OFFICE@REGIONALNIRAZVOJ.ORG