



# ASSESSMENT OF VOLUNTARY RETURNS IN KOSOVO



November 2019



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## LIST OF ABBREVIATIONS

<b>BPRM</b>	Bureau of Population, Refugees, and Migration
<b>CRC</b>	Central Review Commission
<b>DRC</b>	Danish Refugee Council
<b>GIV</b>	Go-and-Inform Visit
<b>GSV</b>	Go-and-See Visit
<b>EU</b>	European Union
<b>HLF</b>	High Level Forum
<b>IOM</b>	International Organization for Migration
<b>KP</b>	Kosovo Police
<b>KPA</b>	Kosovo Property Agency
<b>KPCVA</b>	Kosovo Property Comparison and Verification Agency
<b>MCoR</b>	Municipal Commission on Returns
<b>MCR</b>	Ministry for Communities and Return
<b>MCSC</b>	Municipal Community Safety Council
<b>MOCR</b>	Municipal Office for Communities and Return
<b>MWGR</b>	Municipal Working Group on Returns
<b>NGO</b>	Non-Governmental Organization
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>PAK</b>	Privatization Agency of Kosovo
<b>RRK</b>	Return and Reintegration in Kosovo
<b>Sub-IWG</b>	Sub-Implementation Working Group
<b>TWG</b>	Technical Working Group
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNMIK</b>	United Nations Interim Administration Mission in Kosovo

## EXECUTIVE SUMMARY

The right of displaced persons to return to their homes in safety and dignity and to recover their properties and possessions is enshrined both in the Kosovo legal framework and in international human rights instruments directly applicable in Kosovo. In line with its mandate to promote and protect human rights, the Organization for Security and Co-operation in Europe (OSCE) Mission in Kosovo continues to support the returns process in Kosovo, monitoring trends and assessing institutional efficiency in implementing the legal and policy framework. This report provides an overview of the current status of voluntary returns in Kosovo, including internally displaced persons and persons displaced in the region. Covering the period from January 2015 to December 2018, the report provides updates to the OSCE 2014 report on voluntary returns.

Since 2014, Kosovo institutions have made further progress in addressing the needs of the affected population. The key elements therein were the development of specific legal acts, improved regional co-operation with the inception of the OSCE- and UNHCR-facilitated “Inter-institutional Initiative on Displaced Persons from Kosovo,” known as the Skopje Process and continued implementation of the “Return and Reintegration in Kosovo” programme. Despite the identified progress, obstacles do remain in some areas that affect displaced persons’ ability to find durable solution.

While no primary legislation governing the returns process was effectively in force during the reporting period, a significant improvement occurred through the adoption by the Government of Kosovo of the Regulation on the Return of Displaced Persons and Durable Solutions in January 2018. This Regulation represents a significant step in terms of the Government’s commitment to the process, as well as with regards to consolidating procedures among different institutional mechanisms active in the returns process, placing the Ministry of Communities and Return (MCR) unambiguously at the helm of this co-ordination. The Regulation has abolished the old mechanisms based on policy framework<sup>1</sup> and for the first time in 19 years established a legally binding framework for the returns process. Efforts are now needed to properly enforce the Regulation as the performance of relevant municipal mechanisms remains limited and often linked to donor-funded projects, while the improvement in co-ordination among different mechanisms is also required.

Another positive step was the adoption of the Kosovo Strategy on Property Rights by the Kosovo Government in October 2016, which includes policies that ensure protection of the property rights of displaced persons. However, the protection and promotion of property and housing rights is often undermined by the insufficient response to illegal re-occupation, as well as by deficiencies in the enforcement of property claims decisions and in the provision of compensations for returnees whose property was destroyed or damaged as a consequence of conflict and finding sustainable solutions for landless returnees.

The overall security situation in Kosovo, including at returnee sites, remains stable, but recurring incidents – even if not necessarily ethnically-motivated – continues to affect security

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<sup>1</sup> Before this Regulation was adopted, the returns process was guided by the *Revised Manual on Sustainable Return*, adopted in July 2006.

and perception thereof, which in turn affects the returns process. Progress has been noted with the newly-adopted Guidelines by the MCR, Ministry for Internal Affairs and Ministry of Local Government Administration on 18 January 2018 on Responses by Local-Level Mechanisms to Incidents Affecting Communities. Incidents continue to be recorded each month, mostly theft, but also including assault, arson, firearm incidents, and damage to religious heritage sites, as well as protests, blockades of pilgrims' visits, and petitions by the receiving communities against return.

The overall number of voluntary returns remains limited. During the reporting period, the total number of voluntary returns was 802 in 2015, 582 in 2016, 498 in 2017 and 327 in 2018.

In line with the findings of this report, the OSCE Mission in Kosovo calls for further effort by the Kosovo institutions to ensure consolidation and expansion of progress with regard to the legislative and political returns commitments. The OSCE Mission in Kosovo recommends the following action: enhanced institutional response and co-operation at all levels of government; urgent prioritization by the municipalities of land allocation and housing solutions for landless returnees; expanded usage of the aforementioned Kosovo government Guidelines on Responses by Local Level Mechanisms to Incidents Affecting Communities, and overall prioritization of incidents affecting returnee sites, especially smaller and more isolated locations. Continued commitment to the continuation of co-operation through the Skopje Process is also encouraged.

# 1. INTRODUCTION

In line with its mandate, the OSCE Mission in Kosovo monitors the situation of displaced persons and the process of voluntary return and regularly reports on its findings. The previous report on the voluntary returns process was published in 2014 (hereinafter the 2014 OSCE report).<sup>2</sup>

The 2014 OSCE report noted progress in finding solutions to conflict-related displacement and in the returns process, particularly through the development of a policy framework. It also noted a number of institutional shortcomings, including inadequate functioning of responsible municipal bodies responsible for the return and reintegration of displaced persons, lack of co-ordination between the governmental and municipal stakeholders, and insufficient data collection and management at the government level. The report further observed that property issues, security incidents, and resistance from receiving communities continued to impede the returns process, while insufficient co-operation between institutions in Kosovo and in the region limited its effectiveness.<sup>3</sup>

The current report provides an update on the key conclusions of the previous report, and generally assesses the developments in the sphere of voluntary returns since its publication, particularly vis-à-vis institutional compliance with the policy framework applicable during this reporting period.

The report covers the period between January 2015 and December 2018. The reporting period in section three is, however, altered to reflect the change in returns-related institutional mechanisms. In its first part, between January 2015 and December 2017, the report considers the policy obligations of different institutions relevant to the returns process and the institutions' compliance therewith. While primary legislation governing returns was in force only since January 2018 with the adoption and entering into force of the Regulation No. 01/2018 on the Return of Displaced Persons and Durable Solutions<sup>4</sup> (hereinafter the Regulation on Returns), the report provides a brief overview of the drafting process of this Regulation and major updates after its adoption. The transition period between the old policy framework and the new legal framework is therefore omitted from the assessment, since there was no sufficient time for the implementation of the new Regulation and its subsequent assessment, resulting in the exclusion of the year 2018 in section three of the report. Section four provides information on property rights. In the fifth and sixth sections, respectively, the report explores the security aspect – both security of returnees in return sites as well as receiving communities' opposition to returns. Section seven provides a summary of increased regional co-operation during the reporting period, particularly in the framework of the "Inter-institutional Initiative on Durable Solutions for Displaced Persons from Kosovo," also referred

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<sup>2</sup> OSCE Mission in Kosovo report "An Assessment of the Voluntary Returns Process in Kosovo", October 2014, <https://www.osce.org/kosovo/129321> (accessed 4 May 2018).

<sup>3</sup> *Ibid.*, pp. 21–22.

<sup>4</sup> MCR, Regulation No. 01/2018 on the Return of Displaced Persons and Durable Solutions, adopted 4 January 2018, available at: [http://www.kryeministri-ks.net/repository/docs/RREGULLORE\\_QRK\\_-\\_NR\\_01\\_-\\_2018\\_P%C3%8BR\\_KTHIMIN\\_E\\_PERSONAVE\\_T%C3%8B\\_ZHVENDOSUR\\_DHE\\_ZGJIDHJE\\_T%C3%8B\\_Q%C3%8BNDRUESHME..pdf](http://www.kryeministri-ks.net/repository/docs/RREGULLORE_QRK_-_NR_01_-_2018_P%C3%8BR_KTHIMIN_E_PERSONAVE_T%C3%8B_ZHVENDOSUR_DHE_ZGJIDHJE_T%C3%8B_Q%C3%8BNDRUESHME..pdf).

to as the Skopje Process. The report concludes with a set of recommendations to the institutions.

In terms of methodology, the report descriptively presents the data gathered through regular and ad hoc OSCE Mission in Kosovo monitoring. Data on the municipal institutional performance is collected and summarized bi-annually through a standardized tracking tool by OSCE Mission in Kosovo field teams. The local level tracking tool provides statistics on returnees' security and their relationship with the receiving community, land allocation, implementation of returns-related projects and information with regard to the fulfillment of municipalities' legal obligations in ensuring rights of displaced persons and returnees.

Data on the performance and key developments within the Ministry for Communities and Returns (MCR) is collected annually by the OSCE Mission in Kosovo, also through a tracking tool. Information on security incidents affecting returnees and on instances of opposition to return is gathered both regularly and on an ad hoc basis through a variety of sources by the OSCE Mission in Kosovo staff and stored in a purpose-built internal database. Data on the number of returnees is taken from the United Nations High Commissioner on Refugees (UNHCR) statistical overviews. Information on returns assistance projects is gathered from publicly available materials or directly from the stakeholders implementing the projects.

## 2. BACKGROUND

As a result of the 1998–1999 conflict and its aftermath, including the 2004 riots, approximately 220,000 persons were displaced from Kosovo. Only a small proportion has returned – 28,111 persons as of end of December 2018. During the current reporting period, 2,209 persons (1,091 women and 1,118 men) returned. However, the numbers are declining each year - 802 persons (410 women, 392 men) returned in 2015, 582 (280 women, 302 men) in 2016, 498 (247 women, 251 men) in 2017 and 327 (154 women, 173 men) in 2018.<sup>5</sup>

In terms of community affiliation, most persons who returned during the reporting period were Kosovo Serbs (1,009), followed by Kosovo Egyptians (417), Kosovo Roma (357), and Kosovo Ashkali (218), while Kosovo Albanians have returned to municipalities where they constitute a non-majority community such as Mitrovica/Mitrovicë North and Zvečan/Zveçan (112). Kosovo Serbs have mostly returned to municipalities where they constitute a majority community such as Štrpce/Shtërpçë, Gračanica/Gračanicë, Novo Brdo/Novobërdë and Ranilug/Ranillug, but notably also in other places including Obiliq/Obilić, Istog/Istok, Klinë/Klina and Gjilan/Gnjilane. Furthermore, Kosovo Roma, Kosovo Ashkali and Kosovo Egyptians have mostly returned to municipalities where members of their communities are known to have traditionally resided.<sup>6</sup>

During the reporting period, the returns process was hindered by property rights issues, security incidents and instances of opposition to returns by the receiving community, which are elaborated in detail in the sections below. Notable developments occurring during the reporting period included the start of the construction of a large returnee settlement “Sunny Valley” in Zvečan/Zveçan in June 2016, protests against the return of displaced Kosovo Serbs in the village of Mushtisht/Mušutište in Suharekë/Suva Reka municipality in August 2016, the spontaneous return of 13 Kosovo Serbs to the village of Lubozhdë/Ljubožda in Istog/Istok municipality in March 2017, while in 2018 security incidents affected visits to Serbian Orthodox religious sites in Gjakovë/Đakovica, Potërq i Ultë/Donji Petriç, Klinë/Klina and in Studenicë/Studenica, Istog/Istok municipality.

Main returnee assistance projects implemented during the reporting period were the European Union “Return and Reintegration” (EU-RRK) phases IV and V co-financed by the MCR and the European Union (EU) and implemented by the International Organization for Migration (IOM), and three projects financed mainly by the U.S. Department of State - Bureau of Population, Refugees and Migration (BPRM) and implemented by the Danish Refugee Council (DRC).

The IOM implemented EU-RRK IV between 1 November 2014 and 30 April 2017 targeting 262 beneficiaries<sup>7</sup> in the municipalities of Gjilan/Gnjilane, Obiliq/Obilić, Istog/Istok, Klinë/Klina, Pejë/Peć, Suharekë/Suva Reka, Štrpce/Shtërpçë and, additionally, Gjakovë/Đakovica that was

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<sup>5</sup> UNHCR Office of Chief of Mission Kosovo, Statistical overview December 2018.

<sup>6</sup> Notable return of Kosovo Roma was in Obiliq/Obilić, Pejë/Peć, Gjilan/Gnjilane, Ferizaj/Uroševac and Gračanica/Gračanicë; Kosovo Ashkali in Ferizaj/Uroševac, Obiliq/Obilić and Fushë Kosovë/Kosovo Polje; and Kosovo Egyptians in Gjakovë/Đakovica, Pejë/Peć and Istog/Istok.

<sup>7</sup> In total 262 houses were reconstructed, ten infrastructure projects in return areas as a balancing component and six community initiative projects, 164 beneficiaries received harmonized assistance packages (i.e., furniture, food, non-food items), 243 beneficiaries received socio-economic assistance (which included seven job placements and the rest received equipment required for income-generation).

subsequently annexed under the MCR funding. It aimed at providing housing assistance and housing reconstruction, assistance packages, training and income generation grants, and small-scale infrastructure projects to displaced beneficiaries in vulnerable situations. The 33 months of implementation was funded by the EU with approximately 4 million Euro and MCR with 2.1 million Euro.<sup>8</sup>

Phase V of the same project began implementation on 11 November 2017 and it aims at assisting up to 400 beneficiaries in 11 municipalities<sup>9</sup> until 9 May 2021. For the entire duration of the project, EU contributed 8 million Euro, while MCR funds amount to 2.75 million Euro.<sup>10</sup> Until the end of 2018, the EU-RRK V targeted 120 beneficiaries.<sup>11</sup>

The DRC implemented the “Reintegration and Community Stabilization in Kosovo” project between 15 September 2014 and 14 September 2015. The contributions of approximately 371,638 Euro by the U. S. Department of State BPRM and 88,159 Euro<sup>12</sup> through local NGO co-funding have been targeted at delivering minor shelter repairs, harmonized assistance packages and income generation grants to 24 beneficiary families Kosovo-wide.<sup>13</sup> Additionally, two phases of the “Improving Return Assistance for Enhanced Durable Solution Opportunities” project were implemented by DRC between 15 September 2016 and 14 September 2018, targeting in total 150 beneficiary families who directly received support, and an estimated 1,200 indirect beneficiary families in the municipalities of Istog/Istok, Novo Brdo/Novobërdë, Štrpce/Shtërpçë, Kamenicë/Kamenica, Ranilug/Ranillug and Dragash/Dragaš. The two phases amounted to approximately 704,413 Euro,<sup>14</sup> aiming to improve capacity to support returnee integration through enhanced, durable solutions-focused assessments of integration challenges, enhance the implementation of existing returnee integration support mechanisms by applying a co-ordinated, comprehensive and multi-stakeholder approach and to improve basic living conditions of most vulnerable returnees through minor shelter repair and stimulate community integration and multi-ethnic cohesion through joint rural income-generating grants. Finally, DRC launched the “Promoting Sustainable, Evidence-based Durable Solutions Programming in Kosovo” project worth approximately 176,120 Euro<sup>15</sup> at the end of the reporting period, in September 2018. Through this project, DRC aims to assist 39 beneficiary families in Gjilan/Gnjilane, Prizren and Klinë/Klina through needs-based assistance, as in the previous projects.<sup>16</sup>

Finally, in addition to returnees’ assistance projects already contributed by the MCR as explained above, during the reporting period MCR has invested into projects supporting returns and reintegration. In 2015, Kosovo government allocated 7,900,896 Euro to the MCR

<sup>8</sup> IOM Kosovo, EU-Return and Reintegration in Kosovo, available at <http://kosovo.iom.int/eu-return-reintegration-kosovo>.

<sup>9</sup> Pejë/Peć, Klinë/Klina, Istog/Istok, Obiliq/Obilić, Fushë Kosovë/Kosovo Polje, Gračanica/Graçanicë, Novo Brdo/Novobërdë, Kamenicë/Kamenica, Štrpce/Shtërpçë, Prizren, Rahovec/Orahovac, IOM Kosovo, EU-RRK V Project Factsheet, available at: <http://kosovo.iom.int/sites/default/files/IOM%20-%20EU%20RRK%20V%20Project%20fact%20sheet%20Nov%202017%20%20ENG.pdf>.

<sup>10</sup> Information obtained from IOM, 19 February 2019.

<sup>11</sup> 103 houses reconstructed, 86 beneficiaries received furniture and home appliances, 78 received food and food-items, 67 received firewood packages and 29 received socio-economic assistance (of which 26 income-generation grants and four job placements).

<sup>12</sup> The original amount allocated 421,835 USD and 100,067 USD, respectively.

<sup>13</sup> Information obtained from DRC, 25 February 2019.

<sup>14</sup> In total 799,793 USD.

<sup>15</sup> In total 199,968 USD.

<sup>16</sup> Ibid.

of which 6,592,626 Euro to capital investments, including support to returns and reintegration.<sup>17</sup> In 2016, Kosovo government approved a total budget of 7,678,008 Euro to MCR. During the course of that year, the budget was increased by 944,632 Euro to support projects in Mitrovica/Mitrovicë North.<sup>18</sup> In 2017 the MCR budgeted 4,631,607 Euro, out of which 3,160,000 were allocated to support capital investments, including support to returns and reintegration. In form of subsidies, MCR allocated 290,000 Euro to NGOs in support of integration and assistance to communities.<sup>19</sup> or 2018 the MCR received an allocation of 8,387,806 Euro, including for housing construction as indicated above and 3,500,000 Euro for projects targeting communities.<sup>20</sup>

The reliance on donor-funded projects for housing solutions for returnees is problematic; especially since only a few municipalities participate and potential returnees from other municipalities have to rely on sporadic assistance from the MCR. This becomes a significant issue in municipalities to which a larger number of displaced persons wish to return. Some of these municipalities such as Gračanica/Graçanicë or Kamenicë/Kamenica were included in the subsequent phase of the project (EU-RRK V) starting in late 2017. Others, such as Dragash/Dragaš, Ferizaj/Uroševac, Gjakovë/Đakovica or Lipjan/Lipljan, remain excluded.<sup>21</sup> Moreover, potential returnees to these municipalities are often vulnerable members of the Kosovo Roma, Kosovo Ashkali, Kosovo Egyptian or Kosovo Gorani communities who require substantial return assistance. For this reason, MCR should ideally be able to provide equitable assistance for return to all municipalities in Kosovo for all interested displaced persons, whilst prioritizing vulnerable persons and persons who have been displaced the longest.

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<sup>17</sup> Auditor General, 2015 financial report for the Ministry for Communities and Returns, <http://zka-rks.org/wp-content/uploads/2017/06/RaportiAuditimit.MKK.2015.Shqip.192470.pdf>.

<sup>18</sup> Auditor general, 2016 audit financial report for the Ministry for Communities and Returns, <http://zka-rks.org/wp-content/uploads/2017/07/RaportiAuditimit.MKK.2016.Shqip.587412.pdf>, issued June 2017.

<sup>19</sup> Auditor General, 2017 audit financial report for the Ministry for Communities and Returns, [http://www.zka-rks.org/wp-content/uploads/2018/06/RaportiAuditimit\\_MKK\\_2017\\_Shqip.pdf](http://www.zka-rks.org/wp-content/uploads/2018/06/RaportiAuditimit_MKK_2017_Shqip.pdf), issued June 2018.

<sup>20</sup> Ministry of Finance, Nine months financial report for the period 1 January – 30 September 2018, <https://mf.rks-gov.net/desk/inc/media/E57FE42C-81E2-4C6D-8DC1-E690CF83839D.pdf>.

<sup>21</sup> Interest to return figures taken from: UNHCR Regional Office in South Eastern Europe, Displaced Persons from Kosovo in the Region – A Re-assessment of Interest to Return, available at: [http://www.unhcr.org/see/wp-content/uploads/sites/57/2018/05/UNHCR\\_KOS\\_Needs-Assessment-Report\\_NA\\_English.pdf](http://www.unhcr.org/see/wp-content/uploads/sites/57/2018/05/UNHCR_KOS_Needs-Assessment-Report_NA_English.pdf), p. 33.

### 3. IMPLEMENTATION OF THE LEGAL AND POLICY FRAMEWORK

The right of displaced persons to return to their homes in safety and dignity and to recover their properties and possessions is enshrined both in the Kosovo legal framework and in international human rights instruments directly applicable in Kosovo.<sup>22</sup> These rights are closely linked to three basic human rights: freedom of movement, peaceful enjoyment of possessions, and respect for private and family life.<sup>23</sup> Institutions have an obligation to establish the conditions and provide the necessary means to allow displaced persons to return to their homes in a safe and dignified manner, to participate fully in the planning and management of their return and reintegration, and to participate equally in public affairs and have equal access to public services.<sup>24</sup>

#### 3.1 Kosovo legal framework

While the milestone adoption of the first piece of legislation aimed at regulating the returns process is described in sub-section 3.3 below, until January 2018, the legal framework contained only general provisions reaffirming the right to return in line with international human rights standards. This is most notable in the Article 156 of the Constitution: “[...] Kosovo shall promote and facilitate the safe and dignified return of refugees and internally displaced persons and assist them in recovering their property and possession.”<sup>25</sup> The Law on Protection and Promotion of the Rights of Communities and their Members does not expressly mention the right to return; nevertheless, some of its provisions related to security, language rights, education, public participation and social and economic opportunities have direct bearing on sustainable reintegration of returnees.<sup>26</sup>

The most detailed piece of legislation related to the returns process in force during the reporting period is Regulation No. 02/2010 (MOCR Regulation), which established the Municipal Offices for Communities and Return and delineated their responsibilities.<sup>27</sup> The MOCR Regulation expressly mandates the MOCRs to “co-ordinate the returns process and promote the creation of conditions for the sustainable return and reintegration of displaced and repatriated persons in the municipality.”<sup>28</sup> In relation to returns, the MOCRs shall also

<sup>22</sup> Article 13.2, Universal Declaration of Human Rights; Article 12.4, International Covenant on Civil and Political Rights; Article 5.d.ii, International Convention on the Elimination of all Forms of Racial Discrimination. Article 22 of the Constitution makes these instruments directly applicable in Kosovo. Additionally, the scope of the right is further elaborated in: Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), 11 February 1998; Principles on Housing and Property Restitution for Refugees and Displaced Persons (E/CN.4/Sub.2/2005/17), 11 August 2005 (“Pinheiro Principles”); Council of Europe (CoE) Twenty Guidelines on Forced Return, September 2005 (CoE Guidelines”).

<sup>23</sup> ECHR, ETS 5, published on 4 November 1950, Protocol 4, Article 2; Protocol 1, Article 1; and Article 8. Available at: <http://www.unhcr.org/refworld/docid/3ae6b3b04.html> (accessed 19 December 2017).

<sup>24</sup> Economic and Social Council, E/CN.4/Sub.2/2005/17, 28 June 2005, Annex.

<sup>25</sup> Article 156, Constitution.

<sup>26</sup> Art 1, 2, 4, 8, 9, 11, Law on Protection and Promotion of the Rights of Communities and their Members ([http://www.kuvendikosoves.org/common/docs/ligjet/2008\\_03-L047\\_en.pdf](http://www.kuvendikosoves.org/common/docs/ligjet/2008_03-L047_en.pdf)).

<sup>27</sup> Office of the Prime Minister, Regulation No. 02/2010 for the Municipal Offices for Communities and Return, adopted 12 August 2010; accessible at [http://www.kryeministri-ks.net/repository/docs/Rregullore\\_per\\_Zyrat\\_komunale\\_per\\_Komunitete\\_dhe\\_Kthim.pdf](http://www.kryeministri-ks.net/repository/docs/Rregullore_per_Zyrat_komunale_per_Komunitete_dhe_Kthim.pdf).

<sup>28</sup> Art 7(1.3), MOCR Regulation.

prepare action plans to assist the municipality in the returns process,<sup>29</sup> submit regular reports to the municipal leadership on the progress achieved in the returns process,<sup>30</sup> and maintain an electronic database of displaced persons and voluntary returnees.<sup>31</sup> These obligations were nevertheless not linked to any comprehensive legal framework governing the returns process, until the Regulation on Returns was adopted on 15 January 2018.

## 3.2 Kosovo policy framework

The key policy document governing the returns process is the 2006 UNMIK Revised Manual on Sustainable Return (the Manual).<sup>32</sup> The Manual defines the roles and responsibilities of all relevant institutions at the government and municipal level at each stage of the returns process.<sup>33</sup> It also sets out fundamental guiding principles for the voluntary returns process. Return should be rights-based, sustainable, bottom-up, displaced person-driven, and participatory; it should engage the entire community; it should take into consideration gender, and age-specific concerns; and return to place of origin should be the primary option.<sup>34</sup> The Manual establishes the Municipal Working Group on Returns (MWGR)<sup>35</sup> and the Central Review Mechanism (CRM)<sup>36</sup> as the main co-ordination mechanisms at the municipal and government level, respectively.

The Manual was later supplemented by 2012 MCR Guidelines for the Implementation of Return Support (the Guidelines) with the aim of enabling “an efficient follow up of requests for assistance and a fair and transparent provision of support.”<sup>37</sup> The Guidelines concentrate the co-ordination responsibilities in the hands of the MCR and decision-making responsibilities on the provision of assistance in the MCR-led Central Review Commission (CRC).<sup>38</sup> On the municipal level, the Guidelines recognize the role of the MOCRs and expand on their responsibilities outlined in the MOCR Regulation. The Guidelines also establish a Municipal Task Force for Returns (Task Force) led by the MOCR as a working-level body at the municipal level.

The Kosovo policy framework was formally in place until the adoption of the Regulation on Returns in January 2018 (outlined in sub-section 3.3 below), which now provides a legally binding framework.

Finally, in February 2014, the MCR adopted a renewed Strategy for Communities and Returns for the period 2014–2018, and a corresponding Action Plan.<sup>39</sup> The Strategy outlines four main strategic objectives: 1) sustainable return of internally displaced persons and displaced persons in the region; 2) empowerment and stabilization of communities in Kosovo; 3) drafting and

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<sup>29</sup> Art 7(1.4), *Ibid.*

<sup>30</sup> Art 7(1.7), *Ibid.*

<sup>31</sup> Art 7(2), *Ibid.*

<sup>32</sup> United Nations Interim Administration Mission in Kosovo/Provisional Institutions of Self-Government (PISG), Revised Manual on Sustainable Return, July 2006.

<sup>33</sup> Pp. 18–27, *Ibid.*

<sup>34</sup> Pp. 8–9, *Ibid.*

<sup>35</sup> Pp. 13–14, *Ibid.*

<sup>36</sup> Pp. 15–16, *Ibid.*

<sup>37</sup> P. 1, MCR, Guidelines for the Implementation of Return Support, 27 March 2012.

<sup>38</sup> P. 5, Guidelines.

<sup>39</sup> MCR, Strategy for Communities and Return 2014–2018, December 2013, [http://www.kryeministri-ks.net/repository/docs/STRATEGY\\_FOR\\_COMMUNITIES\\_AND\\_RETURN\\_2014-2018.pdf](http://www.kryeministri-ks.net/repository/docs/STRATEGY_FOR_COMMUNITIES_AND_RETURN_2014-2018.pdf).

amendment of the legal framework of the MCR regarding communities, returns and reintegration; and 4) advancement of the internal management of MCR. A number of measures are proposed to accomplish the strategic objectives, including provision of assistance to displaced persons living in collective centers and private accommodation, co-ordination for the purposes of land allocation, strengthened information mechanisms, improved co-operation and co-ordination between mechanisms, support for sustainable return and economic development, increased aid for disadvantaged groups of returnees, amending the legal framework on return, and establishing a functional and regularly updated data management system.<sup>40</sup> The 2014 OSCE report praised many of these developments, but also criticized a lack of details on specific measures and corresponding deadlines and necessary human and financial resources required for the implementation of the Strategy and its Action Plan.<sup>41</sup>

### 3.3 Towards a regulation on return

Conscious of the absence of comprehensive legislation regulating the returns process, and in the light of the recommendations issued by the OSCE Mission in Kosovo in the 2014 report and the commitment voiced in the Strategy for Communities and Returns 2014–2018, the MCR with support from the OSCE Mission in Kosovo and UNHCR began developing a regulation on return of displaced persons in 2015. A working group was established and agreed to develop a regulation which would install a comprehensive institutional framework and procedures to assist displaced persons to return and reintegrate. The regulation was set to cover the definition of vulnerability criteria and prioritization, diversification of assistance packages, data management, responsibilities of government and municipal mechanisms, and monitoring and reporting. Two drafting workshops supported by the OSCE Mission in Kosovo and UNHCR were held in Skopje (20–21 December 2015) and Tirana (6–10 April 2016), and the draft Regulation was submitted by the MCR for public consultation on 9 August 2016. However, political developments such as the “Srpska Lista” political party suspending its participation in the government in late 2016, and a period of political blockages in the Assembly of Kosovo preceding and following the dissolution of the government and the subsequent elections in 2017 considerably delayed the adoption of the Regulation. The Regulation on Returns<sup>42</sup> was finally adopted by the government on 15 January 2018.

The new Regulation represents a significant step in consolidating the procedures and co-ordination between different mechanisms active in the returns process. The former structure of MWGRs and Task Forces is abolished and replaced by a new Municipal Commission on Returns (MCoR).<sup>43</sup> The Regulation strengthens the oversight role and accountability of the MCR in relation to the performance of the municipal level institutions and foresees the appointment of regional co-ordinators to ensure better flow of information between the MCR and MOCRs.<sup>44</sup> Also, an Appeals Commission should be established to increase the accountability of the Central Review Commission as the decision-making body.<sup>45</sup> Finally, the Regulation mandates a strictly needs-based selection of beneficiaries with a set of vulnerability

<sup>40</sup> Pp. 19–22, Strategy.

<sup>41</sup> Pp. 9 2014 OSCE report, *supra* note 2.

<sup>42</sup> MCR, Regulation No. 01/2018 on the Return of Displaced Persons and Durable Solutions, *supra* note 4.

<sup>43</sup> Art 24, *Ibid.*

<sup>44</sup> Art 5(6), *Ibid.*

<sup>45</sup> Art 26, *Ibid.*

criteria developed to guide the prioritization of cases.<sup>46</sup> It introduces the obligation of municipalities and MCR to provide assistance to all eligible applicants, but prioritizes vulnerable cases through a range of criteria. On the negative side, the Regulation limits the effectiveness of aid for immediate needs as the decision-making power for provision of emergency assistance packages lies with the MCR rather than with municipalities. It also retains the Central Review Commission for the final selection of beneficiaries with the possibility of exclusive membership of MCR representatives within this body, which might negatively affect the transparency of the decision-making process. Nevertheless, establishing a legal basis for the returns process is an important development.

Since the adoption of the Regulation on Returns, the establishment of the abovementioned mechanisms was postponed until the Guidelines for the implementation of the Regulation<sup>47</sup> were finalized in October 2018. Throughout 2018, OSCE Mission in Kosovo, UNHCR and IOM supported the MCR in drafting the Guidelines. This supporting document, accompanied by a set of annexes, clarifies the procedures related to application for returns assistance, assessment of the applicants and the provision of assistance to the beneficiaries, and expands more on the roles of each stakeholder included, particularly the MOCR as the leading local-level stakeholder in the returns process. Following the adoption of the Regulation on Returns, 20 Municipal Commissions on Returns have been established Kosovo-wide by the end of the reporting period. Despite this positive development, these Commissions have not been functional in 2018 as the adoption of the Guidelines was pending. Instead, the previous mechanisms stemming from the policy framework (MWGRs and Task Forces on Returns) continued to process the applicants during this period. Additionally, the governmental-level mechanisms as prescribed by the new Regulation were not yet established by the end of 2018.

As the new legal framework was not functional during the reporting period, the sub-sections below review the establishment and functioning of the mechanisms responsible for the implementation of returns and reintegration assistance at the local level under the policy framework, namely the MOCRs, MWGRs and Task Forces on returns. The sub-sections also review the adoption and implementation of municipal strategies on returns.

## **3.4 Functioning of the policy framework mechanisms**

### ***Municipal Offices for Communities and Returns (MOCR)***

The MOCR is the mechanism with the most detailed legislative basis, developed through collaboration among government bodies which have direct or indirect responsibility for communities' issues,<sup>48</sup> as well as a number of international stakeholders.

As the main mechanisms responsible for practical implementation of returns support,<sup>49</sup> MOCRs are crucial bodies. Municipalities have an obligation to formally establish these offices, and to

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<sup>46</sup> Art 10, Ibid.

<sup>47</sup> MCR, Guidelines for Implementation of Regulation (GRK) – No. 02/2018 on the Return of Displaced Persons and Durable Solutions, available at: <http://mzp-rks.org/en/images/dokumenta/uputstvoen.pdf>.

<sup>48</sup> The Ministry for Communities and Returns, the Office for Community Affairs, the Ministry for Public Administration, the Ministry for Internal Affairs, and the Ministry for Local Government and Administration

<sup>49</sup> This mechanism has the most detailed legislative basis concerning returns. As stated in the Guidelines for Implementation of Return Support, MOCRs are "the main entity for support to persons returning to Kosovo."

ensure that they are properly staffed and functional.<sup>50</sup> OSCE Mission in Kosovo field assessments noted that as of December 2018, MOCRs had been established in 35 municipalities.<sup>51</sup>

The MOCR Regulation is significant in establishing the MOCRs as a unified mechanism for the protection and promotion of community rights, incorporating former municipal communities' offices and municipal returns offices. The policy document "MOCR Terms of Reference – Standard Operating Procedures"<sup>52</sup> (ToRs) provides additional guidance, detailing specific MOCR responsibilities in the three key areas of communities' rights: access to services, returns, and repatriations.

OSCE Mission in Kosovo monitoring data was used to review MOCRs functionality during the reporting period in relation to three main tasks stemming from the MOCR Regulation and the ToRs: i) outreach and needs assessment, ii) facilitation of Go and See Visits (GSV) and Go and Inform Visits (GIV), and iii) implementation of activities/projects to support returns (also referencing activities undertaken by other organizations).

One of the main responsibilities of the MOCR, as per the MOCR Regulation, is to monitor the situation of displaced persons and returnees in the municipality by undertaking outreach and needs assessment and providing assistance as appropriate. Of the 35 assessed MOCRs, 19 undertook outreach visits to returnees or displaced persons to assess needs and provide information, which represents an increase from the previous reporting period.<sup>53</sup> Of these, three MOCRs conducted outreach visits only once during the reporting period,<sup>54</sup> while one was organized with the support of an international organization.<sup>55</sup> These visits ranged from assessing the properties of displaced persons wishing to return, assessing their needs, assessing their reintegration, including visiting collective centres.

According to OSCE Mission in Kosovo monitoring, 12 MOCRs<sup>56</sup> organized regular GSVs and GIVs, either independently or together with donor organizations,<sup>57</sup> which represent a regression from the previous reporting period.<sup>58</sup> Concerning projects, few MOCRs have fulfilled their duty to develop, implement and monitor projects to advance communities' rights to access public services and support conditions for sustainable returns and reintegration.<sup>59</sup> Positive examples have been the MOCR in Novo Brdo/Novobërdë drafting a project to equip

<sup>50</sup> MOCR Regulation, Art. 1, 5 and 10, *supra* note 27.

<sup>51</sup> MOCRs have not been established in the municipalities of Leposavić/Leposaviq, Zubin Potok, and Mitrovica/Mitrovicë North; the municipalities have however maintained the UNMIK structures for communities, the Municipal Office for Communities (MCO), which performs some of the MOCR duties, including those related to returns. The assessment covers all municipalities in Kosovo with regard to key functions in support of returns.

<sup>52</sup> MOCR Terms of Reference – Standard Operating Procedures, approved by the Inter-Ministerial Working Group on MOCRs and published on 21 April 2011, available at:

[http://www.zck-ks.net/repository/docs/ToR\\_for\\_MOCRs-20110421-final-eng.pdf](http://www.zck-ks.net/repository/docs/ToR_for_MOCRs-20110421-final-eng.pdf).

<sup>53</sup> Between 2012 and 2014, only 11 MOCRs undertook outreach.

<sup>54</sup> In Leposavić/Leposaviq, Mitrovica/Mitrovicë North and Shtime/Štimlje.

<sup>55</sup> Skenderaj/Srbica, through UNHCR and NGO "Advancing Together."

<sup>56</sup> Gjilan/Gnjilane, Kamenicë/Kamenica, Ranilug/Ranillug, Viti/Vitina, Mitrovicë/Mitrovica South, Deçan/Deçane, Istog/Istok, Klinë/Klina, Pejë/Peç, Fushë Kosovë/Kosovo Polje, Obiliq/Obilić and Prizren. Additionally in 2018, Gjakovë/Đakovica, Štrpce/Shtërpçë and Rahovec/Orahovac organized GSVs or GIVs.

<sup>57</sup> With DRC and IOM.

<sup>58</sup> In total, 18 undertook GSVs/GIVs.

<sup>59</sup> MOCR Regulation, Art. 7(1.7), *supra* note 27.

the community centre in the municipality,<sup>60</sup> Kamenicë/Kamenica supporting the Kosovo Roma return site in Berivojcë/Berivojce by cleaning the septic tanks, and Podujevë/Podujevo paving the road to Metrgovc/Medregovac village. Additionally, Dragash/Dragaš has implemented a project that provides income generation and small house repairs for those who have recently returned. Other types of assistance have included small donations of food and non-food items, especially in Istog/Istok and Klinë/Klina municipalities. Generally, however, the trend continues with MOCRs being most active in providing assistance through the help of donor-sponsored projects.

### ***Municipal Working Groups on Returns (MWGR) and Municipal Task Forces for Returns (Task Forces)***

The MWGR's primary responsibility is to co-ordinate and implement all returns-related activities in the municipality and to promote communication between displaced persons and their community of origin.<sup>61</sup> The MWGR is chaired by the mayor and should meet monthly. It comprises members of the receiving and returning communities, relevant institutions and international organizations. Until the end of 2017, OSCE Mission in Kosovo field assessments noted that MWGRs have been established in 28 out of 38 municipalities.<sup>62</sup>

Task Forces are organized and led by the MOCR and have the primary role of supporting the work of the MWGR with the assessment and review of individual displaced persons' requests for assistance. Task Forces are composed of municipal returns co-ordinators and returns officers, the MCR representative, UNHCR, and other relevant international organizations or NGO partners as foreseen in the Guidelines.<sup>63</sup> Compared to the previous reporting period where 21 Task Forces were established, during the reporting period the number increased to 32 out of the total 38 municipalities. Of the established Task Forces, 31 have been generally assessed as functional. The Podujevë/Podujevo Task Force was assessed as only partially functional as it only met three times during the reporting period, and it is thus not proactively supporting the returns process. Task Forces are mostly project-driven and focus on pre-returns assessments and implementation of assistance.

OSCE Mission in Kosovo monitoring shows that the frequency of meetings of the two bodies falls short of the policy obligations. MWGRs do not meet on a monthly basis in accordance with the Manual, while very few Task Forces meet within two weeks after an application is received to conduct a needs assessment.<sup>64</sup> Task Forces in Klinë/Klina, Prizren, Istog/Istok and Pejë/Peć are, comparatively, the most compliant, and fulfil their policy obligations within the prescribed period.

In reality, the two (MWGR and Task Force) local level bodies have overlapping functions, and their practice is different across municipalities in Kosovo. For example, in some municipalities the Task Force conducts the first screening of applications, forwards this to the MWGRs for further preliminary approval and the MWGR then forwards the recommended requests to the Central Review Commission for the final approval. In other municipalities, such as Istog/Istok,

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<sup>60</sup> The project was financed by UNMIK.

<sup>61</sup> Pp. 13–14, Manual, *supra* note 32.

<sup>62</sup> This number is the same as in the previous reporting period 2012–2014.

<sup>63</sup> Part 4 and 5, Guidelines, *supra* note 37.

<sup>64</sup> *Ibid.*

Klinë/Klina, Pejë/Peć, or Štrpce/Shtërpçë, Task Forces were sending requests directly to the CRC. The CRC always has the final decision on the selection of beneficiaries.

OSCE Mission in Kosovo monitoring indicates that during the reporting period, both mechanisms met exclusively to facilitate project implementation of the EU-funded and IOM-implemented RRK programme. This falls short of their obligations to discuss provision of assistance beside the available donor funding. OSCE Mission in Kosovo monitoring has revealed a substantial gap between the number of cases reviewed by both bodies, and the number of requests approved or recommended (see below charts 1 and 2). This is especially visible during 2016 and 2017, where the MWGRs approved less than half of the reviewed cases, while the Task Forces recommended less than one third of all reviewed cases. According to OSCE Mission in Kosovo monitoring, the main issues have been insufficient documents provided, lack of land ownership or land allocation by the municipalities, complete reliance on project funds or improper implementation of the policy framework by each of the two mechanisms as indicated above.

### Municipal Working Group meetings Kosovo-wide

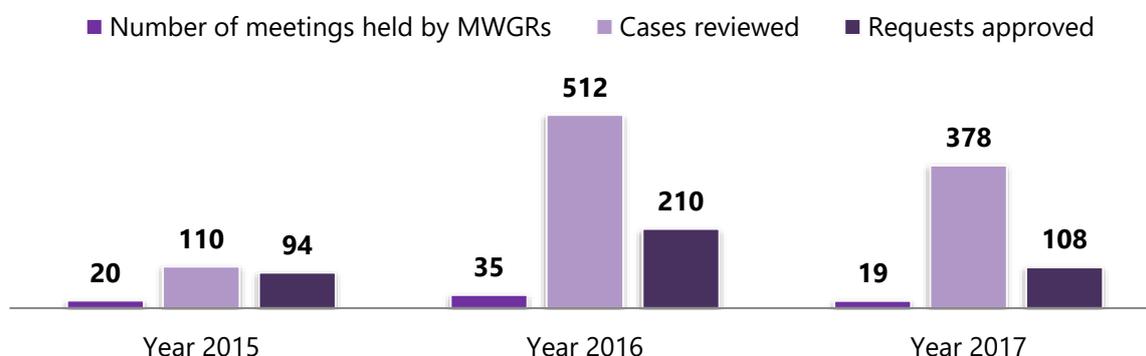


Chart 1: MWGR's meetings Kosovo-wide in 2015–2017<sup>65</sup>

<sup>65</sup> As explained in sub-section 3.3 the MWGRs are not assessed in 2018 as new legally binding mechanisms are formally in place. With the adoption of the new Regulation in January 2018, new local level mechanisms (Municipal Commissions on Return) were established while the old policy framework mechanisms (MWGR and Task Forces) were abolished. In 2018, Municipal Commissions on Returns were being established so their regular functioning for the year could not be assessed for the present report.

## Task Forces - Meetings held Kosovo-wide



Chart 2: Task Forces' meetings Kosovo-wide in 2015–2017<sup>66</sup>

### ***Municipal Strategies on Returns***

Based on the Manual, municipalities are required to adopt and implement a municipal returns strategy in order to set clear objectives and activities to support displaced persons' return and reintegration in the municipality.<sup>67</sup> MOCRs co-ordinate the drafting of the strategies, involving relevant municipal departments and MWGR members. The strategies are then endorsed by the MWGR. Progress has been noted in the number of municipalities that have adopted municipal strategies and/or action plans for returns activities, which has increased from five in 2014 to 17 by 2018.<sup>68</sup> According to OSCE Mission in Kosovo monitoring tool, only three municipalities had allocated a budget to support the implementation of the strategies/action plans.<sup>69</sup> MOCRs report on the strategies' activities as part of their regular reporting to the municipal assembly, the mayor and government institutions. In general, implementation of the adopted strategies tends to be limited to co-operation with donor-funded returns projects, and to the participation of municipalities in externally organized returns-related activities.

<sup>66</sup> As explained in sub-section 3.3 the Task Forces are not assessed in 2018 as new legally binding mechanisms are formally in place. With the adoption of the new Regulation in January 2018, new local level mechanisms (Municipal Commissions on Return) were established while the old policy framework mechanisms (MWGR and Task Forces) were abolished. In 2018, Municipal Commissions on Returns were being established so their regular functioning for the year could not be assessed for the present report.

<sup>67</sup> P. 20, Manual, *supra* note 32.

<sup>68</sup> Prishtinë/Priština and Ferizaj/Uroševac (Strategy 2014–2017 and Action Plan 2018), Gjilan/Gnjilane, Mitrovicë/Mitrovica, Gjakovë/Đakovica, Istog/Istok, Lipjan/Lipljan, Obiliq/Obilić and Štrpce/Shtërpçë (Action Plan 2017–2018), Novo Brdo/Novobërdë (Action Plan 2017 and Action Plan 2018–2020), Kamenicë/Kamenica and Prizren (Strategy 2016–2018 and Action Plan 2018), Fushë Kosovë/Kosovo Polje and Gračanica/Gračanicë (Strategy 2017 and Action Plan 2017–2018), Shtime/Štimlje (Strategy 2017 and Action Plan 2018), and Rahovec/Orahovac (Strategy 2017–2018 and Action Plan 2017–2018).

<sup>69</sup> Novo Brdo/Novobërdë allocated 3,500 Euro in 2016 and 17,800 Euro in 2017, but this budget was not spent. Fushë Kosovë/Kosovo Polje allocated 309,000 Euro in 2016, and Obiliq/Obilić allocated 5,000 Euro in 2016.

## 4. PROPERTY ISSUES<sup>70</sup>

During the reporting period, displaced persons continued to face challenges in enjoyment of their property and housing rights. The main identified problems include illegal (re-) occupation of properties, non-enforcement of demolition orders and compensation scheme by the Kosovo Property Comparison and Verification Agency (KPCVA), and limited access to sustainable social housing and land allocation opportunities for returns-related projects.

Progress has been noted in addressing the property rights of non-majority communities and displaced persons with the approval of the Kosovo Strategy on Property Rights in 2016.<sup>71</sup> The Strategy contains a separate chapter on displaced persons' property rights and requires the institutions to comply with the international human rights conventions and protocols, especially with the "Pinheiro Principles."<sup>72</sup> Specifically, the Strategy identifies issues of concern related to enjoyment of property rights by members of communities and displaced persons and provides policy guidance to address them. Such issues include enforcement of decisions on eviction of illegal occupants, enhanced communication and notification of displaced persons, provision of free legal aid for displaced persons, exemption from court fees, full respect of the Law on Use of Languages to enable property owners to request and receive documents in their own language<sup>73</sup>, adjudicating cases of fraudulent property transactions and accrued property tax, land allocation for returns-related projects, and harmonization of the Strategy on Informal Settlements with the provisions of the Law on Spatial Planning. The Strategy is a key policy document of the government on property rights, thus a more structured approach towards the resolution of displaced persons' and vulnerable communities' property rights is expected in the future.<sup>74</sup>

In terms of its implementation, progress was noted in addressing the issue of taxation of immovable properties belonging to displaced persons. In January 2018, the Assembly of Kosovo adopted the Law on Immovable Property Tax,<sup>75</sup> which provides for the exemption of displaced persons from payment of the accumulated property tax. The Law entered into force on 1 October 2018, and the municipalities are obliged to write off all property tax liabilities of displaced property right holders for the period when their property was illegally occupied, based on a final decision issued by a public institution in Kosovo competent to review cases of illegal occupation.<sup>76</sup>

<sup>70</sup> The detailed description regarding the state of conflict-related property cases in Kosovo will be included in a public report planned to be published by the OSCE Mission in Kosovo in 2019.

<sup>71</sup> Kosovo Strategy on Property Rights, October 2016: [http://www.kryeministri-ks.net/repository/docs/SKDP\\_17\\_10\\_2016\\_ENG.pdf](http://www.kryeministri-ks.net/repository/docs/SKDP_17_10_2016_ENG.pdf).

<sup>72</sup> Principles on Housing and Property Restitution for Refugees and Displaced Persons (E/CN.4/Sub.2/2005/17), 11 August 2005 ("Pinheiro Principles").

<sup>73</sup> Law No. 02/L-37 on the Use of Languages, 27 July 2006.

<sup>74</sup> Most parts of the Strategy still need to translate into new laws, or amendment of existing ones; however, the new Law on Immovable Property Tax exempting displaced persons from payment of accumulated bills is one of the positive examples which derive directly from the Strategy.

<sup>75</sup> Law No. 06/L-005 on Immovable Property Tax. The Law was published in the Official Gazette on 15 February 2018, and entered into force on 1 October 2018.

<sup>76</sup> The Courts, Kosovo Property Comparison and Verification Agency or other public institution.

The Kosovo Property Agency (KPA) mandated to receive, register and resolve property-related claims, ended its mandate in November 2016, having adjudicated all claims.<sup>77</sup> The KPA was succeeded by the KPCVA,<sup>78</sup> which inherited part of the KPA mandate pertaining to enforcement of decisions and the rental scheme for properties under administration.<sup>79</sup>

Despite some progress noted in the resolution of property-related claims, the issue of illegal re-occupation of properties following evictions continued to negatively affect the peaceful enjoyment of property rights by members of communities, including displaced persons.<sup>80</sup> In such cases, the claimants had to undergo lengthy court procedures to release their properties from illegal occupants, as the KPCVA could legally perform only two evictions per case. During the reporting period, KPCVA executed 2,929 physical evictions, vacating properties with the support of Kosovo Police (KP).<sup>81</sup> The eviction process in northern municipalities resumed in March 2014, and since then a total of 19 evictions were performed by the KPCVA.<sup>82</sup> Additionally, 16 cases of illegal reoccupation of properties were recorded following enforcement of evictions based on repossession requests, which were referred by the KPCVA to public prosecutor's office for further proceedings.<sup>83</sup> Additionally, the Law on KPCVA introduced a 18-month period for the termination of the administration of properties, including the administration of the rental scheme, following the approval of the Law on KPCVA. The revocation of KPCVA's competence to administer properties and to conduct evictions after two occupations was assessed by the Ombudsperson Institution as a potential violation of property rights.<sup>84</sup> Termination of the administration under the KPCVA supervision would create a situation where these properties would have no protection at all since no institution in Kosovo could take over this responsibility. As a consequence, this would expose the displaced person properties and the number of illegal occupations would increase. As for the enforcement of the decisions, a limit of two evictions of illegal occupants will not provide sufficient protection to the affected parties as some displaced person properties have been re-occupied multiple times.

Hence, on 19 October 2017, the Ombudsperson Institution issued a report on *Revocation of certain competencies of Kosovo Property Comparison and Verification Agency, according to Law No. 05/L-010 on Kosovo Property Comparison and Verification Agency*, recommending that the competent institutions amend and supplement the Law on KPCVA in order to allow for the continuation of administration of properties and the possibility to enforce additional evictions following any re-occupation of properties.<sup>85</sup> Following this report, the Office of the Prime Minister addressed the Ombudsperson's recommendation, and sent the amendment to the Law for adoption in the Assembly of Kosovo, where it is pending further action.

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<sup>77</sup> See KPA/KPCVA Annual Report, 2016.

<sup>78</sup> Law No 05/L-010 on Kosovo Property Comparison and Verification Agency, 28 December 2016.

<sup>79</sup> While enforcement of decisions and administration of properties, including the rental scheme, competences transferred from the KPA are important responsibilities of the KPCVA for the protection of the property rights of displaced persons, the main responsibility of the KPCVA is comparison and verification of the cadastral records which were taken by the Serbian authorities when they left Kosovo in 1999, and the newly established Kosovo cadastral registry.

<sup>80</sup> See also OSCE report "Review of illegal reoccupation cases in Kosovo," January 2015, available at: <https://www.osce.org/kosovo/141131>.

<sup>81</sup> 945 in 2015, 1,125 in 2016, 899 in 2017 and 321 in 2018.

<sup>82</sup> 10 evictions were performed from March 2014 to end of 2015, three in 2016, four in 2017 and two in 2018.

<sup>83</sup> Seven cases in 2015, five in 2016, two in 2017 and two in 2018.

<sup>84</sup> See Ombudsperson report, accessible at: [http://www.ombudspersonkosovo.org/repository/docs/ANG--\\_17-10-2017\\_Raporti\\_per\\_AKKVP\(1\)-1\\_922339.pdf](http://www.ombudspersonkosovo.org/repository/docs/ANG--_17-10-2017_Raporti_per_AKKVP(1)-1_922339.pdf).

<sup>85</sup> Ibid.

Regarding KPCVA mandate to enforce decisions issued by the former Housing and Property Claims Commission<sup>86</sup> is concerned, since December 2016, the KPCVA has been unable to enforce the compensation scheme on the so-called A and C claims,<sup>87</sup> and to enforce requests on demolition of unlawfully constructed structures,<sup>88</sup> despite having 30,000 Euro allocated to KPCVA for this purpose. In both cases, the Constitutional Court ruled that the KPCVA is responsible to enforce these decisions, as they severely affect the property rights of displaced persons, and ordered the KPCVA to undertake measures for their implementation.<sup>89</sup> Slightly outside the reporting period, in January 2019, the KPCVA hired a private company to perform demolition of unlawful structures.

Concerning the issue of displaced persons without property, the allocation of municipal-owned land to address displaced persons' housing needs continued to be problematic for municipalities. During the reporting period, five municipalities responded positively to return-related projects by allocating municipal owned land for the benefit of landless displaced families,<sup>90</sup> whereas the municipality of Ferizaj/Uroševac and Gjilan/Gnjilane were not able to respond to requests for allocation of land for this purpose. Meanwhile, throughout its monitoring, the OSCE Mission in Kosovo has found that many municipalities still lack comprehensive data on their land, or in some cases lack municipal-owned land.<sup>91</sup> In such circumstances, the municipalities have two alternative options provided by law.<sup>92</sup> They can either request land exchange from Privatization Agency of Kosovo (PAK) or the government, or the reinstatement of ownership over socially-owned enterprises' land. As a result of the OSCE Mission in Kosovo monitoring it was revealed that, in practice, implementation of these options is impeded due to procedural uncertainties and delays in establishing a body competent to decide upon municipal requests. The Ministry of Local Government Administration very often replies with delays to the municipal requests for land allocation. Furthermore, Kosovo institutions have not assigned the responsibility to a single body that would deal with all levels of co-ordination to ensure the availability of the land to municipalities for the purpose of returns-related projects. However, in July 2018 the Government approved 23 requests of the municipalities (forwarded through MLGA) to withdraw from the privatization process the requested land parcels and transfer their ownership to the municipality. Withdrawal of the land parcels from the management of the PAK and privatization process

<sup>86</sup> In the pending caseload of the former Housing and Property Directorate/Housing and Property Claims Commission (HPD/HPCC) there are 143 HPCC decisions where there are two successful claimants for the same property. In these cases, monetary compensation for the loss of their residential rights was awarded to one claimant, whereas the other claimant was awarded possession of the property. See Article 4, UNMIK Regulation No. 2000/60 on Residential Property Claims and the Rules of Procedure and Evidence of the Housing and Property Directorate and the Housing and Property Claims Commission. Of note, the government has allocated 600,000 Euro for compensation of A and C claims for budget year 2017/2018 and another 600,000 Euro for 2019 were pledged.

<sup>87</sup> Category A: claims by natural persons whose ownership, possession, or occupancy rights to residential property were revoked after 23 March 1989 on the basis of discriminatory legislation; Category C: claims by natural persons who were the owners, possessors, or occupancy right holders of residential real property prior to 24 March 1999, who do not enjoy possession of the property and where the property has not voluntarily been transferred.

<sup>88</sup> In 2017 the government has allocated a total of 30,000 Euro for demolition of illegal structures.

<sup>89</sup> Constitutional Court judgments No. K187/13, dated 16 April 2015; and K1144/14 and K1156/14, dated 4 August 2015.

<sup>90</sup> In 2015, Gjakovë/Đakovica allocated 22 parcels and Gračanica/Gračanice eight parcels; in 2016, Klinë/Klina allocated five parcels, Pejë/Peć 13 parcels and additional three in 2017; and Istog/Istok municipality allocated three parcels in 2015 and additional seven parcels in 2016.

<sup>91</sup> Pejë/Peć, Klinë/Klina, Istog/Istok, Gjakovë/Đakovica, Prishtinë/Priština, Gračanica/Gračanice, Shtime/Štimlje, Obiliq/Obilić, Lipjan/Lipljan, Partesh/Partesh, Štrpce/Shtërpçe, Gjilan/Gnjilane, Ferizaj/Uroševac and Kamenicë/Kamenica.

<sup>92</sup> Article 12 and 13, Law No. 04/L-144 on Allocation for Use and Exchange of Immovable Property of the Municipality, 22 November 2012.

was justified with the needs of the municipalities to uphold the public interest. Following these decisions the MLGA and PAK were obliged to develop procedures for transfer of property (ownership) from PAK to the municipalities. On a separate note, these decisions of the Government triggered reaction of the President who challenged the decisions at the Constitutional Court on 16 November 2018 filing a request for assessment of the alleged conflict among the constitutional competencies of the President and the Government, as defined by Article 113.3 (1) of the Constitution, regarding the decision of the Government to transfer some publicly owned and socially owned properties in the use or ownership of municipalities. On 1 July 2019, the Constitutional Court declared that the referral of the President is inadmissible.<sup>93</sup> Therefore, the mentioned decisions of the Government have legal effect, pending development of the procedures for transfer of property from PAK to municipalities.

Finally, some municipalities marked progress in endorsing three-year municipal housing programmes.<sup>94</sup> However, they did not adequately finance their implementation.<sup>95</sup> The Ministry of Environment and Spatial Planning (MESP), as the responsible Ministry to oversee and support the municipalities for social housing, allocated 100,000 Euro budget line from the Ministry of Finance to support this process.<sup>96</sup> Therefore, despite improvements in the legislation and policy, concrete results are only few and mostly donor-driven.<sup>97</sup> The municipalities have only limited resources, and their interventions are mostly directed towards subsidizing part of the rent for those in need of social housing, rather than providing sustainable housing.

Progress was also noted in the expropriation process where municipalities have improved the procedures with regard to notification of displaced persons and language compliance according to the legal framework.<sup>98</sup> Furthermore, the institutions have improved their outreach and regularly inform affected residents about the effects of expropriation in their municipalities. For example, MESP organized public hearings with owners affected with the construction of roads in the municipalities of Gjilan/Gnjilane, Parteš/Partesh, Klokot/Kllokot, Viti/Vitina, and Novo Brdo/Novobërdë. The meetings were organized in close co-operation with the concerned municipalities, and expropriation decisions were delivered in both official languages. However, further monitoring is required in order to ensure that municipal institutions fully comply with property rights. Special focus should be given to outreach to displaced persons when their properties are affected.

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<sup>93</sup> Constitutional Court, Resolution on Inadmissibility in case no. K0181/18. Accessible at: <http://gjk-ks.org/en/decision/kerkese-per-vleresimin-e-konfliktit-te-pretenduar-te-kompetencave-kushtetuese-ne-mes-te-presidentit-te-republikes-se-kosoves-dhe-qeverise-se-republikes-se-kosoves-sic-percaktohet-me-nenin-113-3-1-t/>.

<sup>94</sup> Law No. 03 / L -164 on Housing Specific Housing Programs, 25 February 2010.

<sup>95</sup> Municipalities that drafted and/or approved three-year social housing plans during the reporting period are Prishtinë/Priština, Gjilan/Gnjilane, Ranilug/Ranillug, Fushë Kosovë/Kosovo Polje, Pejë/Peć and Deçan/Dečani.

<sup>96</sup> Interview with Ms Merita Dalipi, High Official for Social Housing, MESP, 6 March 2019.

<sup>97</sup> Local NGO Advancing Together has supported MESP in helping seven municipalities to draft the three-year social housing programmes and create a database on social housing beneficiaries, based on an EU-funded project. See: <http://www.developingtogether.org/?page=2,64>.

<sup>98</sup> Law No.03/L-205 on Expropriation of Immovable Property, 10 December 2010, and Law No. 02/L-37 on the Use of Languages, 27 July 2006.

## 5. SECURITY ISSUES

### 5.1 Security of returnees and in return sites

The OSCE Mission in Kosovo monitors and records<sup>99</sup> incidents affecting communities' security in Kosovo. In the period between January 2015 and December 2018, 1,518 security incidents were recorded which potentially affected the security perceptions of communities in a numerical minority at the municipal level. Out of these incidents, 346 cases (nearly 25 per cent of the total number of incidents) affected return sites and mainly Kosovo Serb returnees.<sup>100</sup> In general, incidents affecting return sites tend to be more frequently recorded at locations where a more substantial rate of returns is recorded, such as the municipalities of Pejë/Peć, Istog/Istok and Klinë/Klina. In comparison to the 2014 report, this reporting period has recorded the same nature of security incidents affecting returnees and return sites. OSCE Mission in Kosovo monitoring registered the most frequent type of incident as burglaries and thefts targeting uninhabited Kosovo Serb houses. While such thefts may have a purely economic motive, the news about them tend to spread through media, and according to OSCE Mission in Kosovo monitoring potential returnees on numerous occasions indicate that such incidents discourage returns, particularly when perpetrators remain unidentified. Despite KP having initiated investigations into such incidents, the prosecutors are often unable to process these cases due to lack of information regarding the identity of the suspects connected to these offences.

Incidents also include repeated petty thefts and property damage in areas continuously inhabited by returnees.<sup>101</sup> Illegal logging of privately-owned forests at return sites has been recorded, mostly in Pejë/Peć and Istog/Istok municipalities.<sup>102</sup> For example, an elderly returnee was physically assaulted in Osojan/Osojane in October 2016, while protecting his forest from illegal woodcutting. Churches and objects of religious heritage, including graveyards at return

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<sup>99</sup> OSCE monitoring records incidents which are considered to potentially affect communities who are in a numerical minority at the municipal level, including Kosovo Albanian communities in Kosovo Serb-majority municipalities. Information is collected from various sources, such as OSCE staff interviews with community members and municipal officials, reports from other international organizations, KP reports, and media reports.

<sup>100</sup> Damage to doors and windows, stolen household appliances and furniture, as well as food supplies, are frequently reported. On a few occasions, the destruction of wells, yard fences and other objects in the vicinity of houses have been registered. Such incidents have mostly occurred in Klinë/Klina, Pejë/Peć, and Istog/Istok municipalities.

<sup>101</sup> For example, an elderly Kosovo Serb woman, returnee to Pjëterqi Poshtëm/Donji Petrič in Klinë/Klina municipality was a target of thefts six times in the reporting period. In those incidents, 26 chickens were stolen from her, and during one attack she was slightly injured while trying to protect her property.

<sup>102</sup> Reports usually involve the areas around the villages of Lëvoshë/Ljevoša in Pejë/Peć municipality, and Tuqep/Tučep, Kosh/Koš, Osojan/Osojane in Istog/Istok municipality and Brestovik/Brestovik in Pejë/Peć municipality.

sites during the reporting period were also affected,<sup>103</sup> and pilgrims' visits to Serbian Orthodox religious sites have also been subjected by security incidents.<sup>104</sup>

In addition, there were five firearm related incidents,<sup>105</sup> including two cases where explosive devices were thrown at newly reconstructed houses.<sup>106</sup> Three arson incidents involved the burning of two uninhabited returnee houses, in Klokot/Kllokot in December 2016, in Sigë/Siga in Pejë/Peć in November 2016 and in Belo Polje/Bellopojë, Pejë/Peć municipality in October 2018.

## **5.2 Kosovo institutions responses to security incidents**

In most cases, returnees report incidents at returns sites and incidents affecting religious sites to KP. However, at times, community members state that they feel discouraged to report incidents because previous cases have shown the perpetrators are unlikely to be identified.<sup>107</sup> According to OSCE Mission in Kosovo monitoring, this directly affects the security perception of returnees and impacts the process of return. Mayors and other senior municipal officials tend to condemn serious incidents such as arson, shootings, or assaults.<sup>108</sup> The Minister of Communities and Return regularly issues timely public condemnations of such incidents and

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<sup>103</sup> In 2015, 2016, 2017 and 2018 anti-Serb graffiti were written four times on the walls of the Serbian Orthodox Church (SOC) the Holy Virgin monastery in Gjakovë/Đakovica. Graffiti were also written on the yard walls of the SOC of the Presentation of Holy Virgin church in Lipjan/Lipljan, SOC of St. Peter in village of Brod in Štrpce/Shtërpçë municipality, on the walls of Serbian Orthodox cemetery in Prizren and the SOC of St. Nikola in Prishtinë/Priština. There were five thefts at SOC St. Nicola Miraculous Gorioč/Gorioç monastery in Istog/Istok municipality and three at SOC Monastery St. Kozma and Damjan in Zočište/Zoqishtë in Rahovec/Orahovac municipality in the reporting period. Three cases of stoning were reported, of the parish houses in Vushtrri/Vučitrn, Rahovec/Orahovac and the SOC of St. Peter and Paul in Talinoc/Talinovac in Ferizaj/Uroševac municipality. Damage to tombstones was reported in Vidanje/Videjë and Deiq/Deiç in Klinë/Klina municipality and in Brestovik/Brestovik in Pejë/Peć municipality.

<sup>104</sup> On 28 August 2015 an explosive device was found at the site of the Serbian Orthodox destroyed Holy Trinity monastery in Mushtisht/Mušutište village, Suharekë/Suva Reka municipality and around 500 Kosovo Albanians blocked the road when Kosovo Serb pilgrims (including potential returnees) attempted to visit the destroyed monastery, a location which has experienced security incidents in the past too. On 21 August 2016 a billboard stating "This is what the local Serbs of Mushtist left behind when they left," written in the Albanian and English languages, and showing pictures of war atrocities and destruction, was installed in the same village; and on 28 August 2016 around 500 Kosovo Albanians blocked the road preventing the pilgrims to approach the site. On 28 August 2017, a Kosovo Serb potential returnee, member of the working group for the return to Mushtist/Mušutište, was arrested after the pilgrims visit, based on alleged charges for war crimes. He spent five months in prison, after which he was released and freed of all charges. On 5 January 2018 a group of Kosovo Serb displaced persons, originating from Gjakovë/Đakovica and currently residing outside of Kosovo, cancelled their Orthodox Christmas visit to Gjakovë/Đakovica planned for 6 January, due to safety concerns and alleged threats published on social media. On 28 May 2018 in Potërq i Ultë/Donji Petriç, Klinë/Klina, a group of 50–60 Kosovo Albanians gathered at remains of destroyed Serbian Orthodox "Holy Trinity" Church in order to protest against and prevent the commemoration by the Serbian pilgrims. On 28 August 2018, a group of Kosovo Albanian residents gathered near the Serbian Orthodox Monastery in Gjakovë/Đakovica town to protest the announced visit of Kosovo Serb pilgrims and displaced persons. On 21 October 2018, two buses with Belgrade vehicle registration plates carrying pilgrims including Kosovo Serbs displaced persons were stoned on their way to the remains of the Serbian Orthodox Church Bogorodica Hvostanska in Studenicë/Studenica, Istog/Istok municipality.

<sup>105</sup> In Serbobran/Srbobran in Istog/Istok in December 2015, Berkovo/Berkovë in Klinë/Klina in January 2016, Rudicë/Rudice in Klinë/Klina in April 2016, Biqë/Biča in Klinë/Klina in November 2017 and in Žaç/Zallq in Istog/Istok in August 2018, perpetrators shot towards returnee properties, but no injuries were reported.

<sup>106</sup> Dragolec/Dragoljevac, Istog/Istok municipality, construction material was set on fire in April 2017 and an explosive device thrown in May 2017, a day after a Kosovo Serb returnee received the keys to the house. In 2018, there were six incidents in which hay and forests were set on fire in the returnee villages in Istog/Istok and Klinë/Klina municipalities. In October 2018, an explosive device was found in front of the youth centre in Osojane/Osojan in Istog/Istok municipality. Also, in October 2018, a house belonging to a Kosovo Serb returnee family in village Belo Polje/Bellopojë, Pejë/Peć municipality burnt down as a result of arson.

<sup>107</sup> See 2014 OSCE report (2014), p. 17, *supra* note 1.

<sup>108</sup> In total, 25 condemnations in 2015, 23 in 2016, 21 in 2017 and 18 in 2018.

undertakes outreach visits in some cases. Some security incidents affecting communities have also been condemned by the Kosovo President, President of the Assembly of Kosovo and Prime Minister.<sup>109</sup> However, OSCE Mission in Kosovo monitoring indicates that not all condemnations reach the affected communities or the majority population in the area. Condemnation statements are usually published on municipal websites or information billboards, and not through local (broadcast) media. In general, prompt condemnations and outreach visits by senior officials are important in addressing the negative impacts on returnees' safety perceptions caused by security incidents.

One positive development has been the establishment of the MCR-led Inter-Ministerial Working Group on Returns, on 25 May 2015, to solve return-related issues for displaced Kosovo Albanians in the neighbourhood of Kroi i Vitakut/Brđani in Mitrovica/Mitrovicë North. The Group comprises the Minister for Communities and Returns, the Minister of Local Government Administration, the mayors of Mitrovica/Mitrovicë North and Mitrovicë/Mitrovica South, two representatives of Kosovo Albanian returnees and Kosovo Serb residents of Kroi i Vitakut/Brđani, and representatives of the international community.<sup>110</sup> However, during the reporting period the Working Group met only once.

Another step forward has been the development in 2017 of the Guidelines for responses by local level mechanisms to incidents affecting communities, by the Skopje Process sub-implementation working group for security, dialogue and reintegration (see Section 7). The Guidelines provide steps for municipal institutions, mainly mayors, municipal community safety councils (MCSCs) and MOCRs, to follow in order to provide effective and consistent approaches to security issues affecting communities, including returnees. The Guidelines for responses by local level mechanisms to incidents affecting communities were drafted by the MCR, Ministry for Internal Affairs and Ministry for Local Government Administration, with support from the OSCE Mission in Kosovo and UNHCR, and were disseminated to the MOCRs and mayors on 18 January 2018. Following the adoption of the Guidelines, OSCE Mission in Kosovo organized a number of trainings Kosovo-wide to introduce the document and increase capacities of the local level mechanisms to address incidents affecting members of communities and, specifically, returnees.

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<sup>109</sup> The President condemned an incident involving property damage of a Kosovo Serb in Dragolec/Dragoljevac, Istog/Istok municipality in April 2017, while both President and Prime Minister condemned stoning of two buses carrying pilgrims, including Kosovo Serb displaced persons, in Studenicë/Studenica, Istog/Istok municipality in October 2018 (see *supra* note 104).

<sup>110</sup> See Ministry for Communities and Return Annual Bulletin, January–December 2015, available at [http://mzprks.org/bilten/bilten\\_en.pdf](http://mzprks.org/bilten/bilten_en.pdf).

## 6. RECEIVING COMMUNITIES AND THE RETURNS PROCESS

The OSCE's 2014 report on voluntary returns highlighted that inter-ethnic tensions led to a stagnation of the returns process in several areas and concluded that greater effort was needed from all relevant actors to address these issues and reinvigorate dwindling political support to the returns process. These conclusions remarked in the 2014 report remain valid.<sup>111</sup>

### 6.1 Receiving community opposition to returns

The situation in the challenging returns locations identified in the OSCE report from 2012<sup>112</sup> and 2014<sup>113</sup> has not changed significantly as there have not been any organized returns in the identified locations since the publication of these reports. The most serious incidents identified in this reporting period include a verbal assault on eight elderly displaced persons in December 2016, during a GSV to Deçan/Deçane, which required the evacuation of the displaced persons by KP.<sup>114</sup> In July 2016, an elderly Kosovo Serb returnee to Deçan/Deçane was physically assaulted by a Kosovo Albanian in a barber shop.<sup>115</sup> In some of the challenging returns locations, the receiving communities condition the returns process with the resolution of war crimes and missing persons. The receiving communities believe that the returnees have information that may lead to identifying perpetrators and whereabouts of their missing family members.

Other incidents have involved protests against returns or against pilgrim's visits. For example, around 300 Kosovo Albanians protested in Lubozhdë/Ljubožda village, Istog/Istok municipality, against the return of 13 Kosovo Serb returnees, heads of families, who spontaneously returned to the village.<sup>116</sup> There have also been protests and petitions by Kosovo Albanian residents against planned visits of Kosovo Serb pilgrims to Serbian Orthodox

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<sup>111</sup> Relevant to this chapter in particular, the 2014 OSCE report concludes that "security incidents continue to affect returnees and returns sites and communities' perception of security /.../" and that returns are also affected by resistance from receiving communities, who have blocked potential returns in a number of locations across Kosovo." See OSCE report (2014), pp. 22, <https://www.osce.org/kosovo/129321?download=true>, *supra* note 2.

<sup>112</sup> OSCE Mission in Kosovo, An Assessment of the Voluntary Returns Process in Kosovo, October 2012, available at <https://www.osce.org/kosovo/96805?download=true>.

<sup>113</sup> The following were identified as difficult returns locations: Kijevo/Kijevë and Mleçane/Mleqan (Malishevë/Mališevo municipality), Dvoran/Dvorane, Lešane/Leshan, Mushtisht/Mušutište and Sopina/Sopin (Suharekë/Suva Reka municipality), Gjakovë/Đakovica municipality, Drenovc/Drenovac, Dush/Duševići, Shtupel/Štupelj (Klinë/Klina municipality), Ljubenit/Lubeniç (Pejë/Peć municipality), Loçane/Loqan (Deçan/Deçane municipality), Slovinje/Sillovi (Prishtinë/Priština municipality). Neredime e Epërme/Gornje Neredime, Talinoci Muhaxherëve/Muhadher Talinovac (Ferizaj/Uroševac municipality), Vrnica (Vushtrri/Vučitrn municipality), Kroj i Vitakut/Brđani (Mitrovica/Mitrovicë North municipality), Runik/Rudnik, Kuqice/Kučica (Skenderaj/Srbica municipality), Korishë/Koriša (Prizren municipality), Opterushë/Opteruša (Rahovec/Orahovac municipality), Muzhevinë/Muzevine (Istog/Istok municipality), Plemetinë/Plemetina (Obiliq/Obiliç municipality). See 2014 OSCE report, *supra* note 2.

<sup>114</sup> The municipal employee was accusing the displaced persons of involvement in war crimes and was threatening their return unless they reveal the location of Kosovo Albanian missing persons.

<sup>115</sup> The perpetrator had been charged with a "breach of public peace and order," although the victim stated at the court session that during the assault, the perpetrator used ethnically derogatory statements against him and the Kosovo Serb community.

<sup>116</sup> The protesters were especially dissatisfied with the return of a Kosovo Serb former police commander, who they alleged was involved in war crimes during the 1999 conflict in Kosovo. Istog/Istok mayor's adviser on Kosovo Serb matters issued a statement, saying that all returnees passed background checks conducted by Prishtinë/Priština and Belgrade institutions, and that none of them had either been indicted or was facing a trial for war crimes.

Church (SOC) religious sites in Gjakovë/Đakovica.<sup>117</sup> Since the last incident in January 2017, there have not been any pilgrims' visits to this municipality.<sup>118</sup>

Mushtist/Mušutište village in Suharekë/Suva Reka municipality, as a challenging returns site, has seen a number of incidents, including protests<sup>119</sup> and a road blockade by around 500 Kosovo Albanians to prevent a Kosovo Serb pilgrim visit to the destroyed monastery, installation of anti-Serb billboards, and an arrest of a potential Kosovo Serb returnee based on war crime charges, which were later dropped.<sup>120</sup> Following the incidents on 28 August in 2015, 2016 and 2017 related to marking the Orthodox religious holiday "Assumption of the Holy Virgin," in 2018, this holiday was marked by Serbian pilgrims without incidents or manifested opposition to return.

War crime allegations have occurred on a number of occasions; in Uçë/Ukçe in Istog/Istok municipality, one displaced person was verbally harassed by a Kosovo Albanian resident who accused him of having committed war crimes during the 1999 conflict. Similarly, in Raçak/Račak, Shtime/Štimlje municipality, the village council sent a protest letter containing war crime allegations to the MOCR,<sup>121</sup> against the return of the only Kosovo Serb family which had applied to return. In February 2016, the Basic Court in Pejë/Peć filed an indictment for war crimes against 14 Kosovo Serbs from Klinë/Klina, some of them potential returnees to the villages in the municipality.<sup>122</sup> There have also been two cases of arrest of potential returnees from Prizren, and two from Klinë/Klina, including a woman, all based on war crime allegations.<sup>123</sup>

## 6.2 Municipal responses to opposition to returns

While municipalities are required to ensure conditions for sustainable return and communities stabilization, their responses to receiving communities' opposition varied greatly from case to case. In the majority of challenging returns locations, municipalities took no action to mediate with receiving communities in support of the returns process, except in the case of Lubozhdë/Ljubožda village in Istog/Istok municipality. In light of a declining trend of returns in recent years, this spontaneous return of a group of 13 individuals was as such unusual and demanded more concerted effort from the institutions to provide the necessary assistance.

<sup>117</sup> Approximately 100 persons, activists of "Vetëvendosje" and random residents, protested against the visit of Serbian pilgrims in Gjakovë/Đakovica. Around 30 Kosovo Albanians attempted to break KP cordon securing the visit of the Serbian pilgrims at the local Orthodox Church and threw paint and fire crackers at KP. One protester was arrested and two police officers were injured during the arrest. The crowd of protesters dispersed without interrupting the pilgrims.

<sup>118</sup> A group of Kosovo Albanian residents initiated a petition against the planned visit of Kosovo Serb pilgrims to the SOC monastery located in Gjakovë/Đakovica town, to attend the celebration of "Saint George's Day."

<sup>119</sup> Mushtist/Mušutište village in Suharekë/Suva Reka municipality is a returns location affected by regular security incidents and protests on 28 August in 2015, 2016 and 2017, while every Christmas, pilgrims were prevented to visit the Serbian Orthodox Monastery in Gjakovë/Đakovica, and also during pilgrim's visits organized on All Souls' day, see *supra* note 104.

<sup>120</sup> See *supra* note 104.

<sup>121</sup> Allegations that one of the Kosovo Serb family members was involved in a massacre in Raçak/Račak, Shtime/Štimlje in 1999.

<sup>122</sup> This indictment was filed by the Basic Court in co-operation with the War Crime Department of the Special Prosecution of Kosovo. Arrest warrants were issued against the accused and distributed to all police stations in Kosovo, at the border crossing points, and at the airport.

<sup>123</sup> Three returnees including the woman were released (of which one just outside the reporting period, in March 2019), while one is still in detention.

As these returnees returned spontaneously and as a group, there was a high demand to address their immediate needs. The Minister for Communities and Returns welcomed the returnees on their arrival to the village, while MOCR, Dečane Monastery, UNHCR and the Red Cross provided food and non-food emergency packages to them. At the same time, following a successful advocacy with the relevant institutions, the OSCE Mission in Kosovo supported the returnees in the process of obtaining personal documents that were a precondition for accessing services and applying for assistance.

A protest and offensive graffiti have followed the spontaneous return of this group,<sup>124</sup> all of which were followed-up by KP intervention and a request, through the MCSC of Istog/Istok municipality, for KP to more frequently patrol the area. Meanwhile, the Minister for Communities and Return has condemned the graffiti incident,<sup>125</sup> while the municipality did not react publically. The KP not only increased the frequency of patrolling to twice daily, but also installed a temporary static check point in the village. After having assessed that the situation in the village was calmer, the KP removed the static check point following a three-month period but has continued with regular day- and night-time patrols. These patrols were extended to other villages inhabited by non-majority communities in order to cover a wider area. Following this comprehensive response, the KP continues to regularly evaluate the situation in the village and is deploying patrols based on identified needs or upon residents' calls.

In addition to MCSC's and KP's work, regular outreach of MOCR from Istog/Istok municipality has proven to be the most effective tool for providing necessary guidance and assistance to the returnees in resolving their status. Other municipal protection mechanisms could have provided more adequate support.

However, some municipalities have taken positive steps and made important progress in addressing opposition to returns. In one case, the municipality organized a sports event in order to send a message for peaceful co-existence of communities. On 12 March 2016, a football tournament took place under the motto "Building future together" with the participation of Klinë/Klina's municipal administration, Slovenian KFOR, and Kosovo Serb community members from the municipality. In other cases municipalities compensated victims of security incidents. For instance, Klinë/Klina municipality paid 300 Euro to a Kosovo Serb returnee as a compensation for 1,000 bales of hay, while Istog/Istok municipality financially compensated a Kosovo Serb family from the Sinajë/Sinaje returnee village in the value of 300 Euro, for the damage resulting from the burning of 1,000 bales of hay which was set on fire by unknown person(s).

Upon OSCE Mission initiative, representatives of Pejë/Peć, Klinë/Klina, Istog/Istok, Deçan/Dečane, Gjakovë/Đakovica and Junik municipalities signed an inter-municipal declaration on co-operation on 28 May 2018. The Declaration contains commitments towards supporting inter-community dialogue initiatives in a co-ordinated manner. Since the signing,

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<sup>124</sup> On 1 April 2017, there was a protest against the return of alleged war criminals in the vicinity of the house where returnees were residing in Lubozhdë/Ljubožda village, while on 1 November 2017, residents of the village discovered few offensive graffiti on the walls at the entrance of the village, portraying demeaning wording against Kosovo Serb returnees.

<sup>125</sup> RTK Live, <http://www.rtklive.com/rtk2/?id=2&r=14308>.

the municipalities engaged in a number of activities that brought together people from different communities in Kosovo.<sup>126</sup>

In some instances the MOCR, alongside municipal leadership, engaged in confidence-building initiatives and facilitated mediation between receiving communities and (potential) returnees, such as in Istog/Istok and Klinë/Klina municipality. In mid-2018, at the initiative of the OSCE Mission in Kosovo and UNHCR, both those municipalities expressed readiness to support a pilot activity on facilitating dialogue between returning and receiving communities.<sup>127</sup>

Despite examples of positive initiatives, the efforts of Kosovo institutions are mostly *ad-hoc* and not always systematic. In order to comprehensively address the issue, a more concerted effort is necessary by all relevant actors.

### 6.3 OSCE-facilitated inter-municipal declarations

Launched in 2013, the OSCE Mission in Kosovo's promotion of inter-community relations among municipalities started in four municipalities<sup>128</sup> of Gjilan/Gnjilane region when the first Inter-Municipal Declaration for Promotion of Inter-Community Dialogue and Co-operation was signed by respective municipal officials. The initiative acted as a catalyst for other regions in Kosovo, with Prishtinë/Priština,<sup>129</sup> Prizren,<sup>130</sup> Pejë/Peć,<sup>131</sup> and Mitrovicë/Mitrovica<sup>132</sup> regions eventually following this model. At present, after continuous efforts invested by the OSCE Mission in Kosovo, a total of 29 Kosovo municipalities<sup>133</sup> have committed to collectively promote good relations between communities.

This initiative has mainly taken the form of youth camps and inter-community dialogue activities. These activities gave the youth the floor to work together on drafting municipal action plans related to youth and inter-municipal co-operation. Ultimately, these action plans were presented and adopted in their respective municipalities.

In line with the commitments defined in the Declaration, a number of municipalities have successfully carried out activities fostering diversity and shared values across communities and their members. Below are several examples of how the Inter-Municipal Declaration for Promotion of Inter-Community Dialogue and Co-operation took effect in different regions.

Examples of the implementation of the action plans based on the declaration signed include the 2017 peace march, which took place in Obiliq/Obilić municipality, where over 200 young

<sup>126</sup> See sub-section 6.3 for more details.

<sup>127</sup> The pilot activity is still ongoing and it is early to provide any estimation of results.

<sup>128</sup> Gjilan/Gnjilane, Kamenicë/Kamenica, Novobërdë/Novo Brdo and Ranilug/Ranillug municipalities, while Ferizaj/Uroševac, Shtërpcë/Štrpce and Klokot/Klokot municipalities signed Declaration in 2015;

<sup>129</sup> Prishtinë/Priština, Graçanicë/Gračanica, Lipjan/Lipljan, Shtime/Štimlje, Obiliq/Obilić, Fushë Kosovë/Kosovo Polje municipalities signed the Declaration in 2016.

<sup>130</sup> Prizren, Dragash/Dragaš, Suharekë/Suva Reka, Rahovec/Orahovac, Mamuşa/Mamushë/Mamuşa, Malishevë/Mališevo municipalities signed the Declaration in 2017.

<sup>131</sup> Pejë/Peć, Gjakovë/Đakovica, Deçan/Dečani, Klinë/Klina, Istog/Istok, Junik municipalities signed the Declaration in 2018.

<sup>132</sup> Podujevë/Podujevo, Vushtrri/Vučitrn, Mitrovica South, Skenderaj/Srbica municipalities signed the Declaration in 2019.

<sup>133</sup> Zvečan/Zvečan, Leposaviq/Leposavić, Zubin Potok, Mitrovicë/Mitrovica North, Glogoc/Glogovac, Hani i Elezit/Elez Han, Kaçanik/Kaçanik, Partesh/Parteš, Viti/Vitina municipalities have not signed the Declaration so far.

people from the Kosovo Albanian, Kosovo Serb, Kosovo Ashkali, Kosovo Roma, Kosovo Bosniak and Kosovo Turkish communities, marched together with municipal officials including the mayor of Obiliq/Obilić to send a message of tolerance and acceptance among all communities in Kosovo. In October 2018, the municipality of Mamuşa/Mamushë/Mamuša, predominantly inhabited by Kosovo Turks, has supported inter-community dialogue by hosting a solemn session in the municipal hall and by organizing a visit to different cultural and religious heritage sites in Prizren town, including Orthodox, Catholic and Islamic religious sites. In another event organized and hosted by the mayor of Suharekë/Suva Reka, Kosovo Roma community activists delivered a presentation dealing with stereotypes, bias motivation, hate speech and discrimination as negative phenomena impeding inter-community relations.

In Gjilan/Gnjilane region, after the declaration was signed, the inter-municipal dialogue team drafted a joint activity plan, which included several projects for youth. Among others, in May 2018, the team organized paint exhibitions in Ferizaj/Uroševac, which followed inter-community art colonies that were also organized as part of the same project. Furthermore, in July 2018, the inter-municipal dialogue team held a joint fair to promote products of young entrepreneurs in Štrpce/Shtërpçë. Since then, the fair was organized again in 2019.

As the series continued, and diverse youth from around Kosovo continue getting opportunities to interact, the municipalities will increase their capacity to implement such initiatives independently. With other municipalities having signed the declarations and with the financial support of interested donors, sustainable practices for inter-municipal co-operation will gradually solidify in Kosovo.

## 7. REGIONAL ASPECTS: SKOPJE PROCESS

OSCE's 2014 voluntary returns report highlighted that weak regional co-operation contributed to problems related to displacement from Kosovo. Problems discussed in the report included<sup>134</sup> the lack of shared data in the region on the number of displaced persons and their needs, which presented difficulties in making accurate assessments of people who wished to return, or to integrate locally in their place of displacement. Other issues identified included weak co-operation and information sharing on personal documentation needs of displaced persons, including the mutual validation/recognition of documents. The report stated that lack of, or difficulties in obtaining, personal documents resulted in the inability of displaced persons to return to Kosovo or to integrate in their location of displacement, and in some cases could even result in statelessness.<sup>135</sup> The report stressed the need for regional co-operation for the resolution of these issues and provided recommendations to institutions in the Western Balkan region, in particular Serbia, Montenegro and North Macedonia.<sup>136</sup>

Whilst according to OSCE Mission in Kosovo monitoring, these issues still persist, substantial progress has been made during the reporting period by the Kosovo institutions to formally establish and maintain regular contact with regional actors to agree on solutions for the displaced population and to develop a framework for joint action. This framework of action was subsequently operationalized in Kosovo through the establishment of the Implementation Working Group (IWG) which will be discussed and evaluated in this chapter.

According to the Kosovo Strategy for Communities and Returns 2014–2018, one of the strategic objectives is to “establish co-ordination mechanisms with donors and regional and international stakeholders.”<sup>137</sup> In 2014, the MCR, with the assistance of OSCE Mission in Kosovo and UNHCR, developed a regional initiative and organized the first regional conference dedicated to displaced persons from Kosovo. The “inter-institutional initiative on displaced persons from Kosovo” otherwise known as the Skopje Process was initiated in November 2014 in Skopje where high-level representatives from Prishtinë/Priština, Belgrade, Skopje and Podgorica through a *joint communiqué*<sup>138</sup> agreed to work at the regional level to find durable solutions for displaced persons from Kosovo. The key points of the *joint communiqué* consisted of the establishment of a regional Technical Working Group (TWG) and a High-level Forum to politically support proposals put forward for institutional co-operation on durable solutions for displaced persons from Kosovo, including both returns and integration in places of displacement.

Since the launch of the process, the TWG composed of technical experts from all four delegations jointly developed a set of documents which outline the thematic areas of work (property rights; security, dialogue and reintegration; personal documentation; solutions

<sup>134</sup> See 2014 OSCE report, p. 20, *supra* note 2.

<sup>135</sup> Lack of access or use of documents issued by institutions in the place of displacement or the place of return (i.e. Kosovo) leads to problems in proving civil status, proving property rights, having access to education and social services and assistance. The risk of statelessness is relevant to displaced populations who lost their documents, or never possessed them, or were born in displacement.

<sup>136</sup> See 2014 OSCE report, p. 23, *supra* note 2.

<sup>137</sup> Measure 4.2, Strategy for Communities and Returns, *supra* note 39.

<sup>138</sup> Joint Communiqué from the High-Level Conference on Displacement from Kosovo, 27–28 November 2014, Skopje, available at <https://www.osce.org/kosovo/129376>.

planning; and data management) and the modalities of the Skopje Process.<sup>139</sup> The TWG also developed action points, a key part of the process which needed to be undertaken by each respective regional institution to facilitate durable solutions under each thematic area. The action point documents on security, dialogue and reintegration, on property rights and on personal documentation were formally endorsed by all delegations soon after they had been drafted. Endorsement of the documents on data management and solutions planning was significantly delayed due to a broader nature of their action points and their dependency on the three abovementioned thematic areas.<sup>140</sup>

Despite these delays, at the third High-level Forum meeting in Belgrade in June 2016, the participating delegations committed to implement the endorsed action points and expressed this commitment through another *joint communiqué*.<sup>141</sup>

Throughout 2016, with the assistance and support of OSCE Mission in Kosovo and UNHCR, MCR worked on establishing an "Implementation Working Group" (IWG) which mirrors the thematic areas of the Skopje Process. Civil servants from Kosovo institutions<sup>142</sup> were appointed as focal points in each relevant sub-group (known as sub-Implementation Working Group, thereafter referred to as sub-IWG) and commenced working on the implementation of each action point. Between the inaugural IWG meeting in March 2017 and co-ordination meeting of the IWG in August 2018, the sub-IWGs met 27 times to advance the endorsed action points of the Skopje Process.<sup>143</sup> In the course of 2018, a range of bilateral meetings have been initiated in order to intensify the exchange of information at expert level and seek technical solutions for specific issues under each thematic area.

The sub-IWG on Security, Dialogue and Reintegration developed guidelines for responses by local level mechanisms to respond to incidents affecting communities (see above Section 5).<sup>144</sup> Locations of return sites in need of CCTV<sup>145</sup> were identified, as were the locations that required the establishment of Local Public Safety Committees (LPSCs).<sup>146</sup> Furthermore, the issue of the need to increase the proportion of members of non-majority communities in KP<sup>147</sup> was discussed in the sub-IWG. KP anticipated that this would be resolved through the new recruitment launched in 2018, in which some posts are reserved for members of non-majority

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<sup>139</sup> MCR, Inter-institutional Initiative on Durable Solutions for Displaced Persons from Kosovo, available at <http://mzprks.org/en/images/dokumenta/ENG-Leaflet-SopjeProcess.pdf>.

<sup>140</sup> *Ibid.*

<sup>141</sup> Joint Communiqué from the High-Level Forum on Durable Solutions for Displaced Persons from Kosovo, 14 June 2016, Belgrade, available at <https://www.osce.org/kosovo/248371?download=true>.

<sup>142</sup> Ministry for Communities and Returns as Chairs and members from the Ministry of Internal Affairs, Ministry of Justice, Ministry for Environmental and Special Planning, Kosovo Judicial Council, Civil Registration Agency, Kosovo Property Comparison and Verification Agency as focal points.

<sup>143</sup> MCR, Inter-institutional Initiative on Durable Solutions for Displaced Persons from Kosovo, *supra* note 139.

<sup>144</sup> Action Points 1.1-1.4 on Security, Dialogue and Reintegration.

<sup>145</sup> Action Point 3.4 relating to *Installation of CCTV in relevant return locations*; five returnee villages in Osojan/Osojane valley in Istog/Istok were identified by the IWG that were in need of CCTV for which around 46,000 Euro were needed for their installation and maintenance. In October 2018 the MCR has funded and completed the installation of CCTV in the village of Osojan/Osojane.

<sup>146</sup> Istog/Istok and Klinë/Klina were identified as municipalities where some villages expressed the need for LPSCs. However, villagers withdrew their expressions of interest when OSCE teams followed up such interest.

<sup>147</sup> Action Point 4.1 and 4.2 on Security, Dialogue and Reintegration. On this Action Point, the OSCE Mission in Kosovo has supported KP to inform and encourage communities to apply.

communities, however the recruitment was not yet finalized at the time of the writing of this report.

The sub-IWG on Property Rights welcomed the developments, as indicated in Section 4 above, which helped advance a number of action points. During the reporting period, the Law on Immovable Property Tax<sup>148</sup> was amended to include a provision exempting displaced property owners from the payment of accumulated tax for the period when they were prevented from accessing their property. Additionally, following a recommendation by the Ombudsperson Institution on 17 October 2017<sup>149</sup> to address the issue of illegal occupation and the lack of the enforcement of evictions, the amendment of the Law on KPCVA was subsequently initiated in December 2017 by the Office of the Prime Minister.

The sub-IWG on Personal Documentation is the only sub-IWG with possible contribution of focal points nominated by other delegations involved in Skopje Process.<sup>150</sup> Having this in mind, on 26 December 2017 the sub-IWG issued a letter to the respective delegations to designate focal points to develop and agree on the thematic areas in which personal documentation issues affect displaced persons and work jointly on solutions. While Belgrade delegation responded with a list of thematic issues and Skopje nominated focal points, the sub-IWG only partially addressed them during the reporting period. For instance, the sub-IWG agreed to work on developing a leaflet for displaced persons and other affected communities to raise awareness on the Administrative Instruction 05/2017 which outlines the procedure to obtain a Kosovo ID if one can prove that they were former citizens of the Federal Republic of Yugoslavia in Kosovo.<sup>151</sup> A new Decision of the Kosovo Ministry of Internal Affairs was introduced on 5 July 2018 to address the recognition of documents issued by dislocated registry offices.<sup>152</sup> As of 27 August 2018, it is applicable to all people living in Kosovo as well as to displaced persons who fulfill the envisaged conditions under the decision and the legal framework in force.<sup>153</sup> Furthermore, on 7 December 2018 the same Ministry issued another Decision recognizing passports issued by Serbia's Co-ordination Centre as valid documents for applying for residence permit.<sup>154</sup> Finally, according to the Guidelines on the implementation of the Regulation on Returns, the MOCR is expected to issue certificates proving the place of residence for the purpose of obtaining personal documentation. During the reporting period, MOCRs in Obiliq/Obilić, Viti/Vitina, Klinë/Klina and Prizren municipalities employed this provision to enable returnees' easier access to personal documents.

The Skopje Process has been instrumental in initiating and ensuring continued dialogue and co-operation in the region to find solutions for people who remain in displacement.

<sup>148</sup> Law No. 06/L-005 on immovable property tax, *supra* note 72.

<sup>149</sup> Recommendation Report (Case No. 551/2017) of the Ombudsperson with regards to revocation of certain competencies of Kosovo Property Comparison and Verification Agency according to Law No. 05/L-010 on Kosovo Property Comparison and Verification Agency, 17 October 2017.

<sup>150</sup> Action Point 5.1 on Personal Documentation.

<sup>151</sup> The Administrative instruction makes it easier for individuals who were citizens of FRY and had permanent residence on 1 January 1998. They can prove this with a health card, driver's license, student index, employment books, proof of FRY citizenship.

<sup>152</sup> Decision of the Ministry of Internal Affairs No. 296/2018, 5 July 2018. Although outside of the reporting period, this Decision expired on 5 July 2019 and was subsequently prolonged until the end of 2019 through a Decision of the Ministry of Internal Affairs No. 785/2018, 15 July 2019.

<sup>153</sup> The sub-IWG on Personal Documentation has however received information that in some instances Displaced persons cannot travel through the crossing points with these documents.

<sup>154</sup> Decision of the Ministry of Internal Affairs No. 321/2018, 7 December 2018.

Throughout the process, the institutions of Prishtinë/Priština, Belgrade, Skopje and Podgorica adopted four *joint communiqués*. The first *joint communiqué* pledged commitment to the process, the second endorsed a practical framework to guide the operational work of participating institutions, the third launched the beginning of the implementation phase, whilst the fourth expressed satisfaction with the concrete steps made towards the implementation of action points, in particular the establishment of the Kosovo IWG. The fifth *joint communiqué* was not issued as the 2018 High Level Forum was postponed. Instead, only the TWG meeting was held in December 2018 to review the progress under each thematic area. It was agreed that it is necessary to have more exchange of information on expert level to try to seek technical solutions for specific issues under each thematic area, especially through bilateral meetings.

While progress has been seen during the reporting period, it must be noted that the process has been driven and funded mainly by the OSCE Mission in Kosovo and UNHCR. With the exception of the first High-level Forum which was requested by the Minister for Communities and Return, all meetings were initiated and organized by the OSCE Mission in Kosovo and UNHCR. On a positive note, MCR has succeeded in making public the documents and modalities of commitment and the work of the IWG by publishing a leaflet on the Skopje Process on its website.<sup>155</sup>

In Kosovo, capacities of the sub-IWGs, especially the respective chairpersons<sup>156</sup> have been gradually built with UNHCR's and OSCE Mission in Kosovo's support despite the relatively slow start of the implementation process. Members of the sub-IWG have displayed their commitment to advance a number of the action points as indicated above. It remains to be seen how much commitment and initiative will be given to the implementation process by their mother institutions.

The late endorsement of the action points on data management and solutions planning at the regional level delayed the implementation in these areas. These action points extend accountability not only to Prishtinë/Priština, but also to the institutions of Podgorica, Belgrade and Skopje. Through their implementation, solutions in the place of displacement via integration policies would be facilitated. Whilst some solutions were reported by these institutions, including the closure of Konik Camp and building of flats for integration purposes by the Podgorica institutions, integration issues and policies were not discussed extensively during the TWG meeting, while the return solution was the primary focus. Whilst progress on integration policies in Belgrade, Podgorica and Skopje goes beyond the scope of this report, it is important to highlight that the purpose of the Skopje Process is to facilitate both solutions - return and integration in locations of displacement.<sup>157</sup>

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<sup>155</sup> MCR, Inter-institutional Initiative on Durable Solutions for Displaced Persons from Kosovo, *supra* note 139.

<sup>156</sup> The Chairpersons of the sub-IWGs are civil servants from the MCR.

<sup>157</sup> Joint Communiqué from the High-Level Conference on Displacement from Kosovo, *supra* note 128.

## 8. CONCLUSIONS

Nearly 20 years after the end of the Kosovo conflict, despite substantial international assistance and targeted programmes, large numbers of displaced persons both within and outside of Kosovo lack durable solutions that would enable them to live a stable life in dignity. As of December 2018, only 28,111 displaced persons have returned to Kosovo, according to UNHCR statistics, with a decreasing trend over time. The low rate of returns and decreasing trends confirm that issues hampering return still persist, while taking into account that protracted displacement situations *per se* also lead to lower interest to return.

Important steps have been taken to address the issue of conflict-related displacement from Kosovo, through institutional, legal and policy development, and progress has been made on returns. In January 2018, the Regulation No. 01/2018 on the Return of Displaced Persons and Durable Solutions was adopted and entered into force. It represents a significant step in consolidating the procedures and co-ordination between different mechanisms active in the returns process, however it centralizes the decision-making power for provision of emergency aid.

An OSCE Mission in Kosovo review of implemented actions to support returns concludes that municipalities do not systematically comply with their obligations. Many municipal mechanisms do not function adequately or regularly, and provision of return assistance remains excessively reliant on donor support.<sup>158</sup>

Property issues have continued to impede progress on returns. Illegal re-occupation of properties and obstacles to land allocation for housing assistance programmes have hampered the exercising of property rights by displaced persons. Progress has been noted in the legislative and policy field with the new Law on Immovable Property Tax and Strategy on Property Rights, however concrete results have been mostly initiated by the international community.

Security incidents and opposition to return by the receiving communities continue to affect returnees. While most incidents include petty crimes<sup>159</sup>, they still negatively affect returnees' perception on safety, especially when reported cases remain unsolved and perpetrators unidentified. The Guidelines for responses by local level mechanisms to incidents affecting communities adopted in January 2018 are expected to improve the institutional responses which have not always been effective or have been absent altogether.

On a positive note, regional co-operation on finding durable solutions has improved since the 2014 inception of the Skopje Process led by the MCR and supported by the OSCE Mission in Kosovo and UNHCR. The Skopje Process has been instrumental for continued dialogue and co-operation in the region on finding solutions for displaced persons. On the implementation level, several important developments in areas of security, property rights (e.g. immovable

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<sup>158</sup> See Section 2 *supra*, p. 6.

<sup>159</sup> Other types of security incidents are covered in section five.

property tax) and personal documentation<sup>160</sup> have significantly advanced action points under Skopje Process, and thus helped provide solutions for displaced persons.

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<sup>160</sup> See Section 7 *supra*, p. 27.

## 9. RECOMMENDATIONS

### To government institutions in general:

- Enhance institutional co-operation between government and municipal institutions with responsibilities to facilitate the returns process.
- Address illegal re-occupation of properties through amending the Law on KPCVA to include multiple evictions for illegally occupied properties.
- Assign the responsibility to a single body that would deal with the co-ordination between government and municipal bodies on land allocation-related issues.
- Continue co-operation through sub-Implementation Working Groups of Skopje Process to help advance the remaining action points under all thematic areas.

### To the Ministry of Communities and Returns:

- Strengthen the co-ordination with municipalities and Municipal Offices for Communities and Return, including through the provision of advice and guidance, and of oversight and relevant follow-up action with municipalities where MOCR performance is identified through OSCE monitoring as lacking.
- Increase efforts to implement the action points deriving from the Skopje Process, including taking ownership of the process itself.
- Make public on a regular basis the documents and modalities of commitment and the work of the Implementation Working Group within the Skopje Process.
- Take concerted action to develop dialogue between returning and receiving communities.

### To the Ministry of Environment and Spatial Planning:

- Financially support the implementation of municipal housing programmes.

### To the Ministry of Finance:

- Strengthen KPCVA capabilities to enforce demolition orders and compensation scheme through the allocation of necessary budget.

### To Kosovo Police (KP):

- React quickly and effectively to incidents affecting communities in numerical minority at the municipal level.
- Take measures to increase communication and confidence between the communities and KP, including through existing mechanisms such as MCSCs and LPSCs.
- Inform victims on the results of investigations.
- Reallocation of KP resources to reflect the needs of areas inhabited by non-majority communities for KP's presence.
- Increase patrolling in returns sites and areas inhabited by non-majority communities.

### **To the municipalities and MOCRs:**

- Implement the newly adopted Regulation No. 01/2018 on the Return of Displaced Persons and Durable Solutions and ensure the effective functioning of all municipal mechanisms that support the returns process, in accordance with the legal framework.
- Pursue all available options for land allocation for returns-related projects, including exchange of land with PAK and reinstatement of ownership over specific land parcels of PAK administered socially-owned enterprise.
- Conduct regular outreach to returnees to ensure their effective reintegration.
- Conduct regular outreach to displaced persons whose properties are affected with the process of expropriation.
- Promptly and effectively address inter-ethnic incidents through implementation of the newly adopted Guidelines for responses by local level mechanisms to incidents affecting communities.
- Proactively engage in addressing resistance to return from receiving communities and facilitate dialogue and problem-solving initiatives in such cases. Involve all community participation mechanisms in such initiatives.

### **To institutions in Western Balkans region with responsibilities for displaced persons and returnees:**

- Continue to implement the action points as agreed through the Skopje Process in order to find durable solutions for displaced persons in the form of either return or integration in the location of displacement.
- Continue to use the Skopje Process as a forum for dialogue and finding solutions, especially in relation to data management and personal documentation issues.

# ANNEX

**TABLE I: THE FUNCTIONALITY OF MUNICIPAL MECHANISMS PROCESSING REQUESTS FOR RETURN, BY MUNICIPALITY (2015-2017)**

Municipal Working Group on Return	2015				2016				2017			
	No. of meetings	Cases reviewed	Requests approved	No. of meetings	Cases reviewed	Requests approved	No. of meetings	Cases reviewed	Requests approved	No. of meetings	Cases reviewed	Requests approved
Ferizaj/Uroševac												
Gjilan/Gnjilane	4	13	18	3	23	13	0	0	0	0	0	
Hani i Elezit/Elez Han												
Kaçanik/Kaçanik												
Kamenicë/Kamenica	0	0	0	1	9	9	0	0	0	0	0	
Klokot/Klokot												
Novo Brdo/Novobërdë	1	0	0	1	12	8	1	6	6	6	6	
Parteš/Partesh												
Ranilug/Ranillug												
Štrpce/Shtërpçë	3	16	16	5	35	30	3	41	7	7	7	
Viti/Vitina												
Leposavić/Leposaviq												
Mitrovicë/Mitrovica South	1	8	4	1	2	0	2	39	27	27	27	
Skenderaj/Srbica	0	0	0	1	5	0	0	0	0	0	0	
Vushtrri/Vuçitrn												
Zubin Potok												
Zvečan/Zveçan												
Gllgoc/llgovac												
Podujevë/Podujevo												
Mitrovica/Mitrovicë North												
Deçan/Deçane												
Gjakovë/Đakovica	0	0	0	1	14	12	0	0	0	0	0	
Istog/Istok	1	0	0	4	77	20	1	0	0	0	0	



Mitrovicë/Mitrovica South	2	8	8	7	24	4	3	52	18
Skenderaj/Srbica	3	9	9	0	0	0	2	10	0
Vushtrri/Vučitran	1	3	3	4	1	0	2	15	3
Zubin Potok									
Zvečan/Zvečan	2	5	5	9	9	9	3	9	5
Glogoc/Glogovac	0	0	0	1	1	0	2	1	1
Podujevë/Podujevo	0	0	0	1	1	1	0	0	0
Mitrovica/Mitrovicë North	3	1	1	4	8	3	3	42	10
Deçan/Deçane	0	0	0	0	0	0	1	3	1
Gjakovë/Đakovica	0	0	0	3	47	24	2	138	47
Istog/Istok	0	0	0	6	262	28	4	231	8
Junik									
Klinë/Klina	0	0	0	6	200	20	6	463	100
Pejë/Peć	0	0	0	6	190	21	8	106	26
Fushë Kosovë/Kosovo Polje	1	5	5	3	19	19	2	60	15
Gračanica/Gračanicë	8	2	2	5	7	4	4	114	16
Lipjan/Lipljan	9	62	62	2	18	0	16	72	12
Obiliq/Obilić	5	22	22	5	56	12	9	140	120
Pristinë/Priština	7	3	3	2	4	02		23	6
Shtime/Štimlje	0	0	0	2	2	1	1	5	0
Dragash/Dragaš	0	0	0	0	0	0	2	7	6
Malishevë/Mališevo									
Mamuşa/Mamushë/Mamuşa									
Prizren	0	8	0	1	67	67	8	329	148
Rahovec/Orahovac	1	1	1	3	4	4	1	25	6
Suharekë/Suva Reka	0	0	0	0	0	0	1	61	33
<b>Total</b>	62	180	162	11	1244	308	112	2120	723

