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MISSION IN KOSOVO**

**An Assessment of the Voluntary Returns Process in
Kosovo**

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LIST OF ABBREVIATIONS

CC	Communities Committee
DPs	All persons displaced from Kosovo during the 1998–1999 conflict and March 2004 riots
DRC	Danish Refugee Council
GSV	go-and-see visit
GIV	go-and-inform visit
EULEX	European Union Rule of Law Mission
IOM	International Organization for Migration
KAAD	Kosovo Agency for Advocacy and Development
KFOR	NATO Kosovo Force
LPSC	Local Public Safety Committee
MCO	Municipal Communities Office
MCR	Ministry for Communities and Return
MCSC	Municipal Community Safety Council
MLGA	Ministry of Local Government Administration
MOCR	Municipal Office for Communities and Return
MOCR Regulation	Regulation for the Municipal Offices for Communities and Return
MPA	Ministry of Public Administration
MRO	Municipal Returns Officer
OSCE	Organization for Security and Co-operation in Europe Mission in Kosovo
PISG	Provisional Institutions of Self-Government
RRK	Return and Reintegration in Kosovo
The Manual	Revised Manual on Sustainable Return
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Interim Administration Mission in Kosovo

EXECUTIVE SUMMARY

The persistent absence of a sustainable solution for approximately 235,000¹ displaced persons (DPs)² from Kosovo continues to pose a major challenge for all concerned. While the safe and dignified return of DPs to their homes is recognized as a fundamental right both in international law and in the legal framework in Kosovo³ and despite long-term engagement with the issue by Kosovo institutions and international actors, returnees in Kosovo are still confronted by serious obstacles to their sustainable reintegration, including limited access to public services, property rights and socio-economic opportunities; the deteriorating security situation in returns sites; and tensions between receiving communities and potential returnees in certain areas.⁴

As part of its core mandate to monitor, promote and protect human rights, the Organization for Security and Co-operation in Europe Mission in Kosovo (OSCE) supports and periodically reports on the returns process in Kosovo, monitoring trends and assessing compliance by Kosovo institutions with the relevant legal and policy framework.

There have been some positive developments in returns policy since 2010, but implementation by municipal institutions has been neither consistent nor effective. A 2010 government regulation mandating the establishment of municipal co-ordination mechanisms, the Municipal Offices for Communities and Returns (MOCRs), constituted an important first step towards addressing identified problems in the returns and reintegration process at the municipal level. However, to date, there is little evidence that this has led to tangible improvements in the development, implementation and co-ordination of returns activities on the ground.

Of serious concern is the deteriorating security situation in several returns sites, which have seen an increase in incidents affecting returnees and their property. Frequent looting of these sites, coupled with damage to places of religious or cultural significance and occasional low-level harassment, has had a negative impact on perceptions of security among both returning communities and potential returnees. While most municipalities have taken these incidents seriously, expressing their support for affected communities through statements of condemnation and outreach activities, some have failed to take any action whatsoever.

At several difficult returns locations, tensions between potential returnees and receiving communities have further obstructed the returns process. In most cases these frictions are rooted in allegations of unresolved war crimes or missing persons cases, although exacerbating factors such as ongoing property disputes or the overarching political situation also play a role. With a few laudable exceptions (Gjakovë/Đakovica, Klinë/Klina and Prizren), proactive municipal support for the

¹ United Nations High Commissioner for Refugees (UNHCR), *Estimate of Refugees and Displaced Persons still seeking solutions in South-Eastern Europe, as of 30 June 2012*.

² For the purposes of this report, the category of “displaced persons” includes all persons displaced from Kosovo during the 1998–1999 conflict and March 2004 riots.

³ See section 2.1 below.

⁴ For more details, see OSCE report *Municipal Responses to Displacement and Returns in Kosovo* (November 2010) (OSCE report 2010). <http://www.osce.org/kosovo/73854> (accessed 13 April 2012).

returns process is often lacking, and in a small number of cases municipal officials themselves openly condition the returns process on external factors, such as the resolution of outstanding property issues or a change in overarching political circumstances.

The OSCE urges Kosovo institutions to take all necessary measures to ensure full implementation of the legal and policy framework on returns, including through the timely establishment of MOCRs, the development and implementation of municipal returns strategies, and the allocation of adequate budgetary resources for returns activities. In the aftermath of security incidents affecting returnees, senior municipal officials should show support for the returnee communities through a public statement of condemnation and follow-up outreach activities. Security actors should likewise continue their efforts to reassure affected communities through increased patrols and community policing in returns sites, and to make greater use of local community protection mechanisms, notably the Municipal Community Safety Councils (MCSCs) and Local Public Safety Committees (LPSCs). All actors working on returns must send a clear message, including through public statements of support and regular attendance by senior officials at returns activities, that support for the returns process is unconditional. Central and municipal institutions should work together with the Kosovo police and international organizations to develop inter-ethnic dialogue activities to build confidence between receiving and returning communities.

1. INTRODUCTION

The safe and dignified return of DPs to their homes is one of the fundamental rights contributing to a stable multi-ethnic society in Kosovo. However, approximately 235,000 persons displaced during the 1998–1999 conflict remain in displacement. Moreover, those who have returned face serious challenges to their sustainable reintegration, notably limited access to rights and services, including housing and property rights; persistent security concerns; and tensions with the receiving community in certain areas.

This report provides a broad overview of the current status of the voluntary returns process in Kosovo, focusing on the situation of communities in a numerical minority in their respective municipalities. In contrast to the process of repatriation, whereby third countries return DPs by force, the organized voluntary returns process is driven by DPs' clearly articulated desire to return and is managed by local institutions, notably the Ministry for Communities and Return (MCR), and supervised by the United Nations High Commissioner for Refugees (UNHCR).

In November 2010, the OSCE Mission in Kosovo released a public report entitled *Municipal Responses to Displacement and Returns in Kosovo*⁵, which found that progress by municipalities in fulfilling their returns-related obligations was limited and uneven, highlighting problems of ineffective or non-implementation of the relevant administrative framework, weak co-ordination between central and local institutions, limited financial resources and a lack of political will.

⁵ Ibid.

This assessment builds on the findings of the 2010 report and provides an update on compliance by municipal institutions with the legal and policy framework regulating returns. It also considers two further developments: first, the increase in security incidents in returns sites across Kosovo, and their impact on perceptions of security among returnees; and, second, the problem of “difficult return locations”, where persistent tensions between returnees, or potential returnees, and receiving communities are actively hindering the returns process.

The research for this report is based on data obtained by OSCE Field Teams during a series of interviews with municipal officials, representatives of returnees, DPs, receiving communities and international organizations working on returns conducted between January and March 2012, regular quarterly tracking exercises, and wider field assessments. The report covers 34 municipalities⁶, and the reporting period is from January 2011 to August 2012.

To provide an updated assessment of municipal progress in these areas, chapter two of the report outlines developments in the legal and policy framework on returns and assesses its implementation by municipal institutions. It also examines, in particular, the establishment and functioning of the new mandatory co-ordination offices, the MOCRs, and the development of municipal returns strategies or action plans. Chapter three provides a regional overview of the deterioration of the security situation in returns sites, and assesses its impact on perceptions of security among returnee communities and potential returnees. Chapter four provides a regional overview of difficult returns locations and assesses the underlying reasons for ongoing tensions. The report concludes with cumulative findings on these three interrelated topics and provides key recommendations for relevant institutions and stakeholders.

2. LEGAL AND POLICY FRAMEWORK ON RETURNS AND IMPLEMENTATION AT THE MUNICIPAL LEVEL

Building on the findings of the 2010 report, this section tracks progress by municipalities towards effective implementation of the legal and policy framework for return and reintegration in Kosovo. The first part presents a broad overview of that framework, highlighting developments that took place during the reporting period, and assessing these against the framework of the 2010 regulation mandating the establishment of MOCRs in all municipalities across Kosovo.⁷ The second part assesses implementation of the new framework at the local level, focusing again on the establishment and functioning of the MOCRs and on the development of municipal returns strategies or action plans.

2.1 Overview of legal and policy framework on returns

The legal framework in Kosovo reaffirms the right of all DPs to return to their homes in safety and dignity and to recover their properties and possessions (or receive appropriate compensation) in line with international human rights standards and

⁶ The report excludes the three northern municipalities of Leposavić/Leposaviq, Zubin Potok and Zvečan/Zveçan, which apply Serbian law.

⁷ Office of the Prime Minister, Regulation No. 02/2010 for the Municipal Offices for Communities and Return, adopted 12 August 2010, entry into force on 27 August 2010 (MOCR Regulation).

instruments.⁸ Moreover, relevant institutions have an obligation to establish the conditions and provide the necessary means to allow DPs 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.⁹ These rights are closely linked to three basic human rights: freedom of movement, peaceful enjoyment of possessions, and respect for private and family life.¹⁰

The 2006 Protocol on Voluntary and Sustainable Return confirmed the obligation of all parties to ensure the safe and unimpeded return of DPs to their places of origin, restoration of their property rights, as well as creation of the conditions for free movement of all persons.¹¹ From 2006 the main policy document on voluntary returns was the Revised Manual on Sustainable Return (the Manual)¹², which defines the roles and responsibilities of central and local level institutions at each stage of the returns process and outlines procedures and co-ordination mechanisms to address the needs and promote the rights of DPs and returnees.¹³ Most recently, the European Partnership Action Plan 2012 outlines measures that Kosovo institutions should take to reach the priorities set out in the European Partnership Agreement and to fulfil the Standards for Kosovo, specifically identifying a positive obligation on the part of Kosovo institutions to “facilitate and promote the return of refugees and displaced persons from all communities”.¹⁴

Although the Manual has yet to be replaced by a comprehensive policy document on sustainable returns, some of its provisions have been supplanted by more recent initiatives. In February 2010, the MCR formally adopted its Strategy for Communities and Returns (2009–2013)¹⁵, which places greater emphasis on economic development and sustainability of communities. Within the framework of that strategy, in March 2012 the MCR also published its long-awaited review of the guidelines for prioritizing assistance to DPs and returnees, with the aim of increasing the number of

⁸ See Article 13.2. of the Universal Declaration of Human Rights; Article 12.4 of the International Covenant on Civil and Political Rights; and Article 5.d.ii of the International Convention on the Elimination of all Forms of Racial Discrimination.

⁹ See Economic and Social Council, E/CN.4/Sub.2/2005/17, 28 June 2005, Annex.

¹⁰ ECHR, ETS 5, published on 4 November 1950, Protocol 4, article 2; Protocol 1, Article 1; and Article 8, respectively. <http://www.unhcr.org/refworld/docid/3ae6b3b04.html> (accessed 13 June 2012).

¹¹ “Protocol on Voluntary Return and Sustainable Return between United Nations Interim Administration Mission in Kosovo and Provisional Institutions of Self-Government in Kosovo and Government of Serbia”, 6 June 2006. [http://www.internal-displacement.org/8025708F004CE90B/\(httpDocuments\)/599101B6A5D50CB1C1257225005D45D9/\\$file/Protocol+on+return+Serbia+2006.pdf](http://www.internal-displacement.org/8025708F004CE90B/(httpDocuments)/599101B6A5D50CB1C1257225005D45D9/$file/Protocol+on+return+Serbia+2006.pdf) (accessed 13 June 2012).

¹² United Nations Interim Administration Mission in Kosovo/Provisional Institutions of Self-Government (PISG), *Revised Manual on Sustainable Return*, July 2006. The policy framework endorsed in 2006 is based on international human rights standards, including the 1998 United Nations Guiding Principles on Internal Displacement.

¹³ In 2010, the MCR initiated a revision of the Manual with the aim of simplifying and streamlining procedures required to finalize and implement returns programmes and projects.

¹⁴ EPAP 2012, adopted on 9 August 2006, p. 57. http://www.mei-ks.net/repository/docs/European_Partnership_Action_Plan_2012.pdf (accessed 13 June 2012).

¹⁵ MCR, Strategy for Communities and Return 2009–2013, 12 February 2010.

voluntary returns, providing durable solutions for displaced families, and stabilizing and strengthening community relations.¹⁶

The Strategy for the Integration of Roma, Ashkali and Egyptian Communities in Kosovo¹⁷ provides additional protection to DPs from the Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities, allowing for their return either to their places of origin or to a freely chosen alternative place. It also foresees specific assistance measures for the three communities.

Municipal Offices for Communities and Return

Since 2010, the most notable policy development affecting returns at the municipal level was the 2010 Regulation for the Municipal Offices for Communities and Return (the MOCR Regulation)¹⁸, which mandated the establishment of local co-ordination mechanisms for returns and communities issues in all municipalities. According to the MOCR Regulation, these offices are the primary actors responsible for shaping successful return and reintegration policies at the local level, and for implementing reintegration and development initiatives that create conditions conducive to sustainable returns, notably in terms of guaranteeing access to essential rights and services, including property rights, health care, education and employment.

Through the creation of the MOCRs, central institutions sought to address some of the obstacles that had prevented their institutional predecessors – the municipal communities offices (MCOs) and municipal returns officers (MROs)¹⁹ – from functioning effectively.²⁰ Importantly, the MOCRs were rooted in legal provisions that were previously lacking²¹, and were expressly mandated to “coordinate the return process and promote the creation of conditions for the sustainable return and reintegration of displaced and repatriated persons in the municipality” towards the overarching objective of facilitating consistent implementation of government policies and normative frameworks on communities, returns and reintegration.²² The new MOCR Regulation also sought to equip the offices with the necessary budgetary and logistical support to perform their duties effectively, and to render them more accountable and responsive through harmonized job descriptions, terms of reference, a casebook manual and reporting templates.

¹⁶ MCR, Guidelines for the Implementation of Returns Support, 27 March 2012. <http://www.mkk-ks.org/repository/docs/Guldelines%20for%20Implementation%20of%20Return%20Support2.pdf> (accessed 13 June 2012).

¹⁷ Office of the Prime Minister, Strategy for the Integration of Roma, Ashkali and Egyptian Communities in Kosovo (2009–2015), 24 December 2008 (RAE Strategy).

¹⁸ MOCR Regulation, *supra* note 7.

¹⁹ The MOCR Regulation, *supra* note 7, merges the former MCOs and the post of MROs (Article 12, Transitional Provisions, of the Regulation; see also Article 23.10 of UNMIK Regulation 2007/30 on Self-Government of Municipalities in Kosovo, amending UNMIK Regulation 2000/45 on Self-Government of Municipalities in Kosovo; and the UNMIK/PISG Revised Manual on Sustainable Return, July 2006, pages 18–20).

²⁰ See OSCE report 2010, *supra* note 4.

²¹ The Law on Local Self-Government does not provide for municipal community offices, leaving it to the discretion of municipalities to retain the offices or not. Law No. 03/L-040 on Local Self-Government, 15 June 2008.

²² MOCR Regulation, *supra* note 7, Article 7.1.3.

The duties of the MOCRs include advising and assisting relevant municipal institutions and other public service providers on the implementation of government policies on communities that are in a numerical minority at the municipal level, including on returns and reintegration issues. The offices are responsible for assessing the needs of returnees and repatriated persons; conducting outreach visits; promoting awareness of existing policies among relevant officials and communities' representatives; facilitating access to public services; and developing, implementing and monitoring projects and activities for the protection of the rights of communities²³, as well as of returnees and repatriated persons. They are also responsible for providing returnees with information about their rights and available support structures and assistance, and referring them to other competent offices within the municipal administration. The MOCRs are mandated to co-ordinate activities with relevant municipal and central institutions in the promotion and protection of communities' rights and the sustainable return and reintegration of displaced persons and repatriated persons.²⁴

The MOCRs are also tasked with developing municipal returns strategies or action plans to implement laws and government policies, in order to provide municipal institutions with a framework to guide their activities in this area. These policy documents are meant to facilitate transparency and consistency in municipal work on returns and enhance co-ordination between relevant actors. Displaced communities are particularly encouraged to engage directly in their development, through the identification of specific obstacles and workable solutions.²⁵

Municipalities are required to allocate the necessary financial resources and provide logistical support for implementation of the MOCR Regulation. Within each municipality, the mayor and the head of the MOCR bear overall responsibility for the establishment and effective functioning of the office.²⁶ During the reporting period, in July 2011, job descriptions and terms of reference regulating the work of the offices were approved, and were subsequently distributed to municipal institutions across Kosovo.²⁷

²³ Law No. 03/L-047 on the Protection and Promotion of the Rights of Communities and their Members, 15 June 2008.

²⁴ MOCR Regulation, *supra* note 7, Article 7.

²⁵ The roles and responsibilities of the MOCR in supporting the development and overseeing the implementation of annual municipal returns strategies and of specific projects aimed at creating conditions for sustainable return and reintegration of displaced persons are further detailed in the terms of reference regulating the work of the office.

²⁶ MOCR Regulation, *supra* note 7, Article 10.2. See also the letter from Deputy Prime Minister to mayors, dated 17 August 2010.

²⁷ Job descriptions and terms of reference were approved by the Ministry of Public Administration (MPA) on 4 July 2011, in accordance with MPA Regulation 03/2010. It should be noted that Article 12 of the Transitional Provisions of the MOCR Regulation provided that: "Officials employed in the Municipal Community Office and as Municipal Return Officer at the time of entry into force of the Regulation, who upon establishment of the Office are found eligible for incorporation in the Office, will continue to operate under their current job descriptions, salary and post coefficient, until the MCR [Ministry of Communities and Return] issues new job descriptions in accordance with Article 10.4 of [the] Regulation". The same Article 12 stipulated that those officials found to be redundant would continue their contractual relationship with the municipality and would have the right to transfer in accordance with civil service procedures.

Municipal Community Safety Councils and Local Public Safety Committees

While MOCRs are the primary focal points for local implementation of returns policies and projects, their mandate does not extend to the co-ordination of municipal responses to serious security incidents²⁸ affecting returnees. Currently, the only mechanisms mandated to articulate and guide municipal responses to such incidents are the MCSCs.²⁹

According to the relevant legal and administrative framework³⁰, one MCSC must be established in every municipality³¹, and must include equitable representation of all “ethnic communities” residing in that municipality as well as other relevant stakeholders³². MCSCs are chaired by the mayor³³ and charged with “identify[ing] concerns related to public safety and recommend[ing] municipal community safety] action plans [...] in cooperation with [...] local communities to address, not only crime, but also ‘the fear of crime’”.³⁴ They are also mandated to build confidence between the police and residents “through establishing partnerships and joint initiatives to resolve security problems in every community”, and to draft an “annual action plan” for community safety.³⁵

An additional security mechanism that can be initiated at the local level is the LPSC - a consultative body that brings together local community members, police officers and representatives of local media whenever there is an identified need “to implement community policing initiatives and improve community safety in their area”.³⁶ A representative of the LPSC should sit permanently on its municipal MCSC, and should use MCSCs to address any concerns that cannot be resolved at a local level.³⁷

2.2 Current status of implementation of the MOCR Regulation

The MOCR Regulation is a comparatively recent development and its full and effective implementation is still some way off. Rather than assessing implementation of all provisions, therefore, this analysis will focus on progress in three areas of

²⁸ For the purposes of this report, a “serious security incident” is one that has the potential to destabilize the security situation, and includes verbal or physical attacks on persons, private property and sites of cultural and religious significance. See OSCE Report *Municipal Responses to Security Incidents Affecting Communities in Kosovo and the Role of Municipal Community Safety Councils* (December 2011) (OSCE Security Responses Report 2011). <http://www.osce.org/kosovo/86766> (accessed 19 June 2012), p. 1.

²⁹ For more information on the role of MCSCs, see OSCE Security Responses Report 2011, *supra* note 28.

³⁰ Law No. 04/L-076 on Police, 2 March 2012 (Law on Police); Administrative Instruction No. 08/2009 MIA – 02/2009 MLGA for Municipal Community Safety Councils, 20 March 2009 (AI on MCSCs 2009).

³¹ AI on MCSCs 2009, *supra* note 30, Article 1.

³² *Ibid*, Article 3.

³³ *Ibid*, Article 8.1.

³⁴ *Ibid*, Article 4.

³⁵ *Ibid*, Article 11.

³⁶ General Conditions for Establishment and Functioning of Local Public Safety Committees (General Conditions on LPSCs), Art. 2.

³⁷ Law on Police No. 03/L-035, Art. 7.5; AI on MCSCs 2009, Art. 4.1.10; General Conditions on LPSCs.

central importance to the future effective functioning of the offices: their formal establishment, adequate budgetary allocation, and the development of municipal strategy documents. It will also highlight provisions on monitoring and evaluation.

Establishment and functioning of MOCRs

On paper, the MOCR Regulation made great headway towards addressing the shortcomings of the MCOs and the MROs: unlike their predecessors, the new MOCRs are rooted in legal provisions and provided with comprehensive guidance for their operation, including through harmonized terms of reference and job descriptions, and regional outreach activities by central institutions aimed at raising awareness among MOCR staff of their new duties and responsibilities.³⁸

However, in many cases these positive administrative developments have not been effectively implemented. Despite the fact that the MOCR Regulation was endorsed in August 2010, by August 2012 three of the assessed municipalities had not yet established the offices.³⁹ Moreover, among those MOCRs that were in place, 13 had not been incorporated into the municipal statute⁴⁰, as required⁴¹.

The lack of basic operational equipment such as computers, telephones or vehicles was a key factor hampering the effective functioning of the MCOs and MROs, preventing them from working effectively and from undertaking much needed outreach activities.⁴² The MOCR Regulation has gone some way towards resolving this problem by requiring municipalities to make available “adequate financial and logistical resources for the implementation of this regulation”⁴³, and reports from OSCE Field Teams indicate that most municipalities have provided the MOCRs with an adequate budget for 2012⁴⁴; all budgets cover staff costs and a (small) majority of MOCRs have been allocated funds for basic operational costs⁴⁵. However, few have received funds for activities or projects⁴⁶, which will make it difficult for them to

³⁸ For instance, in September and October 2011, the Working Group on MOCRs organized regional roundtables supported by the OSCE to raise awareness of the terms of reference and job descriptions. Over the coming months, the MCR plans to draft a guidebook on operational guidelines for the MOCRs and to provide training sessions on its proper use. Interview with MCR official, Prishtinë/Priština, 19 March 2012.

³⁹ In August 2012 MOCRs have not been established in Junik, Malishevë/Mališevo or Mamuša/Mamushë/Mamuša.

⁴⁰ MOCR have not been incorporated into the municipal statute in Deçan/Deçane, Dragash/Dragaš, Gjakovë/Đakovica, Gillogovc/Glogovac, Hani i Elezit/Đeneral Jankovič, Kaçanik/Kaçanik, Kamenicë/Kamenica, Klinë/Klina, Obiliq/Obilić, Podujevë/Podujevo, Prizren, Shtime/Štimlje and Suharekë/Suva Reka.

⁴¹ MOCR Regulation, *supra* note 7, Article 3.2.

⁴² OSCE report 2010, *supra* note 4.

⁴³ MOCR Regulation, *supra* note 7, Article 10.1.

⁴⁴ According to reports from OSCE Field Teams, ten municipalities have failed to allocate any budget to their MOCR: Gjilan/Gnjilane, Junik, Malishevë/Mališevo, Mamuša/Mamushë/Mamuša, Mitrovicë/Mitrovica, Podujevë/Podujevo, Ranilug/Ranillug.

⁴⁵ At present, 17 municipalities allocate funds specifically for basic office equipment and operational costs. These are Dragash/Dragaš, Ferizaj/Uroševac, Gjakovë/Đakovica, Istog/Istok, Kaçanik/Kaçanik, Kamenicë/Kamenica, Lipjan/Lipljan, Mitrovicë/Mitrovica, Novo Brdo/Novobërdë, Obiliq/Obilić, Pejë/Peć, Prizren, Rahovec/Orahovac, Skenderaj/Srbica, Štrpce/Shtërpçë, Viti/Vitina and Vushtrri/Vučitrn.

⁴⁶ Only six municipalities have allocated funds specifically for activities/projects: Gjakovë/Đakovica, Gillogovc/Glogovac, Istog/Istok, Mitrovicë/Mitrovica, Pejë/Peć and Shtime/Štimlje.

fulfil their more costly responsibilities, including outreach activities to returnee communities and project development and implementation.

When they occur at all, activities aimed at co-ordinating between the central and local levels are organized on a sporadic basis and are dominated by a top-down approach to information sharing. The flow of information between central and local institutions remains very weak, and municipal officials frequently complain about the lack of regular and systematized information and guidance from central institutions. As a result, municipalities are uninformed about legislative or administrative developments at the central level, and about ongoing programmes, projects or funding opportunities managed by central institutions.

Municipal returns strategies/action plans

With regard to the development of municipal returns strategies or action plans aimed at assisting DPs and returnees, progress during the reporting period was limited, with the situation varying greatly between municipalities.⁴⁷ Only 10 municipalities drafted a municipal returns strategy or action plan for 2011/2012⁴⁸, leaving the remaining 24 assessed municipalities without any coherent policy to guide their work on returns and reintegration.

Importantly, previous monitoring by the OSCE showed that planned returns activities were only effectively implemented when they were underpinned by adequate financial resources and firm political commitment from senior political officials, as well as international organizations; in municipalities with fewer financial resources and less political will, progress was markedly less significant and efforts to achieve durable solutions for DPs were undermined.⁴⁹ As of June 2012, none of the ten municipalities with municipal returns strategies had allocated funds for their implementation, and it remains to be seen whether they will amount to anything more than well-intentioned “wish lists”.

One positive development, however, was that in those cases where municipal strategies or action plans were developed, this was usually done in consultation with municipal officials from different departments, local participation mechanisms, representatives of civil society and international organizations, as well as DPs, returnees, repatriated persons and their representative associations.⁵⁰

Monitoring and evaluation

The mechanisms for monitoring and evaluating the work of the MOCRs are quite weak. The MOCR Regulation states that the office should “[m]onitor and submit regular reports to the Mayor, the Municipal Assembly and to central government

⁴⁷ While some municipalities, for example Gjilan/Gnjilane, Prizren and Viti/Vitina developed and formally approved municipal returns strategies for 2011/2012, in consultation with a range of relevant stakeholders, more than two thirds (27) took no action at all in this respect.

⁴⁸ Ferizaj/Uroševac, Fushë Kosovë/Kosovo Polje, Gjilan/Gnjilane, Lipjan/Lipljan, Mitrovicë/Mitrovica, Prizren, Shtime/Štimlje, Štrpce/Shtërpçë, Suharekë/Suva Reka and Viti/Vitina.

⁴⁹ OSCE report 2010, *supra* note 4.

⁵⁰ Only Ferizaj/Uroševac and Štrpce/Shtërpçë did not consult relevant stakeholders during the drafting process.

institutions”⁵¹ (without either mandating these, or specifying their frequency). The requirements of the head of office are stricter: s/he is to submit one annual report to the mayor and the municipal assembly⁵², and must present a detailed report at each meeting of the Communities Committee (CC)⁵³; s/he must further inform and report “upon request” to “central institutions”⁵⁴. Other references to central–local interaction are vague, and refer only in general terms to “cooperation” and “coordination”⁵⁵.

As noted above, the MOCRs are relatively newly established and their adherence to reporting procedures can only be meaningfully analysed over a longer period of time. However it will be important to monitor future compliance in these areas, as effective oversight of the offices is essential to ensuring proper implementation of their responsibilities.

2.3 Summary of findings

While the new MOCR Regulation has gone a long way towards redressing some of the problems faced by the MCOs and the MROs – including by providing the offices with a clear legal foundation and furnishing them with basic staffing and operational resources – persistent problems such as the lack of financing for projects and activities, the general absence of municipal policy planning, and the lack of consistent and effective central–municipal co-ordination could continue to hamper MOCRs in the implementation of their mandate. Unless they are properly regularized and complied with, weak oversight and reporting mechanisms could also make it difficult for municipal and central institutions to assess the effectiveness of the MOCRs in fulfilling their responsibilities.

3. DETERIORATING SECURITY SITUATION IN RETURNS SITES

This chapter provides a regional overview of security incidents in returns sites during the reporting period and gauges the impact of those incidents on perceptions of security, both among returnee communities and potential returnees still in displacement. It also details municipal responses to security incidents, assessing their impact on returnees’ perceptions of security and the overall sustainability of the returns process.

3.1 Regional overview of security situation in returns sites

Gjilan/Gnjilane region

⁵¹ MOCR Regulation, *supra* note 7, Article 7.1.7.

⁵² *Ibid.*, Article 8.2.

⁵³ *Ibid.*, Article 8.3. Communities Committees (CCs) are mandatory municipal institutions comprising members of all communities present in the municipality, which have the core function of monitoring municipal compliance with the law to ensure that communities’ rights and interests are fully respected.

⁵⁴ *Ibid.*, Article 8.4.

⁵⁵ *Ibid.*, Articles 1.2, 7.1.6, 8.7, 10.4.

Security incidents affecting returns sites in Gjilan/Gnjilane region were concentrated in the municipality of Ferizaj/Uroševac, notably in the returns sites of Bablljak/Bablak, Doganaj/Doganovic, Muhaxher Talinovic/Muhadžer Talinovac and Srpski Babuš/Srpski Babush.⁵⁶ There were also a series of incidents targeting a Kosovo Serb property in Gjilan/Gnjilane town.⁵⁷

The most serious incident occurred on 6 July 2012, when a Kosovo Serb returnee couple were shot to death in their home in the mixed village of Muhaxher Talinovic/Muhadžer Talinovac. Throughout the reporting period, all of the above returns sites were also affected by repeated burglaries of returnee houses: in 2011, approximately 80 per cent of all uninhabited Kosovo Serb returnee houses were looted in each of the villages of Doganaj/Doganovic, Muhaxher Talinovic/Muhadžer Talinovac and Srpski Babuš/Srpski Babush. In many cases, houses were subject to repeated burglaries. Moreover, while the returns site of Bablljak/Bablak was frequently looted from 2005, the rate of incidents increased significantly between August and November 2011, and began to include damage to sites of religious and cultural significance (Serbian Orthodox graveyards and churches), as well as verbal harassment and intimidation of the returnee community; in Muhaxher Talinovic/Muhadžer Talinovac and Bablljak/Bablak, perpetrators also targeted the local Serbian Orthodox church. In Gjilan/Gnjilane town, the only house owned by a Kosovo Serb family in a predominantly Kosovo Albanian-inhabited area caught on fire twice, once in February 2011 and once in August 2011. The case was investigated as arson, but no one was charged. In most of the above cases no perpetrators were identified; the only exception was Srpski Babuš/Srpski Babush where nine individuals were detained for one month on 30 charges of theft in December 2010.

Ferizaj/Uroševac municipal institutions responded comprehensively and decisively to the above incidents. The day after the double murder in Muhaxher Talinovic/Muhadžer Talinovac, the mayor issued a strong public condemnation of the attack, which was published in both Albanian and Serbian on the municipal website.⁵⁸ He visited the village on the same day, together with the minister for communities and returns and one of the deputy prime ministers, to reassure the affected community. In the days after the murders, the police increased their presence in Muhaxher Talinovic/Muhadžer Talinovac and in other Kosovo Serb villages in the municipality, and reported that they were treating the case with extreme sensitivity.⁵⁹ The police said they would maintain regular contact with the affected community and continue to reassure them and update them on developments. The incident was discussed at an

⁵⁶ In Srpski Babuš/Srpski Babush, 74 houses were constructed for Kosovo Serb returnee families. However, only five families and one individual have since settled permanently in the village. In the Kosovo Albanian-majority village of Doganaj/Doganovic, six houses built for Kosovo Serb returnee families are currently unoccupied. In the Kosovo Albanian-majority village of Muhaxher Talinovic/Muhadžer Talinovac, where 45 houses were built for returnees in 2006 and 2007, only 16 of the 40 families who initially moved in remain in residence (23 individuals).

⁵⁷ In Gjilan/Gnjilane town, the family that owns the house was displaced during the March 2004 riots, and has since been living in the neighbouring village Šilovo/Shillovë in Gjilan/Gnjilane municipality.

⁵⁸ See website of Gjilan/Gnjilane municipality, “The Mayor of Ferizaj/Uroševac strongly condemns the killing of Jevtic couple”, <http://kk.rks-gov.net/ferizaj/News/Kryetari-i--Ferizajt,-Agim-Aliu-denon-ashper-vrasj.aspx?lang=sq-AL> (Albanian), <http://kk.rks-gov.net/ferizaj/News/Kryetari-i--Ferizajt,-Agim-Aliu-denon-ashper-vrasj.aspx?lang=sr-Latn-CS> (Serbian), 7 July 2012.

⁵⁹ Interview with Kosovo police representative, 8 July 2012.

extraordinary LPSC meeting on 8 July, after which participants released a statement strongly condemning the act and demanding that responsible institutions find and punish the perpetrators as a matter of urgency.

With regard to incidents affecting returnees' property, the repeated lootings in Bablljak/Bablak were discussed in an MCSC meeting on 10 October 2011, during which the mayor requested that all security actors take more serious action to prevent further burglaries and agreed to provide the two returnees living in the village with compensation, which they received on 10 November.⁶⁰ In an effort to further enhance security, the municipality also increased police patrols in the village and restored the public lighting system. The mayor, together with the minister for communities and returns, publicly condemned the incidents. The situation in Doganaj/Doganovic was discussed in the MCSC meeting of 3 February 2012, during which police presented their new strategy for community policing; encouragingly, that strategy foresaw an increased police presence in the affected areas and greater consistency in the assignment of officers to those sites.

In early 2012, Ferizaj/Uroševac municipality established an LPSC, and an introductory meeting was held on 18 January, during which 25 community representatives attended a presentation on the role and functioning of LPSCs provided by representatives of the OSCE. On 20–22 March and then again on 11–12 April, ten members of the Ferizaj/Uroševac LPSC attended OSCE-run training sessions at the Kosovo Academy for Public Safety, which focused on improving the ability of LPSCs to find and work with the right partners in their communities and beyond. After the training sessions, the Ferizaj/Uroševac LPSC convened twice, first on 5 April and then on 30 May 2012. However, surprisingly, the issue of security in returns sites was not raised by participants on either occasion. This fact was noted by a representative of the media who was present at the second meeting and criticized the oversight; Kosovo police responded with an update on patrols. However, at neither LPSC meeting was the issue either raised or discussed by the Kosovo Serb representatives.⁶¹

The alleged arson incidents in Gjilan/Gnjilane town were not raised in an MCSC meeting, but at the mayor's request the department of emergency and rescue convened a meeting on 22 February 2012 to discuss the issue. On 23 February, the mayor also issued a press release condemning the incident on the municipal website (albeit only in Albanian).⁶²

However, despite these efforts by various municipal actors to ease concerns among returnees in the affected villages, the deterioration of the security situation impacted negatively on the communities' perceptions of security, affecting the overall sustainability of the returns process: for instance, an elderly returnee in Bablljak/Bablak, who was the victim of a serious threat, left Kosovo indefinitely. Municipal efforts were also unsuccessful in addressing the concerns of the owner of

⁶⁰ The compensation included electric stoves, refrigerators, washing machines, television sets, wood burning stoves and electric boilers. The total value of the assistance packages was 2,192 Euros.

⁶¹ Interview with Kosovo Serb representative of Ferizaj/Uroševac LPSC, Ferizaj/Uroševac municipal assembly hall, 30 May 2012.

⁶² See website of Gjilan/Gnjilane municipality, "Commission Formed to Assess the Damaged House", <http://kk.rks-gov.net/gjilan/News/Advertisement/Formohet-komisioni-per-vleresimin-e-shtepise-se-de.aspx> (accessed 6 June 2012).

the burnt house in Gjilan/Gnjilane, who believed the incidents were deliberate attempts to pressure him into selling the property. He informed the OSCE that he and his family were not willing to return to Gjilan/Gnjilane town, given their perceived risk to their personal safety.⁶³

During the reporting period, the recurring incidents, as well as perceptions among communities that the police had been unable to identify perpetrators and that the judicial system had been ineffective in processing those cases that did go to court, continued to fuel returnees' perceptions that neither the Kosovo Albanian receiving community nor Kosovo institutions were truly supportive of the returns process. However, those perceptions were partially mitigated by ongoing efforts by police and municipal institutions, notably in Ferizaj/Uroševac, to address the situation through institutional mechanisms and statements of public condemnation.⁶⁴ It will be important to observe the longer-term effects of this type of municipal engagement on both the number and frequency of security incidents, and on perceptions of security among returnees and DPs.

Mitrovicë/Mitrovica region

In Mitrovicë/Mitrovica region, security incidents were reported in Dolak/Doljak and Shtitaricë/Štitarica⁶⁵, Novosellë Magjun/Novo Selo Mađunsko⁶⁶ and Banjskë/Banjska⁶⁷ returns sites in Vushtrri/Vučitrn municipality; and in Svinjarë/Svinjare returns site in southern Mitrovicë/Mitrovica⁶⁸.

A case of suspected arson was reported to police in Banjskë/Banjska in Vushtrri/Vučitrn municipality on 22 March 2012, as was an incident of vandalism targeting a Serbian Orthodox cemetery. The issues were discussed at an MCSC meeting on 2 April, during which Kosovo police updated participants on the status of the investigation. The municipality reacted decisively, issuing a press release (albeit only in Albanian) condemning both incidents.⁶⁹ The incident was also taken seriously by Kosovo police, who established a mixed unit to be based permanently in the village over subsequent weeks.

⁶³ Interview with owner of damaged property, 22 February 2012. The owner also stated that he had recently been approached to sell his property, but had refused to do so.

⁶⁴ All references to communities' perceptions are taken from personal interviews conducted by OSCE field teams with communities' representatives between February and March 2012.

⁶⁵ In 2010, 15 houses were constructed in Dolak/Doljak and Shtitaricë/Štitarica, 13 for Kosovo Serb families and 2 for Kosovo Albanian vulnerable cases. However, no Kosovo Serb ever returned and the villages remain mono-ethnic.

⁶⁶ In Novosellë Magjun/ Novo Selo Mađunsko, 35 houses were reconstructed for potential Kosovo Serb returnees; however, none returned. According to the head of the MOCR, most former residents are displaced in Priluzhje/Prelluzhë, now the biggest Kosovo Serb village in the municipality.

⁶⁷ Banjskë/Banjska in Vushtrri/Vučitrn is a mixed village with approximately 11 or 12 Kosovo Serb returnee families.

⁶⁸ Svinjarë/Svinjare is a village near southern Mitrovicë/Mitrovica. Its Kosovo Serb inhabitants fled the conflict in 1999 and then again in 2004, when the village was largely destroyed in the March 2004 riots. The village was the site of an unsuccessful returns project in 2006. Most of the 120 houses destroyed in 1999 and 2004 were reconstructed, though people "returned" only briefly to collect their assistance and belongings. Today, the reconstructed houses remain empty and only two Kosovo Serbs reside permanently in the village.

⁶⁹ Municipal website, "Municipality Responds to Two Incidents in Banjskë", 26 March 2011, <http://kk.rks-gov.net/vushtrri/News.aspx> (accessed 3 July 2012).

Property-related incidents, notably burglary of and damage to unoccupied houses, were reported in Dolak/Doljak and Novosellë Magjun/Novo Selo Mađunsko in Vushtrri/Vučitrn municipality in late 2010/early 2011 and September 2011, respectively. The incidents were discussed in MCSCs on the 6 December 2010 and 7 February 2011⁷⁰ and, in an effort to enhance potential returnees' perceptions of security, Kosovo police introduced 24-hour patrols. However, as new returns did not take place, the police gradually decreased their presence in the village, eventually stopping patrols altogether in the second half of 2011. The Vushtrri/Vučitrn station commander said that he did not have enough personnel to maintain such a strong presence in an uninhabited area, but noted that if any families were to return he would reinstall the 24-hour patrols.⁷¹

There were also serious and frequent lootings in the returns site of Svinjarë/Svinjare in southern Mitrovicë/Mitrovica throughout 2011 and 2012, as well as damage to sites of religious significance. Although municipal officials did not release a formal statement of condemnation and the issue was not discussed in any MCSC meeting, the municipality was nominally supportive of the process, regularly encouraging DPs to return.⁷² The DP representative responded that they would not return until the municipality could guarantee an end to the robberies.⁷³

In fact, in response to the security incidents in Svinjarë/Svinjare, on 1 November 2011 its inhabitants sent a letter to the heads of the United Nations Interim Administration Mission in Kosovo (UNMIK), the European Union Rule of Law Mission (EULEX) and the NATO Kosovo Force (KFOR) to complain about the “systematic destroying” of their property, damage to sites of religious significance, and illegal cultivation of their land by Kosovo Albanians.⁷⁴ They had still not received a response from any of the institutions by August 2012. In February 2012, DP representatives met with the mayor of Mitrovicë/Mitrovica to complain that their land had been taken over by Kosovo Albanian villagers and was being illegally cultivated.⁷⁵ The mayor responded that he would discuss the issue with the Mitrovicë/Mitrovica station commander; in the spring of 2012, the Kosovo police presence was increased in order to investigate the reported burglaries.

Pejë/Peć region

In Pejë/Peć region, security incidents were reported in the villages of Dobrushë/Dobruša, Oprashkë/Opraške and Zallq/Žaç in Istog/Istok municipality; and Babiq/Babiće, Bellopole/Belo Polje, Brestovik/Brestovik, Goraždevac/Gorazhdevc,

⁷⁰ An MCSC has yet to be established for southern Mitrovicë/Mitrovica, however, there is a biweekly Committee for Protection and Rescue where security-related issues are discussed.

⁷¹ Vushtrri/Vučitrn station commander, Personal interview, 27 February 2012.

⁷² Municipal working group on return, 1 July 2010; municipal working group on return, 6 January 2011.

⁷³ Ibid.

⁷⁴ Letter from the inhabitants of Svinjarë/Svinjare village to Mr Farid Zarif, Head of UNMIK; Mr Xavier de Marniak [sic], Head of the European Union Rule of Law Mission (EULEX); and General Erhard Drews, Kosovo Force (KFOR) Commander, Zvečan/Zvečan, 1 November 2011.

⁷⁵ Representative of Kosovo Serb DPs in Svinjarë/Svinjare, Personal interview with OSCE, 29 February 2012.

Lazović/Lazović, Ljevoša/Lëvoshë, Siga/Sigë and Vragovc/Vragovac in Pejë/Peć municipality.

The most serious incident occurred in Dobrushë/Dobruša⁷⁶ in Istog/Istok municipality on 20 October 2011 when, during a property dispute, a Kosovo Albanian fired a gun at three Kosovo Serbs, leaving one dead and the other two wounded. Two of the victims were displaced Kosovo Serbs who had come back to the village to visit their property in Dobrushë/Dobruša and to clarify ownership of the property with the perpetrator; the third was a returnee from Istog/Istok who was accompanying them. Kosovo police were informed about the incident and responded immediately. On 21 October 2011 the suspect gave himself up to police, and the trial began in early July 2012.

There was a strong municipal response to the incident. The mayor of Istog/Istok publicly condemned the shooting the day after it happened, and published a statement of condemnation on the official website of the municipality (albeit only in Albanian).⁷⁷ Statements of condemnation were also released by central institutions⁷⁸ and international organizations, including the OSCE.⁷⁹ The incident was discussed at the MCSC session on 27 October 2011, a fact that was praised by the Kosovo Serb MCSC member (although victims of the incident complained that they had not been made aware of this by their representative).⁸⁰ Outreach activities were also undertaken in the aftermath of the incident, with the aim of reassuring the affected community. On 24 October 2011, the head of the MOCR in Istog/Istok visited the two surviving victims in hospital, and has undertaken outreach to Dobrushë/Dobruša on a regular basis ever since.

Throughout 2011 there was also a high rate of security incidents at returns sites in Oprashkë/Opraške⁸¹ and Zallq/Žaç⁸². At the beginning of 2011, on 17 January, a Kosovo Serb returnee from Oprashkë/Opraške village reported to police that his house had caught on fire. The next day, the same returnee reported to police that his son's house had been robbed. On 23 January, another Kosovo Serb returnee was physically attacked in the same area. In Zallq/Žaç village, there were numerous cases of

⁷⁶ Dobrushë/Dobruša is an ethnically mixed village, inhabited by Kosovo Albanians, Kosovo Bosniaks and one Kosovo Serb returnee family.

⁷⁷ "Condemnation of the Attack on a Repatriated Person in Oprashkë/Opraške Village of Istog/Istok Municipality" [translated from Albanian], Official website of the municipal institutions of Istog/Istok, 21 October 2011, <http://kk.rks-gov.net/istog/News/Kryetari-i-Komunes-Haki-Rugova,-denon-vrasjen-e-nj.aspx> (accessed 19 June 2012).

⁷⁸ "Government Condemns the Attack on a Repatriated Person" [translated from Albanian], KosovoLive, January 17, 2011, <http://www.kosovalive.com/?cid=1,2,71625> (accessed 19 June 2012).

⁷⁹ OSCE Press Release, "OSCE Mission in Kosovo condemns killing in Dobrushë/Dobruša, 21 October 2011, <http://www.osce.org/kosovo/84225> (accessed 13 August 2012); Peter Feith, "Condemnation of the Attack on the Repatriated Person in Istog/Istok" [translated from Albanian], Telegrafi, January 26, 2011, <http://www.telegrafi.com/?id=2&a=12597&komentet=1> (accessed 19 June 2012).

⁸⁰ OSCE Security Responses Report 2011, *supra* note 28, p. 21.

⁸¹ Oprashkë/Opraške is a village where 15 houses were constructed for Kosovo Serb returnees. Currently only two families reside permanently in the village, but others come for occasional visits, mainly from Serbia.

⁸² Zallq/Žaç is a multiethnic village, inhabited by Kosovo Albanians, Kosovo Egyptians and Kosovo Serbs. 26 houses were constructed, and 13 Kosovo Serb families have resettled there permanently; the rest only visit occasionally.

burglaries, damage to property, and illegal woodcutting from Kosovo Serb-owned forests.

These incidents were also discussed at MCSC sessions, and on 1 February 2012 the mayor of Istog/Istok visited Oprashkë/Opraške to meet with the Kosovo Serb village representative. After the mayor's visits, the municipality took steps to improve infrastructure in the area, rehabilitating two connecting roads in Zallq/Žaç and the road leading to Oprashkë/Opraške. Although these cannot be directly attributed to the visits, they appear to have resulted in a general improvement in the security situation.⁸³

These repeated and systematic incidents had a serious impact on perceptions of security among the affected communities. On 23 December 2011, Kosovo Serb returnees from Zallq/Žaç addressed a "letter of concern" to municipal institutions, the Kosovo police station in Istog/Istok, the Ministry of Internal Affairs and the international community, which drew attention to the security incidents and lamented the failure of responsible institutions to take "concrete action" to bring the perpetrators to justice. Upon receipt of the letter, police visited the village representative and encouraged him to contact the chief of investigations directly. The issue of the ongoing security incidents was raised by police during an MCSC meeting on 24 November 2011 and the letter was discussed during a CC meeting on 30 December 2011; however, by August 2012 no follow-up action had been taken.

In Pejë/Peć municipality, several incidents affecting returnees took place in Brestovik/Brestovik⁸⁴ village during the reporting period. On 12 May 2011, a Kosovo Serb couple reported that masked and armed men entered their house, demanding money. The perpetrators physically assaulted the couple and stole a mobile phone. On 17 August 2011, a Kosovo Serb reported that his basement was set on fire; during their investigation police found evidence of arson. On 3 September 2011, another Kosovo Serb reported that he was insulted by a Kosovo Albanian while in a local shop. On 22 November 2011, a Kosovo Serb from the Lazović⁸⁵ neighbourhood (Pejë/Peć town) reported that someone threw an explosive device through the window of his bedroom, setting his house on fire. Other incidents in 2011 included thefts and aggravated thefts in Ljevoša/Lëvoshë⁸⁶, Siga/Sigë⁸⁷ and Goraždevac/Gorazhdevc⁸⁸ villages; damage to immovable property in Vragovc/Vragovac⁸⁹, Bellopole/Belo

⁸³ Both OSCE Field Teams and the UNHCR believed that the infrastructural works were at least partially responsible for the general improvement in the security situation. UNHCR, email, 4 October 2012.

⁸⁴ In Brestovik/Brestovik village, approximately 70 houses were reconstructed for Kosovo Serb returnees; 60 have resettled there permanently.

⁸⁵ In Lazović/Lazović, 16 houses were reconstructed for Kosovo Serb returnees in 2007; seven have resettled there permanently.

⁸⁶ In Ljevoša/Lëvoshë, 21 houses were reconstructed for Kosovo Serb returnees; approximately 25 returnees reside there permanently.

⁸⁷ In Siga/Sigë, 30 houses were reconstructed for Kosovo Serb returnees; six families have resettled there permanently.

⁸⁸ In Goraždevac/Gorazhdevc village, three houses were reconstructed for Kosovo Serb returnees. There is currently only one Kosovo Serb returnee family living in these houses; the other two remain uninhabited due to lack of water and electricity connections.

⁸⁹ In Vragovc/Vragovac, one house was built for a Kosovo Roma returnee.

Polje⁹⁰ and Babiq/Babiće⁹¹ villages; and illegal woodcutting in Ljevoša/Lëvoshë, Bellopojë/Belo Polje and Goraždevac/Gorazhdevc villages.

In relation to all the above incidents, only one suspect was detained by police, over the insult in Brestovik/Brestovik village; the individual was later released without charge. The incidents were never discussed in an MCSC or any other municipal safety forum, and no efforts were made by Pejë/Peć municipal institutions to reassure affected communities, either through public statements of condemnation or outreach to affected communities.

The frequency of incidents across Pejë/Peć municipality, the seeming inability of Kosovo police to identify and prosecute perpetrators, and the general lack of municipal condemnation and support, have led to strong feelings of concern and insecurity among Kosovo Serbs returnees. However, while the level of anxiety has increased, it does not seem to have compromised the returns process, as the list of potential returnees requesting assistance has remained consistent with previous years.

Prishtinë/Priština region

In Prishtinë/Priština region, security incidents were reported in returns sites in Fushë Kosovë/Kosovo Polje, notably Dobër Dub/Dobri Dub⁹² and Miradi e Epërme/Gornje Dobrevë⁹³.

In September 2011, two gravestones were damaged in a Serbian Orthodox graveyard in the returns site of Dobër Dub/Dobri Dub; in October 2011, two more gravestones were vandalized. The cases were reported to the Kosovo police, but by August 2012 the damage had yet to be repaired. Although the Kosovo police launched a formal investigation into the case, no suspects were identified. The incident was not discussed in an MCSC meeting, but was raised in an ad hoc meeting during which the chairperson of the municipal assembly expressed his regret. The municipality did not issue a public statement or condemn the incident, but the director of public services and a representative of the MOCR both visited the site.

In Dobrevë e Epërme/Gornje Dobrevë village (Fushë Kosovë/Kosovo Polje municipality), two windows were stolen from an unoccupied returnee house. The Kosovo police arrested two suspects who were caught trying to steal the windows of another unoccupied house in the same returns site. The municipality did not issue a formal condemnation of the incidents nor was the situation discussed in an MCSC meeting, but on 3 February 2012 the Kosovo police organized a meeting with the

⁹⁰ In Bellopole/Belo Polje village, 80 houses were reconstructed for Kosovo Serb returnees; 50 have resettled there permanently.

⁹¹ In Babiq/Babiće village, four houses were reconstructed for Kosovo Serb returnee families; no returnees currently live in the village.

⁹² Dobër Dub/Dobri Dub is a small village, with a mixed population of Kosovo Ashkali and majority Kosovo Albanians. Twenty houses were reconstructed for displaced Kosovo Serb families, but the beneficiaries sold their properties and returned to Serbia proper.

⁹³ Dobrevë e Epërme/Gornje Dobrevë is a mono-ethnic Kosovo Albanian village. Eleven houses were constructed for Kosovo Serbs returnees and two for Kosovo Albanians from the receiving community. To date, no returns have taken place.

mayor, the deputy mayor for communities⁹⁴, KFOR, EULEX police, the MOCR, religious representatives⁹⁵ and the OSCE, during which both the deputy mayor and the Kosovo police commander stated that the incidents had not affected the overall security situation in the municipality, which remained calm.

It is hard to assess the effect of these incidents on the overall sustainability of the returns process as no DPs have ever returned to Dobër Dub/Dobri Dub or Dobrevë e Epërme/Gornje Dobrevo for any significant period of time, despite finalization of returns projects in 2007 and 2011 respectively.

Prizren region

In Prizren region, security incidents were concentrated in the potential returns sites of Sërbica e Ultë/Donja Srbica (Prizren municipality) and Mushitishtë/Mušutište (Suharekë/Suva Reka municipality).⁹⁶

In May 2011, 11 recently reconstructed houses owned by displaced Kosovo Serbs in Sërbica e Ultë/Donja Srbica were damaged. Following intervention by OSCE field teams, police increased their patrols in the village. However, no perpetrators were identified and the municipality never issued a statement of condemnation. At a meeting between municipal officials, UNHCR and the Kosovo Serb beneficiaries on 28 October 2011, the DPs said they were sad to see the damage to their properties and regretted that they had not been informed about the situation earlier. They blamed the municipality for not reaching out to the receiving community after the reported incidents of vandalism/burglary of houses and usurpation of land. In response, the head of the MOCR began to visit Sërbica e Ultë/Donja Srbica on a regular basis (seven times since the start of the reconstruction project); since those visits began, there have been no further incidents.

It appears that these negative incidents have not discouraged DPs from visiting/returning. Potential returnees stated that they were even willing to return to the site to monitor repairs⁹⁷, but would postpone their visit until spring 2012 in order to avoid the difficult winter conditions. The MCR agreed to follow up on this, but despite reminders by UNHCR and DP representatives, including during the municipal working group on returns on 19 April 2012, had failed to do so by August 2012.

⁹⁴ In municipalities where at least 10 per cent of residents belong to communities in a numerical minority in that municipality, the mayor can propose the appointment of a deputy mayor for communities, to advise him/her on communities' issues. Article 61 of Law No. 04/L-040 on Local Self Government, 15 June 2008.

⁹⁵ Priest of the Orthodox Church and Imam of the main mosque of Fushë Kosovë/Kosovo Polje.

⁹⁶ Implementation of the returns project in Sërbica e Poshtme/Donja Srbica began in 2009 and was finalized in 2010 with the reconstruction of 14 houses (for 13 Kosovo Serb families and one Kosovo Albanian family). No returnees are currently in residence. The village of Mushtishtë/Mušutište is currently inhabited only by Kosovo Albanians, as the entire Serb population was displaced during the 1998–1999 conflict. Although approximately 145 houses were destroyed during the conflict, no reconstruction/returns projects have been implemented in the area to date. The foreseen implementation of the Returns and Reintegration III project in the village stalled in early 2012, due to objections by the receiving community (see section 4.1 below).

⁹⁷ At that meeting, the representative of the MCR announced that the Ministry would only invest in repairing the damages if they had a clear commitment from the DPs to return.

Another incident occurred during a visit by 50 Kosovo Serb DPs to the village of Mushitishtë/Mušutište in Suharekë/Suva Reka in August 2011. The DPs reported to police that they heard gunshots close to the ruins of the Holy Trinity Church during a religious service. However Kosovo police, who were escorting the DPs at the time of the alleged shooting, denied the incident had occurred, submitting a report to that effect.

There was no response from the municipality. However, the formal position of the mayor of Suharekë/Suva Reka between January and August 2012 was that the security and political situation in the municipality was not conducive to returns. In January 2012, he requested that planned implementation of the Return and Reintegration in Kosovo (RRK) III project⁹⁸ in Mushitishtë/Mušutište be postponed due to security perceptions related to developments in the north of Kosovo and resulting tensions between the Kosovo Albanian receiving community and Kosovo Serb DPs.⁹⁹ This stalled the returns process in the area for an extended period of time and sent a negative message to all parties that it was acceptable to condition the returns process on external political factors (see section 4.1).

3.2 Summary of findings

The deterioration of the security situation in the above returns sites is a cause for serious concern. The systematic looting of uninhabited returnee properties has created a climate of fear and insecurity among vulnerable returnee communities, as well as potential returnees. This has been exacerbated by vandalism or desecration of sites of religious or cultural significance, notably Serbian Orthodox graveyards and churches, and in more extreme cases by direct verbal and physical assaults against returnees. If they continue, such incidents will seriously undermine the overall sustainability of the returns process.

In an effort to address these issues, Kosovo police have taken proactive measures to reassure affected communities through increased patrols, for instance in Ferizaj/Uroševac, Mitrovica/Mitrovicë and Prizren municipalities. Recent efforts to apply a new methodology to the policing of returns sites in Ferizaj/Uroševac are promising, as is the increased willingness of municipal actors to use local community protection mechanisms such as MCSCs and LSPCs to raise awareness of the incidents, reassure affected communities and co-ordinate follow-up action. The example of Gjilan/Gnjilane municipality is especially encouraging in this respect, and implementation of its policies – notably its regular MCSC and LPSC meetings and its new policing strategy – should be systematically monitored; if they can be shown to have tangible positive effects either on the actual security situation or on perceptions of security among returnees, they should be used as best practice examples and introduced in other affected returns sites across Kosovo.

Most municipalities have taken these incidents seriously, expressing their support for affected communities through outreach activities and statements of public

⁹⁸ RRK III is a two-year returns project that is funded jointly by the European Union Office in Kosovo and the MCR, and implemented by IOM.

⁹⁹ Formal letter from the MOCR of Suharekë/Suva Reka, through the Mayor, to the IOM, dated 16 January 2012.

condemnation; however, these statements are rarely published in the language of the affected community (with the notable exception of Ferizaj/Uroševac municipality) and there remain cases where municipal institutions have failed to take any action, for instance in Pejë/Peć and Suharekë/Suva Reka. Moreover, in Suharekë/Suva Reka, not only did the mayor officially withdraw his support for the returns process in January 2012 on the grounds that security conditions were not conducive to return, but to date has failed to take concerted action to improve the situation, either through condemnation of the incidents or outreach activities to reassure affected communities.

4. DIFFICULT RETURNS AREAS

In certain identified areas, inter-ethnic tensions continue to affect the returns process. For the most part, stated objections to returns by the receiving communities are rooted in allegations of unresolved war crimes or cases of missing persons, but in some instances these are exacerbated by property disputes or security developments, such as the situation in northern Kosovo.

This section provides a regional overview of these “difficult returns areas”, where tensions between potential returnees and the receiving community are actively hindering the returns process. For each region, it provides a short background to the incidents, followed by an assessment of efforts by municipal institutions and/or international organizations to advance dialogue and support the returns process.

4.1 Regional overview of difficult return areas

Gjilan/Gnjilane region

In the Gjilan/Gnjilane region, the village of Nerodimja e Epërme/Gornje Nerodimlje (Ferizaj/Uroševac municipality) has been identified as a difficult returns area.

Between 2006 and 2010, four “go-and-see visits” (GSVs) were organized to Nerodimja e Epërme/Gornje Nerodimlje, which aimed to provide DPs with an opportunity to visit their places of origin and meet with local institutions in preparation for their eventual return. Although these passed without incident, on two occasions during preparatory security meetings representatives of the Kosovo Albanian receiving community declared that certain Kosovo Serb DPs were unwelcome, due to their alleged involvement in atrocities during the 1998–1999 conflict. A fifth GSV was then scheduled to take place on 8 November 2011, but this was obstructed when an estimated 100 protesters from the receiving community blocked the entrance to the village, physically preventing the DPs from entering. The stated reason for the protest was again the alleged commission of atrocities by Kosovo Serb DPs in the village during the conflict, and the subsequent failure of relevant actors to bring the alleged perpetrators to justice.

The organizers of the GSV, the Danish Refugee Council (DRC), reported that there had been no prior indication that the protest would take place, and that adequate preparatory activities had been undertaken, including regular security co-ordination

meetings between UNHCR, Kosovo police and the MOCR.¹⁰⁰ Despite this, posters inviting residents to join the protest were printed and placed throughout the village and in Ferizaj/Uroševac town over the weekend (5–6 November) prior to the scheduled GSV.¹⁰¹ DRC was only informed by police about the planned protest on the morning of 8 November, by which time they were already in the process of transporting the DPs from their accommodation to the village.¹⁰²

During a follow-up debriefing session on 9 November 2011, attended by municipal representatives, international organizations and representatives of both communities, a representative of the receiving community stated that the residents of Nerodimja e Epërme/Gornje Nerodimlje were not against the return of Kosovo Serbs in principle, but held individual DPs responsible for crimes committed during the conflict. He expressed frustration at the lack of consultation with the receiving community prior to the GSV (indeed, no Kosovo Albanians were included in preparatory security meetings for the November 2011 event, although they had been for earlier GSVs). He accused the international community (notably UNMIK and EULEX) of persistent failure in effectively addressing the relevant allegations. Finally, he stated that the situation in northern Kosovo had contributed to a general feeling of frustration on the part of Kosovo Albanians, which had served as an additional trigger to the protest. The municipality played an active and constructive role in the meeting, emphasizing the right to return for all, but requesting that war crimes be adequately processed. Tensions came to a head after the session, when a vehicle transporting one of the displaced Kosovo Serbs was stoned in front of the municipal building while the victim was inside. Kosovo police were informed of this incident and the perpetrator was arrested but later released.

On 9 December 2011, the OSCE organized a closed meeting with representatives of the receiving community, the MCR, UNHCR, DRC and EULEX. The municipal representatives again took a constructive stand, making a statement that clearly affirmed the right to return for all. The meeting concluded in a positive atmosphere, with all parties recognizing the need to work towards creating the conditions for sustainable return to Nerodimja e Epërme/Gornje Nerodimlje. In a separate meeting, representatives of the receiving community met with a senior war crimes adviser at EULEX, who informed them about the mechanisms and procedures for filing war crimes cases; on 12 December 2011, in a meeting with OSCE Field Teams, the village representative expressed his satisfaction with the outcome of that meeting, saying that they believed their concerns were being taken seriously. However, no further GSVs are currently planned to the area, and it remains to be seen whether the above activities will have a positive impact on the sustainability of the returns process there.

Mitrovicë/Mitrovica region

In the Mitrovicë/Mitrovica region all returns-related activities (e.g., GSVs, debriefing sessions, etc.) that took place during the reporting period were conducted without objection by the receiving community and in co-operation with the respective

¹⁰⁰ Telephone interview with DRC, 24 November 2011.

¹⁰¹ The posters contained the following message: “Announcement. On 8 November a gathering against the return of Serbian criminals in village Nerodime. Please, participate from 10 o’clock at the Babush bridge.”

¹⁰² Email from DRC, 5 October 2012.

municipalities. As such, no difficult returns locations were identified during the reporting period, in the sense outlined above.

Pejë/Peć region

In Pejë/Peć region, difficult returns locations were identified in Gjakovë/Đakovica town in Gjakovë/Đakovica municipality, Lloqan/Loćane village in Deçan/Deçane municipality; and Dresnik/Drnsnik and Grabanicë/Grabanica villages in Klinë/Klina municipality.

Until recently, relations between displaced Kosovo Serbs and the Kosovo Albanian receiving community in Gjakovë/Đakovica were very strained. There was no formal contact between the two communities between 1999 and 2011, and although municipal institutions attempted to organize GSVs from 2005, in co-operation with UNHCR and DRC, the returns process was compromised by security incidents (see section 3.1. above). A breakthrough finally occurred on 20 December 2011, when six Kosovo Serbs displaced in Montenegro successfully visited their properties and discussed modalities for return, thanks to strong support from the mayor and UNHCR, in co-operation with DRC. Currently, UNHCR and DRC are exploring the possibility of a second GSV to the municipality.

In Lloqan/Loćane village (Deçan/Deçane municipality), the last attempt to organize a GSV for displaced Kosovo Serbs was on 22 June 2011. However, this was postponed for security reasons, following statements by the Kosovo Albanian receiving community which alleged that three of the DPs had been involved in war crimes committed during the 1998–1999 conflict. Despite efforts by UNHCR, the OSCE and municipal officials to defuse the situation and improve inter-ethnic dialogue, 48 hours prior to the GSV the receiving community, in co-operation with the Kosovo Liberation Army (KLA) War Veteran Association, presented the municipal court of Deçan/Deçane with a formal letter accusing four of the potential GSV participants of alleged war crimes; the veterans' association threatened to block the road if the GSV went ahead. Kosovo police stated that the enhanced security situation would warrant deployment of a disproportionate number of staff, and the GSV was subsequently postponed. To date, the receiving community continues to oppose the return of Kosovo Serbs to the area, and are conditioning a future GSV – and indeed the returns process as a whole – on action by the international community to address the issue of missing persons.

On 25 July 2011, the municipal assembly (MA) in Klinë/Klina municipality took a decision to allocate plots of land in Dresnik/Drnsnik village to seven landless displaced Kosovo Egyptian families. However, the decision was protested by members of both the Kosovo Albanian and the Kosovo Serbs receiving community, who signed a joint petition against the MA decision on the grounds that the DPs had not lived in Dresnik/Drnsnik prior to the 1999 conflict.¹⁰³ This reasoning was rejected by the CC in a meeting on 13 October, and on 17 October 2011 the MA agreed to support both the return of the DPs and the receiving community by securing external funds for the construction of two additional houses as a “balancing component”. However, by

¹⁰³ As stated in Section 2.1 above, under the RAE Strategy members of those communities have the right to return “either to their places of origin or to a freely chosen alternative place”.

August 2012 no donor had been identified and the Kosovo Egyptian families remained without land.

On 28 June 2012, Klinë/Klina municipal assembly received a petition, signed by 140 Kosovo Albanian residents of Grabanicë/Grabanica village, which objected to the potential return of Kosovo Serbs on the grounds of alleged commission of war crimes during the 1998–1999 conflict. The residents also filed criminal charges with the Municipal Court in Klinë/Klina and the Special Prosecution Office in Pejë/Peć. At an MCSC meeting on 4 July 2012, the head of the MOCR confirmed that the petition had been delivered to the mayor's office and clarified that it only addressed persons who had worked for the police during the 1998–1999 conflict; however, municipal officials did not undertake any follow-up action to highlight that allegations of commission of war crimes by potential returnees could not be used as justification for limiting the right to return.

Although municipal institutions in Pejë/Peć region recognize the right to return in principle, they have not undertaken any concrete action in support of this, either through public statements or activities aimed at advancing inter-ethnic dialogue. In some cases, municipalities blamed these deficiencies on inadequate budgetary resources. In Deçan/Deçane, although MOCR officials, including the co-ordinator for returns, tried to liaise with UNHCR and DRC, and to seek assistance in organizing GSVs and integrating those Kosovo Serbs who had already returned, the lack of political will on the part of senior municipal officials was a serious challenge.

By contrast, Klinë/Klina municipality took a more proactive approach to the returns process, underscoring its support through regular attendance at GSVs, debriefing sessions and other returns-related activities aimed at building confidence between the returning and receiving communities. The municipal task force on returns met for the first time on 10 February 2012 to assess possibilities for the return of 18 Kosovo Serb families to Drenovc/Drenovac village. The meeting was attended by all relevant stakeholders in the municipality (the MOCR, UNHCR, the OSCE, the Kosovo Agency for Advocacy and Development (KAAD) and the MCR). On 27–29 February 2012, in co-operation with UNHCR and DRC, the municipality of Klinë/Klina organized a GSV for the DPs during which the receiving community responded positively to the visit of their former Kosovo Serb neighbours. Another GSV took place on 24–25 April 2012, during which Kosovo Serb DPs visited their properties in Budisavc/Budisavci village; when they expressed concerns about damage to their properties, the head of the MOCR informed them about municipal schemes to provide reconstruction assistance¹⁰⁴. These actions and their relative success should be taken as an example of the strong positive effects of sustained and proactive municipal commitment to the returns process.

Prishtinë/Priština region

In the Prishtinë/Priština region, difficult returns locations were identified in Kolovicë/Koljovica and Prishtinë/Priština town in Prishtinë/Priština municipality, and Sllovi/Slovinje in Lipjan/Lipljan municipality.

¹⁰⁴ GSV debriefing session, Klinë/Klina municipal premises, 25 April 2012.

Currently there is only one potential returns site in Kolovicë/Koljovica village, Prishtinë/Priština municipality. However, the returns process to the site has stalled, not as a result of war crimes allegations, but due to unresolved property issues. Between 2005 and 2007, when DPs requested a visit to the village, many of their former properties (including agricultural land) were illegally occupied and the Kosovo Albanian receiving community did not welcome the visit. The municipal leadership initially met with the respective communities, but its lack of commitment became evident when officials stopped attending GSVs, debriefing sessions and inter-ethnic dialogue activities. International organizations had difficulty identifying a Kosovo Albanian village leader to represent the receiving community and work in support of the returns process.¹⁰⁵ In recent years, attempts by international organizations (e.g., UNHCR and the OSCE) and non-governmental organizations to include the mayor or other Kosovo Albanian municipal leaders have also failed.¹⁰⁶

In Sllovi/Slovinje (Lipjan/Lipljan municipality), the Kosovo Albanian receiving community opposes the returns process based on alleged commission of war crimes by Kosovo Serb DPs during the 1998–1999 conflict. As a result, the MOCR does not feel that it is in a position to guarantee the safety of DPs, even with the support of relevant security actors.¹⁰⁷ Despite this, on 23–24 July 2011, UNHCR and DRC organized a “go-and-inform visit”¹⁰⁸ for 46 Kosovo Serb families from Sllovi/Slovinje displaced in Belgrade and Kruševac. It was attended by representatives of the MOCR and the MCR. Displaced families expressed their desire to participate in a subsequent GSV, and urged UNCHR and DRC to organize one. Although objections were raised by the Kosovo Albanian receiving community¹⁰⁹, they did agree to meet the DPs provided the meeting was held in a neutral place and attended by senior municipal officials (e.g., the deputy mayor)¹¹⁰. DRC planned to undertake follow-up, confidence-building measures with the receiving community prior to an eventual GSV, but by August 2012 no such activities had been implemented due to lack of funds.¹¹¹ At the invitation of the mayor, and with the support of UNHCR, the OSCE, DRC and KAAD, on 25 April 2012 five Kosovo Serb DPs came to the MOCR from Serbia to discuss the issue of their potential return. After the event, the mayor discussed the possibility of a follow-up meeting, but by August 2012 this had not yet taken place.

In Sllovi/Slovinje, the municipal leadership is generally supportive of the returns process, at least in principle. A GIV was organized by DRC and UNHCR in Belgrade and Kruševac, and attended by MOCR representatives. DRC plans to organize a GSV

¹⁰⁵ All identified individuals refused to be village leader shortly after accepting the post. There were reported allegations that these individuals has been threatened by those occupying properties illegally or with an interest in selling properties, but these allegations were never reported to the police.

¹⁰⁶ UNHCR, MRO premises, Prishtinë/Priština Personal interview, 18 January 2012; MRO, MRO premises, Personal interview, 18 January 2012 (MRO Personal interview).

¹⁰⁷ Ibid.

¹⁰⁸ During a “go-and-inform visit” representatives of international organizations (and municipal officials) visit DPs in their place of displacement to provide them with information on the returns process.

¹⁰⁹ Ibid.

¹¹⁰ Meeting between the UNHCR field assistant and the village leader in Sllovi/Slovinje, 25 November 2011.

¹¹¹ DRC, Telephone conversation, 28 June 2012.

later this year.¹¹² However, MOCR representatives were more cautious, arguing that return to nearby Kosovo Serb villages in Gračanica/Gračanicë or Lipjan/Lipljan municipality might ultimately be more sustainable.¹¹³ The mayor indicated his willingness to allocate a plot of land for construction of a residential building for villagers in a place other than Sllovi/Slovinje.¹¹⁴

Prizren region

In Prizren region, difficult returns locations were identified in Kijevë/Kijevo in Malishevë/Mališevo municipality; Dvoran/Dvorane and Zojic/Zojq in Prizren municipality; and Leshan/Lješane, and Mushitishtë/Mušutište in Suharekë/Suva Reka municipality.

In Zojic/Zojz village, the receiving community responded to the first initiative to organize a GSV in 2005 with allegations that Kosovo Serbs from that village had been involved in war crimes during the 1998–1999 conflict. The last GSV to take place in Dvoran/Dvorane village was in 2006, and despite preparatory activities by DRC, UNHCR and MOCR those activities were never fully implemented. Following a pre-briefing session in the municipal building, six displaced Kosovo Serbs continued on to the village. Upon arrival, their convoy stopped at the entrance of the village to visit the Serbian Orthodox graveyard; as the passengers exited the vehicles gunshots were heard. At that point the GSV was cancelled for security reasons. To date, no other GSVs have been organized to the area.

Prizren municipal institutions, and the MOCR in particular, have demonstrated strong commitment to the returns process. The MOCR has excellent co-operation with all agencies dealing with returns activities, which facilitated successful implementation of the returns project “Sustainable return to Prizren town” in 2011, as a result of which ten Kosovo Serb families were able to return to newly-reconstructed houses in the historic centre of Prizren. Implementation of two other returns projects is currently ongoing in Prizren town¹¹⁵, with the municipality showing strong support for both. During the reporting period, six GSVs were organized across the municipality, all involving displaced Kosovo Serbs¹¹⁶; all GSVs took place and DPs were able to visit their properties without incident. Relations between DPs and the receiving community were positive throughout the visits, especially with regard to security issues and use of the Serbian language.

During 2008, UNHCR attempted to organize several GSVs in Kijevë/Kijevo village in Malishevë/Mališevo municipality, but these were cancelled due to security concerns arising from allegations by the receiving community that DPs had been involved in war crimes. Municipal institutions in Malishevë/Mališevo have failed to show a strong commitment to the returns process; very few municipal working group

¹¹² Telephone conversation with DRC, 17 April 2012.

¹¹³ UNHCR Note for File for the GIV in Serbia, 23 and 24 July 2011.

¹¹⁴ MRO Personal interview, *supra* note 106.

¹¹⁵ These are RRK III and a follow-up project to the earlier 2011 project, “Sustainable return to Nënkala/Podkaljaja”.

¹¹⁶ The GSVs were organized to Prizren town and the villages of Vrbicane/Verbiqane and Serbica e Poshtme/Donja Serbica.

sessions were organized during the reporting period and no concrete actions were taken to build confidence between the receiving community and potential returnees.

To date, no formal or informal DP visits to Leshan/Lješane village have taken place, primarily due to poor perceptions of the security situation among DPs and the absence of support for the returns process among the Kosovo Albanian receiving community. In 2011, the two communities expressed an interest in meeting to discuss modalities for possible returns, an initiative that was supported by senior municipal leadership, including the mayor. Consequently, the OSCE – in co-operation with UNHCR and the MOCR – planned a project to facilitate a one-day meeting between representatives of the two communities. However, the project was never implemented due to unwillingness on the part of the Kosovo Albanian receiving community to meet with the displaced Kosovo Serbs. The mayor also withdrew his support for the initiative, on the grounds that a deterioration in the security situation resulting from events in northern Kosovo in July 2011 and the Prishtinë/Priština–Belgrade technical dialogue meant that the environment was no longer conducive to effective implementation of returns-related activities.

In fact, the mayor formalized this position in January 2012, when he officially requested that implementation of the RRK III project¹¹⁷ in Mushitishtë/Mušutište village be postponed. Although preparatory project activities such as GSVs had already taken place, and the support of the mayor had been previously secured, in a formal letter to the International Organization of Migration (IOM) and the MCR dated 16 January 2012 he stated that recent political events had created an unfavourable climate for return to the municipality, and requested that implementation be delayed until a “more favourable moment”. Despite consistent engagement from January 2012 by the MCR, the EU Office in Kosovo, the IOM and the UNHCR, by August 2012 the issue had yet to be resolved.¹¹⁸

4.2 Summary of findings

The problem of difficult returns locations is one that has received comparatively little attention from either Kosovo institutions or the international community. However, the underlying tensions that have led to a stalling of the returns process in these areas are illustrative of broader inter-ethnic issues in Kosovo, such as unresolved war crimes or missing persons cases, property disputes and the overarching political situation. In the most serious cases, active opposition by the receiving community to activities such as GSVs (Nerodimja e Epërme/Gornje Nerodimlje) or the implementation of returns projects (Mushitishtë/Mušutište) have seriously hindered the returns process in that area.

Municipal condemnation of such opposition is often lacking, and in some cases institutions openly support the conditioning of the returns process on external factors such as an improvement in the political situation (Suharekë/Suva Reka municipality) or outstanding property issues (Prishtinë/Priština municipality).

¹¹⁷ See *supra* note 98.

¹¹⁸ Email from IOM, 5 October 2012; email from EU Office in Kosovo, 5 October 2012.

There is a clear need for greater efforts by all actors to address these issues, and to reinvigorate dwindling political support for the returns process. Central institutions, with the full support of international organizations, should send a clear message to municipal leaders that the returns process must not be conditioned on any external factors. Municipal support should be expressed publicly through press statements by senior officials, regular attendance at returns activities and meaningful outreach to displaced and returning populations. Central and municipal institutions, in cooperation with international organizations and the Kosovo police, should work together to develop comprehensive and ongoing inter-ethnic dialogue activities to bring communities together and build confidence between them. Finally, while the returns process must not be conditioned on the resolution of war crimes cases, the relevant organizations should nevertheless make a serious effort to properly assess all outstanding war crimes claims, including by reaching out to affected communities and through regular contact with victims and/or victims' families.

5. CONCLUSION

This report has examined three key issues affecting the sustainability of the returns process in Kosovo: institutional compliance with the legal and policy framework on returns, with a particular focus on the establishment and functioning of the MOCRs; the deteriorating security situation in returns sites, and its impact on returnees' security and perceptions of security; and difficult returns sites, where persistent tensions between returnees and receiving communities are actively hindering the returns process.

The MOCR Regulation was a welcome and significant effort by central-level institutions to address some of the obstacles that previously confronted returns coordination mechanisms at the local level. Unlike their predecessors, the MCOs and the MROs, the MOCRs benefit from a solid foundation in the legal framework. There have been small but limited improvements on the ground: for the most part, the new MOCRs now have adequate budgetary resources for basic salaries and operational equipment. However, the lack of funds for activities and projects will make it difficult for the offices to implement their mandate fully and effectively, and many municipalities lack strategies or action plans to guide their work on returns. Although central institutions did undertake activities to improve communication and coordination with their municipal counterparts, their top-down nature and the lack of timely follow-up meant that there was little observable impact on municipal awareness of their roles and responsibilities or of central-level activities and initiatives. Weak monitoring and evaluation provisions are also a cause for potential concern, and their implementation should be tracked in the future.

The frequent looting of uninhabited returnee properties, damage to sites of religious or cultural significance and occasional low-level harassment of returnees has had a very negative impact on perceptions of security among returnee communities and potential returnees. In many cases, however, Kosovo police have made genuine efforts to support affected communities through increased patrols, for instance in Ferizaj/Uroševac, Mitrovicë/Mitrovica and Prizren, and the implementation of a new approach to policing of returns sites in Ferizaj/Uroševac is especially promising. With regard to effective co-ordination of security responses, the most serious security

incidents are discussed in MCSCs, in accordance with the relevant legal and administrative framework, albeit with mixed results. In terms of other municipal responses, most municipalities do express their support for affected communities through statements of public condemnation and outreach activities; a very positive example in this respect is Ferizaj/Uroševac municipality. However, by contrast there are cases where municipal institutions have failed to take any action whatsoever, e.g., in Pejë/Peć and Suharekë/Suva Reka municipalities.

The issue of difficult returns locations is also a cause for concern. In the most serious cases, active opposition by the receiving community has effectively stalled the returns process to that area, for example in relation to the halting of the GSV in Nerodimja e Epërme/Gornje Nerodimlje or suspension of the RRK III project in Suharekë/Suva Reka municipality, and has aggravated tensions between communities. With a few laudable exceptions (Gjakovë/Đakovica, Klinë/Klina and Prizren), proactive municipal support for the returns process is often lacking. In the most serious cases, municipal institutions themselves openly condition the returns process on external factors such as the resolution of alleged war crimes cases (Deçan/Deçane municipality) or a change in overarching political circumstances (Suharekë/Suva Reka municipality).

It bears reiterating that 12 years after the end of the conflict, any failure by a municipality to fully support the right to return of all DPs is unacceptable and should be recognized as such by all stakeholders. It is crucial that central institutions take a stronger stance vis-à-vis the municipalities on returns issues, and make it clear that any security incident affecting a returnee or their property must be immediately and publicly condemned, and that attempts to condition the returns process on external factors will not be tolerated. Without strong and decisive action by all relevant parties the returns process in the affected areas may be stalled indefinitely, thereby permanently depriving DPs of their right to return.

6. RECOMMENDATIONS

To the Ministry for Communities and Return, the Ministry of Local Government Administration, the Office of the Prime Minister, the Ministry of Internal Affairs and the Ministry of Labour and Social Welfare:

- Enhance co-ordination activities with municipal counterparts to ensure regularity and consistency of central–municipal contact, and raise awareness of roles and responsibilities in relation to returns and of relevant central-level developments (e.g., project funds, training sessions, etc.).
- Provide strong support to the Kosovo police in their efforts to respond effectively and proactively to security incidents in returns sites.
- Send a clear message to municipalities, including through public statements, that security incidents affecting returnees must be immediately and publicly condemned, and that the returns process must not be conditioned on any external factors.
- Take a proactive approach towards monitoring and evaluating the performance of municipal institutions, notably the MOCRs.

To the municipal leadership:

- Ensure the immediate establishment of MOCRs in those municipalities where the offices are not yet in place, and incorporate all MOCRs within the municipal statute at the earliest opportunity.
- Ensure that sufficient funds for salaries, operational equipment and projects are allocated to the MOCRs to enable them to effectively fulfil all their responsibilities under the MOCR Regulation, including outreach activities to vulnerable returnee communities and effective implementation of municipal returns strategies.
- Demonstrate support for the work of the MOCRs, including by attending returns events (GSVs, debriefing sessions, etc.).
- Immediately condemn all security incidents affecting returnees and undertake timely outreach activities with the aim of reassuring affected communities.
- Ensure that security responses to serious incidents affecting returnees are co-ordinated through the Municipal Community Safety Councils (MCSCs), in full compliance with the relevant administrative framework.
- Provide strong support to the Kosovo police in their efforts to respond effectively to security incidents in returns sites.
- Ensure that public statements relevant to returnees are published in all official languages and languages in official use in the municipality.
- Send a clear message to receiving communities – including through public statements of condemnation and dialogue activities – that it is not acceptable to condition support for the returns process on any external factors.
- Ensure timely submission of MOCR annual reports and undertake regular monitoring and evaluation of the performance of MOCRs.

To the Municipal Offices for Communities and Return:

- Ensure that all responsibilities outlined in the MOCR Regulation are fully and effectively implemented, including the consultative development of a municipal returns strategy and/or action plan.
- Ensure that all reports required by the MOCR Regulation are completed in full and submitted to relevant institutions/bodies in a timely manner.

To the Municipal Community Safety Councils (MCSCs):

- Ensure full implementation of responsibilities detailed in the Law on Police and the Administrative Instruction on MCSCs, to ensure a co-ordinated and effective response to all incidents affecting communities.

To the Kosovo police:

- Continue to take proactive steps to reassure returnee communities affected by security incidents, through increased patrols and implementation of the new community policing methodology in returns sites.
- Monitor and record the impact of increased patrols and the community policing method on the security situation in returns sites, noting in particular whether these lead to a decrease in security incidents and/or an improvement in returnee perceptions of security.
- If increased patrols and/or the community policing method are shown to be successful, either in reducing security incidents and/or improving returnee perceptions of security, expand such practices to other returns sites and continue to track progress by monitoring and recording their impact.

To all relevant local actors:

- Following security incidents affecting returnees, all relevant actors at the municipal level should make greater use of local community protection mechanisms such as the MCSCs and LPSCs, to raise awareness of incidents, voice concerns, reassure affected communities, co-ordinate follow-up action and implement community policing initiatives.

To all relevant actors:

- Central and municipal institutions – in co-operation with the Kosovo police and international organizations working on returns issues – should work together in difficult returns locations to develop inter-ethnic dialogue activities and build confidence between communities in order to defuse tensions prior to potential returns-related activities.

To international organizations working on returns issues:

- Support central and local institutions in sending a clear message to all parties that it is not acceptable to condition support for the returns process on any external factors.

To EULEX:

- Continue to support local institutions in addressing/prioritizing unresolved property disputes in local courts.
- Enhance efforts to assess and respond to all outstanding cases of alleged war crimes and missing persons.