

10 October 2012

## KOSOVO

# Durable solutions still elusive 13 years after conflict

The number of internally displaced people (IDPs) in Kosovo has dropped slightly in recent years. A September 2012 estimate by the Office of the United Nations High Commissioner for Refugees (UNHCR) put the figure at 17,900, compared with around 19,700 in 2009. Most ethnic Serb IDPs live in northern Kosovo, where they rely on a system of education, policing and health care services provided entirely by Serbia. Many others live in enclaves in areas where their ethnic group constitutes a majority, but where they often face restrictions on their freedom of movement and have little access to livelihoods and services.

For many internally displaced people, return to their place of origin is not a viable option after 13 years of displacement, and the prospects for durable solutions are limited. Many still face obstacles in obtaining personal and property documents from their places of origin, and in repossessing their property or getting compensation for it. Widespread discrimination against Serbs and Roma people has made it difficult for them to return to areas where they constitute a minority.



Container camp in Gracanica Serb enclave with high proportion of elderly displaced people (Photo: IDMC, May 2009)

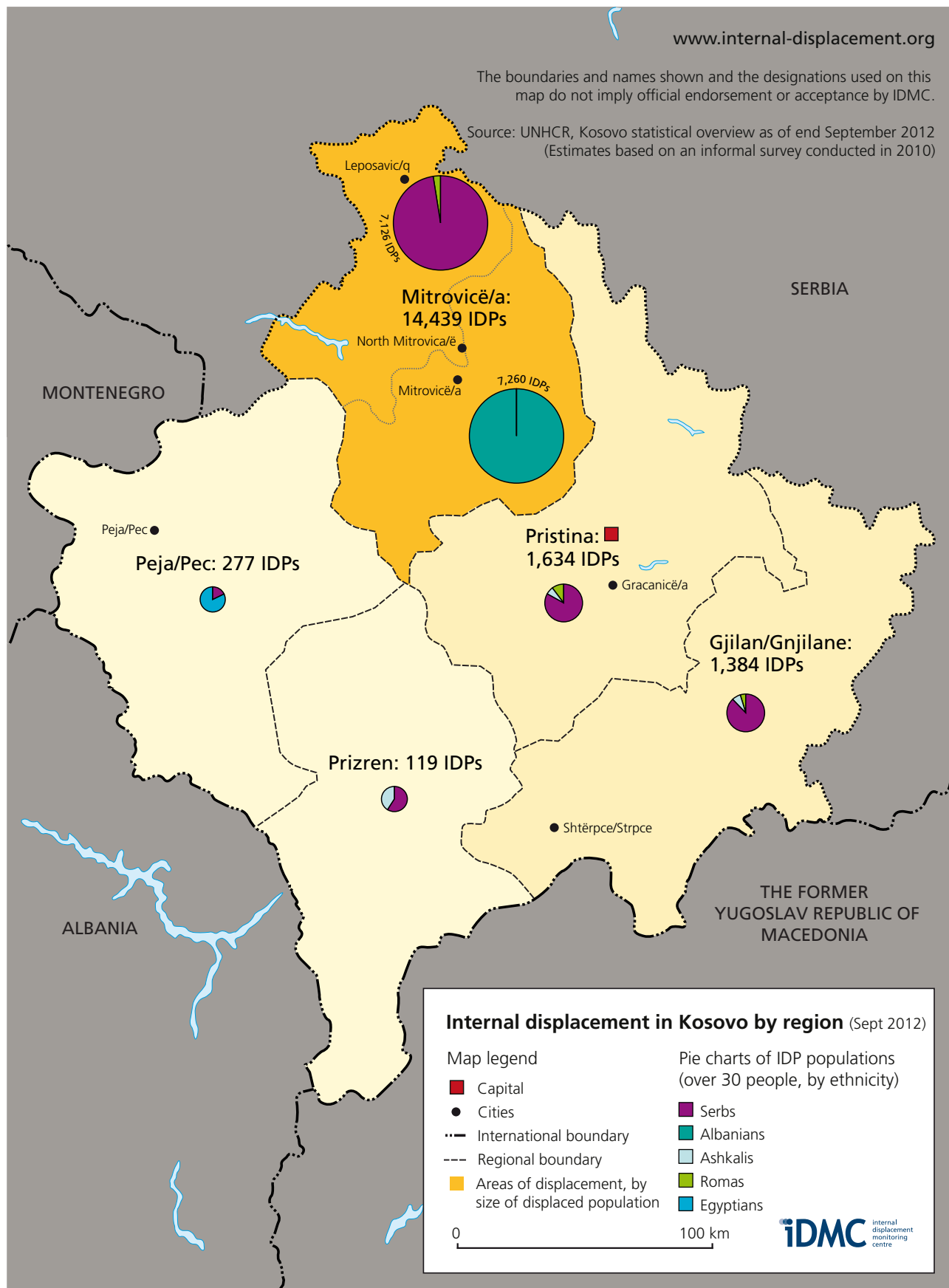
National and international actors have set up projects to facilitate the return and reintegration of people displaced both within and beyond Kosovo, to help members of minority communities improve their living conditions whether they are displaced or not, and to prevent further displacement.

That said, greater political and financial support for settlement options beyond return (local integration and settlement elsewhere) are needed if IDPs are to achieve durable solutions. Reliable data on IDPs should be collected and a comprehensive legal or policy framework for their protection established in order to respond adequately to their needs.

*Please note: This report focuses exclusively on people internally displaced within Kosovo. By implication, any references to "Serb IDPs" or "Roma IDPs" should be taken to mean "Kosovo Serb IDPs"; "Roma IDPs within Kosovo" etc. More information on IDPs in Serbia can be found on [IDMC's Serbia webpage](#).*

*Any reference to Kosovo, whether to the territory, institutions or population, is without prejudice to positions on status and is in line with UN Security Council (UNSC) resolution 1244/99 and the International Court of Justice (ICJ)'s advisory opinion on Kosovo's declaration of independence.*

# Internal displacement in Kosovo, by region



Source: Internal Displacement Monitoring Centre (IDMC)  
 More maps are available at [www.internal-displacement.org/maps](http://www.internal-displacement.org/maps)

## Background and recent developments

Following the NATO airstrikes which forced the withdrawal of Yugoslav troops in mid-1999, ending years of oppression of the majority-Albanian population, more than 245,000 people fled from or within Kosovo in fear of reprisals. UN Security Council (UNSC) resolution [1244](#) reaffirmed the UN's commitment to the territorial integrity and sovereignty of the Federal Republic of Yugoslavia, and established the UN Interim Administration Mission in Kosovo (UNMIK). In 2005, the UN special envoy, Martti Ahtisaari, opened negotiations between Pristina and Belgrade over Kosovo's final status. The 2007 Comprehensive Proposal for the Kosovo Status Settlement ([CSP](#)), also known as the "Ahtisaari plan", proposed Kosovo's independence under international supervision and addressed a broad range of issues including the decentralisation of local government and the safeguarding of minorities' rights.

The Serbian government rejected the plan, but in February 2008 the Kosovo parliament made a unilateral declaration of independence and adopted its provisions in its new constitution. An International Civilian Office (ICO) and the European Union Rule of Law Mission (EULEX) were established, and UNMIK's role was gradually reduced as the new Kosovo authorities began to assume control of structures and functions. The NATO-led stabilisation force (KFOR), which was deployed after the 1999 airstrikes, was charged with providing a safe and secure environment. In July 2010, the International Court of Justice (ICJ) published an advisory [opinion](#) on the legality of Kosovo's declaration of independence, stating that it was in keeping with the general principles of international law and UNSC resolution 1244, given the territory's unique history and circumstances.

Ninety-one countries currently recognise Kosovo's independence, but UNSC is yet to take a position and resolution 1244 is still officially in force.

Backed by Russia, Serbia rejects Kosovo's independence and continues to regard the area as the Autonomous Province of Kosovo and Metohija. It refuses to recognise the institutions established under the Ahtisaari plan and continues to provide services in majority-Serb areas to Serb internally displaced people (IDPs) and returnees, and those from the Roma, Ashkali and Egyptian (RAE) communities who hold Serbian documents. The unresolved issue of Kosovo's status prevents the Serbian and Kosovo authorities from establishing coordinated mechanisms to support durable solutions for IDPs.

Since March 2011, Kosovo and Serbia have been engaged in an EU-sponsored dialogue, which has led to several agreements on practical issues relevant to IDPs, such as land and civil registries. A dispute in 2011 over the control of border crossings in northern Kosovo led to a series of violent clashes between local Serb residents, Kosovo police and international forces. Such incidents heighten tensions between the Serb and Albanian communities and undermine the political stability needed for sustainable returns to take place. As of October 2012, the security situation in the north remains fragile, and attacks on Serbs have become more frequent, particularly in the scattered returnee settlements in majority-Albanian municipalities ([ICG](#), September 2011; [OSCE](#), 7 June 2012; [UNSC](#), 21 August 2012).

Until very recently there has been a lack of accurate demographic data on Kosovo. The last reliable census took place in 1981, with subsequent efforts being boycotted by one community or the other. The Kosovo authorities conducted a new population and housing census in April 2011, but not in the northern municipalities where the majority of Serbs live. According to the first set of results published on 21 September 2012, the total population south of the river Ibar is 1,739,825, of whom 93 per cent are ethnic Albanian and two per cent ethnic Serb (Kosovo [Agency of Statistics](#), 21 September 2012). Other minorities include

Roma, Ashkalis, Egyptians, Gorani, Bosnians and Turks. On 14 September 2012, the director of the Serbian Office for Kosovo and Metohija said that he planned to carry out a census to establish the number of Serb residents, their situation and the status of their property, with the aim of ensuring a better distribution of aid ([Government of Serbia](#), 17 September 2012).

## Internal displacement figures and locations

The main wave of internal displacement took place in 1999 following the NATO airstrikes and involved more than 245,000 people, of whom most non-Albanians fled Kosovo for central and northern Serbia. In 2004, ethnic violence against non-Albanians - mainly Serbs and Roma - displaced another 4,200 people, most of whom sought refuge within Kosovo in areas dominated by their ethnic group. Kosovo's declaration of independence has not led to any significant new displacement.

Thirteen years after the conflict, Kosovo is still to have a comprehensive survey of IDPs. Analysis of the full results of the latest census, all of which should be published by the end of 2013, will provide some information on IDPs and returnees, but in the meantime the only data available on their number and location come from UNHCR estimates. These put the number of IDPs in Kosovo as of the end of September 2012 at around 17,900, of whom 54 per cent were Serb, 40 per cent Albanian and five per cent RAE ([UNHCR](#), 8 October 2012). The majority, around 14,400, live in the Mitrovicë/a region.

Among Serb IDPs, around 6,950 from southern Mitrovicë/a and other areas currently live in the northern municipalities of Zubin Potok, Leposavić/q, Zveqan/Zvecan and northern Mitrovicë/a, all of which are majority-Serb areas where the Serbian authorities retain almost complete administrative control. Around 1,600 are dis-

placed in the Pristina region, mainly in Gracanicë/a and surrounding Serb-populated villages, and there are around 1,400 more in the Gnjilane/Gjilan region, mainly in Shtërpce/Strpce municipality which also has a majority-Serb population.

Ninety-nine per cent of Albanian IDPs, or around 7,300 people, were displaced from northern areas of Mitrovicë/a and other northern municipalities, and currently live in the southern suburbs of the city. Roma and Ashkali IDPs are mainly in Pristina, Mitrovicë/a and Gjilan/Gnjilane, and Egyptian IDPs in Peja/Pec.

With the exception of those in Mitrovicë/a, almost all urban Serbs left towns to join rural enclaves, while Roma IDPs joined other Roma communities on the edges of towns and cities. Most IDPs are accommodated privately, sometimes occupying other displaced people's property. Most RAE IDPs live in dire housing conditions in informal settlements, where they also have only limited access to basic infrastructure and social services and lack security of tenure. This is particularly the case where homes have been built on municipal or communal land, which can leave inhabitants vulnerable to forced eviction.

As of September 2012, around 1,100 IDPs - 800 Serbs, 200 RAEs and 100 Albanians - were still living in 37 collective centres ([UNHCR](#), 8 October 2012). Thirteen of these are run by the Serbian Commissioner for Refugees and are said to accommodate 465 people (Serbian Commissioner for Refugees [website](#), accessed on 5 October 2012). Many of those living in collective centres are particularly vulnerable, and high proportions are older people. Most are unemployed and depend on meagre pensions or social welfare to get by.

## Durable solutions

The voluntary return of displaced people to their places of origin has been the primary focus of

both the Kosovo authorities and the international community. From 2004, however, when violence targeting Serbs and Roma flared, the rate of voluntary returns fell continuously, reaching its lowest level in 2008. Since then, the pace of returns has remained markedly slow (UNHCR, 8 October 2012; UNSC, [June 2009](#), [October 2011](#) and [3 August 2012](#)). The available data show that only around 4,400 of those displaced within Kosovo returned between January 2000 and September 2012, constituting 18 per cent of all voluntary returns recorded for the same period (UNHCR, May 2012). RAEs were the largest group of IDPs to return, accounting for more than 2,500 of the total, followed by Albanians. The Pristina region received the highest number of returning IDPs (41 per cent) followed by Mitrovicë/a (36 per cent) (UNHCR, 8 October 2012). Returns to mono-ethnic villages and those undertaken by RAEs have proved the most sustainable, but even in these cases, challenges such as limited access to property, economic integration and real or perceived insecurity remain.

According to UNHCR assessments, a large number of Albanian IDPs would prefer to go back to their places of origin (UNHCR, May 2012). Their sustainable return to the northern municipalities would, however, depend on the provision of services by the authorities in southern Mitrovicë/a and Pristina. The only Albanian IDPs to have returned so far have gone back to their homes in the outskirts of northern Mitrovicë/a and the isolated majority-Albanian areas in the municipalities of Zvečan and Leposavić/q, where they continue to face security risks and restrictions to their freedom of movement (UNHCR, May 2012).

The majority of Serb IDPs, meanwhile, state local integration as their preferred settlement option, and after 13 years in displacement their integration is already well under way in many cases (UNHCR, May 2012). The number of displaced families applying for social housing or land allocations in their places of displacement could be

viewed as an indicator of the desire to integrate locally, and such requests reportedly exceed the number of units currently available. RAE IDPs in the Pristina region have also expressed their willingness to integrate locally (UNHCR, May 2012).

These preferences confirm the need to diversify support for settlement options beyond the facilitation of return, particularly for IDPs from minority communities. The relevant national and local authorities and the international community should provide greater support for local integration and/or settlement elsewhere, and ensure that IDPs receive adequate protection and assistance as they pursue durable solutions in accordance with their rights.

In 2009, the Ministry for Communities and Returns (MCR) began Kosovo's first project to support IDPs wishing to integrate locally or settle elsewhere. Based in the village of Llapllasell/Laplje Selo in the majority-Serb municipality of Gracanicë/a, its first phase involved the construction of 60 apartments in three residential buildings. The municipality allocated a plot of land for the purpose, and the beneficiaries, all of them Serb, received an apartment on which they signed a 99-year lease. The project was aimed primarily to support IDPs unable to return to their places of origin because of security concerns. Of the 60 families to benefit from the first phase, 37 had been living in displacement in precarious conditions in collective centres or private accommodation. The remaining beneficiaries included 20 households returning from Serbia and three social cases from the local community. By the end of 2010, a further four buildings had been constructed as part of the second phase of the project, but they are still vacant as a result of a delay in the selection of beneficiaries. The process was resumed in late 2011. Llapllasell/Laplje Selo provides a model that could be replicated, incorporating greater involvement of IDPs in all phases of the process and a more inclusive approach that benefits all displaced minorities.

Progress in rehousing RAE internally displaced people living in camps in northern Kosovo has been mixed. The long-overdue closure of the lead-contaminated Česmin Lug camp in northern Mitrovicë/a eventually took place in October 2010 ([UNSC](#), 29 October 2010), and all structures were demolished to prevent others from moving into an area with such high contamination ([HRW](#), June 2009; [OSCE](#), February 2009). Over the previous three years, several hundred camp residents had been supported in moving to the Mahalla e Romëve/Roma Mahala district of southern Mitrovicë/a, the place of origin of 70 per cent of the Česmin Lug families. Those who had owned their own homes prior to displacement had them rebuilt or refurbished, while those without property received apartments constructed on seven hectares of previously communal land allocated by the municipality. Occupancy is governed by 99-year tripartite agreements signed by the returning IDPs, the municipality and donors. Reintegration activities such as vocational education, internships, grants and employment opportunities have also been fundamental. As of the end of July 2012 the nearby Osterode camp, which is also lead-contaminated, was still open. Only five families remained there, however, and Mercy Corps is reportedly in the process of constructing an apartment building for them in northern Mitrovicë/a.

While international programmes have focused on the IDP camps in northern Mitrovicë/a, the needs of around 160 Roma IDPs living in Leposavić/q camp (including 60 children, some of whom were born there) have been neglected. Living conditions in all of the collective centres are poor, but in Leposavić/q they are appalling. The IDPs' unstable makeshift shelter fails to meet the criteria for adequate housing and the camp lacks adequate access to basic infrastructure. There is no proper ventilation, heating or indoor running water, there are not enough communal taps and bathrooms, and those that do exist are often out of order ([OSCE](#), December 2011; Alexander [Betts](#), 14 May 2012). The majority of the camp's inhabitants are

open to the prospect of return or resettlement, but there seem to be few immediate prospects for the IDPs to achieve a durable solution to their situation. Those who come from Mahalla e Romëve/Roma Mahala may be able to return, however, if funding is allocated to build new housing. As for the others, the relevant municipalities whether in places of displacement or of origin should provide assistance or allocate land for their use. In the meantime, temporary improvements to the camp are urgently needed. These would be easy to make from a technical and financial point-of-view, and could significantly improve residents' living conditions ([Betts](#), 14 May 2012).

## Continuing displacement and IDPs' protection issues

### *Kosovo's unresolved status*

The unresolved issue of Kosovo's status affects IDPs in a number of ways. It is the cause of tension between Pristina and Belgrade, and it prevents collaboration between the Serbian and Kosovo authorities and the establishment of coordinated mechanisms to support durable solutions. The competing institutional frameworks create different understandings of who is an IDP and when displacement begins and ends. The Serbian authorities have issued cards confirming their status to Serb and some RAE IDPs, and these are generally not withdrawn from those who return or benefit from social housing projects. The Kosovo authorities, for their part, have never surveyed IDPs, the result being a lack of reliable data and the risk that some displaced people remain unaccounted for and without access to protection and assistance.

The status question also feeds inter-ethnic tensions. There has been relative calm since the declaration of independence and the overall security situation has remained relatively stable; however, the clashes in northern Kosovo and the threats, harassment and violence suffered by minority communities continue to compromise the actual

and perceived safety of IDPs and returnees and their freedom of movement. It also hinders their access to essential rights and services. Serbs are particularly affected, but those from RAE communities also suffer. Compared with 2010, there was an increase in reported crimes affecting both communities in 2011 and the first half of 2012, with incidents of intimidation, assault and theft most common at Serb returnee sites. Arson, vandalism and other damage to property were also reported, with Serb IDPs' unoccupied homes a frequent target (UNSC, [31 October 2011](#) and [9 May 2012](#); OSCE, 10 December 2011).

#### *IDPs from minority communities*

Kosovo's inhabitants are the poorest in Europe, with roughly 30 per cent living below the poverty line and 13 per cent in extreme poverty (US Department of State, 11 January 2012; EC, 12 October 2011). In peri-urban areas, a very high number of households have no access to either jobs or arable land and struggle to meet their basic survival needs. In this context, RAEs are exposed to social exclusion and discrimination, in part because many Albanians accuse the Roma of siding with the Serbs during the conflict. The vulnerabilities of the general population are reflected and often exacerbated among IDPs, with the marginalisation of displaced RAEs being particularly acute. Many IDPs from minority communities also face other challenges specific to their status and/or ethnicity. The Kosovo authorities have adopted laws and strategies to address such issues, but their implementation has been hampered by budgetary constraints, a lack of full political commitment and capacity among relevant officials, and problems in coordination and information sharing between central and local governments.

The fact that the right of minority communities to use an official language of their choice is not respected despite strong constitutional and legal guarantees is a source of major concern. Those unable to speak Albanian face barriers to integration, employment opportunities, participation

in public affairs and access to basic services and justice. Legislation to uphold the private and public use of minority languages and prohibit discrimination on the basis of language was adopted in 2006, but it has yet to be implemented (Kosovo Ombudsperson Institution, July 2011; OSCE, 1 October 2012). Education is one of the Kosovo government's largest programmes, accounting for around 13 per cent of its total spending, but the curriculum does not provide for schooling in Serbian or Romani, which constitutes an obstacle to the return of displaced families to areas where they would be in a minority. Displaced Serb and Roma children attend education facilities financed by Serbia.

Partly as a result of the language issue, all Serb IDPs and a significant number of their RAE counterparts also continue, where possible, to rely on the Serbian health system. The fact that services are provided free of charge is also a factor, as is distrust of the Kosovo equivalent. In several cases, however, IDPs suffering serious medical conditions said they could not get adequate treatment via the Serbian health system either because it was unavailable in Kosovo or because they were unable to cover the expenses, including the cost of travelling to the appropriate facilities (UNHCR, May 2012).

Language can also be a barrier to justice. In a recent report on property-related cases, a legal aid project referred to the inadequate fulfilment of the right to use their official language of choice in judicial proceedings as one of the most common systemic obstacles IDPs face in their efforts to access the courts (Pravna Pomoc, June 2012). This is due in part to the fact that Serbian was not used in many parts of Kosovo after the conflict as a result of the displacement of the vast majority of the Serbian-speaking community. The number of court staff proficient enough in Serbian has since decreased significantly. However, Kosovo has a legal obligation to take all the necessary steps to uphold the right to choose an official language,

and this includes making sufficient resources available for the judicial system to operate effectively.

#### *Access to documentation*

There are still IDPs in Kosovo who, from an administrative point of view, do not exist. This is particularly the case for members of RAE communities who either have never had documentation (if their birth was not officially registered, for example) or no longer possess papers as they were lost or destroyed as a result of the conflict. Lack of documentation can put IDPs at risk of statelessness, and can lead to denial of access to health care, education and other public services, and problems in resolving issues of property restitution or compensation. It also affects voting rights, and can leave IDPs deprived of a say in the political, economic and social decisions that affect their lives.

UNHCR and local civil society organisations have launched a number of initiatives to promote civil registration since 2006, but the process still faces challenges, including the lack of a uniform registration system and qualified staff, and the failure among certain population groups to register. This is especially the case for those living in rural areas and/or in vulnerable social conditions (as is often the case for IDPs), the result of inadequate efforts by the authorities to raise awareness of the procedures and counter the belief that the process will be laborious and inefficient.

There are still members of some communities unaware of the importance of civil registration, and who only register their children to get the necessary documents to enrol them in school or apply for social assistance ([CRP/K](#), 14 May 2012). The cost of obtaining documentation can be a deterrent for IDPs in poor economic situations. Birth certificates, for example, must be issued in an applicant's place of origin, meaning that IDPs' travel expenses may be considerable over and above the cost of the documents themselves. Security concerns may also discourage some from making the journey necessary to apply ([OSCE](#), 24 July 2012).

The fact that there is no mutual recognition of documents issued by the Kosovo and Serbian authorities makes it difficult for IDPs to renew or replace their papers. The relocation to Serbia of many personal identification and property records from before 1999 has also complicated the verification of evidence for IDPs trying to proceed with civil registration in Kosovo. When implemented, the agreements reached between Pristina and Belgrade through the EU-sponsored dialogue on civil and land registries could help to address some of these issues.

#### *Property and access to land*

Difficulties in both the repossession of property and access to rental and compensation schemes are a major obstacle to durable solutions. Chief among them is the widespread illegal occupation and expropriation of property IDPs left behind. Threats from the current occupiers have also been reported. Many IDPs lack the material means and knowledge of judicial procedures to initiate a case and they face language barriers which impede their access to legal remedy. That said, both the Kosovo Property Agency (KPA), the institution in charge of addressing post-conflict property claims, and local courts have a significant backlog of cases pending. The limited access to records kept in Serbia, the destruction of some registries in Kosovo and the use of forged documents have all complicated judicial proceedings ([Pravna Pomoc](#), [June 2011](#), [June](#) and [July 2012](#)).

RAE IDPs in particular tend to lack personal and property documents, and their right to occupy homes in informal settlements in their places of origin is frequently not recognised. KPA's remit to confirm titles to occupied property does not extend to unregistered informal settlements. The situation of most RAE IDPs is unclear as a result of unregistered inheritance and occupancy rights, illegal construction or lack of a formal address, and they continue to struggle to recover their property and access land.



The KPA-led restitution process has been very slow, and it is still to adjudicate on a significant number of the 42,064 claims lodged by December 2007. Of the rulings it has issued, less than half have been enforced ([KPA website](#), accessed on 10 August 2012). In the northern part of Mitrovicë/a, numerous illegal expropriations and constructions have been reported, in which IDPs found that their property had been sold on to new owners who demolished their houses and replaced them with new buildings ([Pravna Pomoc](#), June 2012). Many illegal occupiers of Albanian IDPs' apartments in the same area, which are under the KPA rental scheme, are not paying the monthly rent. KPA is mandated to enforce decisions to evict in coordination with the Kosovo police, but the fragile security situation in the north means that in practice they are not in the position to do so. For IDPs in general, and especially for those living in temporary collective centres, the inability to generate rental income makes their already difficult situations worse.

Property-related issues can also constitute a further obstacle for IDPs in becoming beneficiaries of the social assistance and benefits provided by the Kosovo authorities. Some IDPs do not satisfy the financial criteria for social assistance, given that on paper they own property whose value exceeds the established limits. In practice, however, the property in question may be illegally occupied, destroyed or inaccessible because of insecurity ([Pravna Pomoc](#), June 2012).

The courts to date have failed to adequately address the illegal occupation of land and homes. In July 2012, however, a Serb house owner was awarded compensation for years of lost rent and the cost of his property from the Albanian who had occupied it. As many Serb IDPs prefer local integration to return, the ruling could transform a problem into part of a solution by ensuring that IDPs' property rights are fully met and allowing them to use the compensation to improve their living conditions in their current places of residence ([Eurasia Review](#), 19 April 2012).

It should be noted that some legislation relating to property rights directly or indirectly recognises displacement ([Pravna Pomoc](#), July 2012), one such example being the Law on Taxes on Immovable Property.<sup>1</sup> Article five of this law authorises the collection of taxes from those who use a property, whether they are the rightful owner or not, without conferring any ownership rights by doing so. This is critically important in that, in theory at least, it places the tax burden on the illegal occupant rather than the displaced owner. It is unclear, however, whether this aspect of the legislation is being applied in practice ([Pravna Pomoc](#), July 2012).

The allocation of land by municipalities represents a further, major challenge to the achievement of durable solutions, particularly for the majority of RAE IDPs who were already living in informal settlements before the conflict. In April 2010, the prime minister of Kosovo, Hashim Thaçi, sent a letter to all municipal leaders requesting that they allocate land for landless displaced families ([OSCE](#), May 2011), but little action has been taken. The examples of Mahalla e Romëve/Roma Mahala and Llapllasell/Laplje Selo are the exception rather than the rule, and this hinders MCR's ability to provide specific housing assistance for displaced families in need. Municipalities can only grant the right to use plots for a limited period of time,<sup>2</sup> and there is a general shortage of suitable municipal and communal land, given that most good locations in Kosovo are now privatised. Those plots that are available are often far from services, markets and employment opportunities, and have little or no water and sanitation infrastructure. At the same time, the increasing cost of energy is leading IDPs and the local population alike to illegally fell trees on public and communal land for firewood.

1 2010/03-L-204, Law on Taxes on Immovable Property, adopted on 7 October 2010.

2 Law No.03/L-226, Allocation for Use and Exchange of Immovable Municipality Property, 9 November 2010. Article five sets a 10-year limit for allocations, with an extension up to 40 years subject to the approval of central authorities.

## National and international responses

### *Government of Serbia*

Soon after Kosovo's declaration of independence, Serbia took several initiatives to assert its role and presence and to prevent further Serb displacement by reinforcing its municipal institutions in Kosovo. Serbia has all but complete control of local administration in northern Mitrovicë/a and the other municipalities north of the river Ibar<sup>3</sup>, while in the south it mainly runs education and health systems and pays many Serbs' salaries and pensions. In August 2012 Belgrade established the Office for Kosovo and Metohija to replace its Ministry for Kosovo and Metohija, which was mandated to cooperate with the Serbian Commissioner for Refugees on issues relating to IDPs. The commissioner also runs several collective centres in Kosovo. As well as confirming its role and presence in Kosovo, Serbia's policies have provided jobs which have helped Serbs to remain there. When Kosovo agreed to the Ahtisaari plan, it accepted a degree of Serbian influence on its territory, as long as the authorities operated in a cooperative and transparent manner (ICG, 10 September 2012).

The declaration of independence has had different effects in the various Serb-populated areas of Kosovo. The situation in the north has deteriorated, while south of the river Ibar - where Serbs, displaced or otherwise, are more scattered - it has had less of an impact (ZIF, 25 June 2012). Many Serbs have adopted a pragmatic attitude, approaching Kosovo institutions for documentation and social assistance (IDMC interviews with Serbs,

<sup>3</sup> As part of its decentralisation process, the Kosovo government set up the Mitrovicë/a North Administrative Office (MNAO) in May 2012. The office is now functional and has 55 employees responsible for providing services to citizens in the northern municipalities of Kosovo. MNAO will have €2 million (\$2.6 million) from the Kosovo state budget available for capital infrastructure projects in 2012 and an additional €1 million a year for the following five years (ICG, 28 August 2012).

May 2009; ICG, May 2009). Their participation in the November 2009 municipal elections, which set up decentralised municipalities with wider responsibilities, was higher than anticipated. Serbian institutions, however, still provide a range of services to Serb IDPs and a significant number of their RAE counterparts who hold Serbian documents.

### *Kosovo authorities*

Kosovo has incorporated many international human rights instruments into its legal system, but as of October 2012 it still lacks a domestic legal framework on internal displacement and a comprehensive policy or strategy focused on the protection of IDPs' rights and support of durable solutions. So far authorities have only adopted sectoral laws and policies under a general mandate to promote communities' rights and the return process. These include the [Law](#) on Protection and Promotion of the Rights of Communities and their Members in Kosovo, the [Strategy](#) for Communities and Returns (2009 to 2013) and the [Strategy](#) for the Integration of Roma, Ashkali and Egyptian Communities (2009 to 2015). Although most IDPs are members of minorities, the existing framework does not do enough to protect them, as it does not include measures to address needs specific to their displacement. Nor does it ensure that they are treated without discrimination, or that they receive adequate protection and assistance during the different phases of displacement, support which might enable them to achieve the durable solution of their choice.

The [Constitution](#) of the Republic of Kosovo, which was promulgated in April 2008 following the unilateral declaration of independence, specifically refers to refugees and IDPs in article 156. The article, however, focuses only on the promotion and facilitation of their return and the recovery of their property and possessions. Article 156 was part of the "transitional provisions" applicable while Kosovo's independence was under ICO supervision - a period which officially ended on 10 September 2012 - and an amendment to the constitution was proposed

to remove it. In May 2012, however, Kosovo's Constitutional Court ruled that this would substantially damage the rights and freedoms enshrined in the constitution and as such it should not be removed ([Constitutional Court](#), 15 May 2012).

On 5 and 7 September 2012, the Assembly of Kosovo adopted the amendments necessary to incorporate the remaining elements of CSP into the constitution and primary legislation, while at the same time removing references to it ([ICQ](#), 10 September 2012). Among the changes approved, a new article on the rights of refugees and IDPs was introduced into the Law on Protection and Promotion of the Rights of Communities and their Members in Kosovo. The article focuses on return and the recovery of property and possessions, and does not mention other settlement options. It does, however, enshrine the right of displaced people to make "free and informed decisions" and the responsibility of authorities to promote and protect their freedom of movement.

The Kosovo authorities have not yet designated an institutional focal point to protect and assist IDPs. MCR is the main national body for coordinating voluntary returns and supporting the protection of minority communities, but it has no specific mandate to protect IDPs' rights during all phases of displacement. MCR's focus on return is linked to the gradual transfer of responsibilities from UNMIK to the Kosovo government, and to increased knowledge and capacity in the return sector. Since it was established in 2005, MCR has taken on full responsibility as policy-maker, coordinator and overseer of implementation across government institutions and non-governmental partners. According to the Strategy for Communities and Returns, the ministry should focus on the treatment and full reintegration of Kosovo's displaced population by providing assistance such as housing reconstruction, essential items and grants for income-generating activities in areas of both origin and displacement. In practice, however, most of its budget - which was cut considerably in

2011 ([EC](#), 12 October 2011) - is spent on building housing for those who want to return.

The engagement of the municipalities is critical to the successful implementation of the strategy, but they are not able to respond to IDPs' immediate and long-term needs alone and face difficulties in providing social housing for returnees without property. They compete with each other for limited public and private funds, and the central authorities tend to micromanage their spending and deprive them of the means to raise money themselves ([ICG](#), 10 September 2012). The newly established Municipal Offices for Communities and Return (MOCRs) have some duties towards the displaced population, but as of August 2012 they were only functional in around half of Kosovo's municipalities ([UNSC](#), 3 August 2012). As such, significant challenges remain, including a lack of full political engagement, a shortage of resources and inadequate coordination between central and local authorities ([OSCE](#), 1 May 2011). As the European Commission (EC) concluded in its 2011 Kosovo Progress Report, the government should step up its efforts to take the lead in addressing issues relating to IDPs.

One such issue is the lack of reliable data, which is necessary for proper planning and implementation of projects targeting IDPs and the appropriate allocation of resources at both national and local levels. Kosovo has never surveyed IDPs, and the available estimates may not fully reflect the situation on the ground. If established, an institutional focal point could facilitate and coordinate all phases of such a process. Extensive collaboration with Serbian-administered institutions would also be required for it to be a comprehensive exercise (UNHCR, May 2012).

The on-going process of regularising informal settlements south of the river Ibar is also likely to affect IDPs in the future, even if the measures involved have not been specifically designed to target them. In 2011, several municipalities drafted plans and defined temporary collective centres for

IDPs under the umbrella of informal settlements, as some of their characteristics overlap. IDPs living in such centres have the same right to adequate housing as residents in informal settlements, but the policy framework for regularisation emphasises the process *in situ*, with relocation only to be pursued in exceptional cases and as a last resort (OSCE, December 2011). IDPs should be offered assistance to return to their places of origin or to find alternative solutions outside the temporary centres if they so wish.

#### *International community*

The voluntary return of displaced people to their places of origin has been the international community's primary focus for many years, and has been considered a key principle underpinning a viable multi-ethnic and democratic society. In line with this, UNSC resolution 1244 included the establishment of "a secure environment in which refugees and displaced persons can return home in safety" in UNMIK's mandate and tasked it with assuring "the safe and unimpeded return of all refugees and displaced persons to their homes". The international community organised the return process until 2006, when MCR took over responsibility for it. The 2007 Ahtisaari plan clearly reaffirmed the right of all IDPs and refugees to return and reclaim their property and personal possessions, and spelled out Kosovo's responsibilities to that end. The preference of Kosovo authorities for the language of return needs to be considered in this context.

The international community's efforts to address displacement in Kosovo have not extended to regional initiatives such as the Regional Housing Programme, which it helped the authorities in Bosnia and Herzegovina, Croatia, Montenegro and Serbia to launch in November 2011 (CEB, June 2012).<sup>4</sup> It has, however, continued to col-

laborate with MCR on several projects to promote the return and reintegration of people displaced both within and outside Kosovo. UNHCR facilitates go-and-see visits to give interested parties a better idea of the environment in their places of origin, and it supports efforts to monitor returns and build the capacity of municipal authorities. The UN Development Programme (UNDP) has implemented the Sustainable Partnership for Assistance to Minority Returns to Kosovo (SPARK) project, which between 2005 and 2010 provided an integrated umbrella mechanism for delivering multi-sectoral assistance for returns; the Rapid Response Return Facility (RRRF) project; and the first phase of the Return and Reintegration in Kosovo (RRK) project. Financed by EC, the Kosovo authorities and other donors, the first phase of RRK supported return through the in-depth involvement of both municipal and central governments between 2008 and 2010. The Danish Refugee Council (DRC) implemented the second phase, which has also since drawn to a close. The International Organization for Migration (IOM) was selected to implement a third, 30-month phase in two regions: the municipalities of Novobërdë/Novo Brdo, Partesh/Parteš and Štrpce/Shtërpcë in Gjilan/Gnjilane; and the municipalities of Prizren and Suharekë/Suva Reka in Prizren. Despite these initiatives, however, and the fact that 13 years have passed since the end of the conflict, relatively few displaced people have returned.

In order to respond adequately to IDPs' needs and to ensure that they receive the necessary protection and assistance, support for data collection, the development of a comprehensive domestic legal and/or policy framework on internal displacement, and increased political and financial commitment to all options in terms of durable solutions are paramount.

<sup>4</sup> This initiative aims at ensuring the voluntary return and reintegration or local integration of refugees and IDPs from the 1991-1995 conflicts in these countries, and exceptionally, a limited number of refugees from 1999 in Montenegro holding IDP status.

## About the Internal Displacement Monitoring Centre

The Internal Displacement Monitoring Centre (IDMC) was established by the Norwegian Refugee Council in 1998, upon the request of the United Nations, to set up a global database on internal displacement. A decade later, IDMC remains the leading source of information and analysis on internal displacement caused by conflict and violence worldwide.

IDMC aims to support better international and national responses to situations of internal displacement and respect for the rights of internally displaced people (IDPs), who are often among the world's most vulnerable people. It also aims to promote durable solutions for IDPs, through return, local integration or settlement elsewhere in the country.

IDMC's main activities include:

- Monitoring and reporting on internal displacement caused by conflict, generalised violence and violations of human rights;
- Researching, analysing and advocating for the rights of IDPs;
- Training and strengthening capacities on the protection of IDPs;
- Contributing to the development of standards and guidance on protecting and assisting IDPs.

For more information, visit the Internal Displacement Monitoring Centre website and the database at [www.internal-displacement.org](http://www.internal-displacement.org)

### Contact:

#### Frank Smith

Head of Middle East, Europe, Caucasus and Asia department

Tel: +41 22 799 07 10

Email: [frank.smith@nrc.ch](mailto:frank.smith@nrc.ch)

#### IDMC

Norwegian Refugee Council

Chemin de Balexert 7-9

1219 Geneva, Switzerland

[www.internal-displacement.org](http://www.internal-displacement.org)

Tel: +41 (0)22 799 0700

Fax: +41 (0)22 799 0701