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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
IN ACCORDANCE WITH ARTICLE 16 OF THE INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Replies by the United Nations Interim Administration Mission in
Kosovo (UNMIK) to the list of issues (E/C.12/UNK/Q/1) to be
taken up in connection with the consideration of the document
submitted by UNMIK (E/C.12/UNK/1)**

UNMIK

[2 October 2008]

I. PREPARATION AND DISSEMINATION OF THE DOCUMENT

Question 1. *Please explain to which extent civil society organizations, including organizations of minority communities, have been involved in the preparation of the document on Kosovo (Serbia) submitted by the United Nations Interim Administration Mission in Kosovo (UNMIK) (E/C.12/UNK/1, hereafter referred to as the “treaty-specific document”). Please also indicate whether the treaty-specific document and the common core document submitted by UNMIK have been translated into Albanian, Serbian and, to the extent possible, into the languages of minority communities in Kosovo, in particular the Roma, Ashkali and Egyptian communities. If not, what urgent measures are being taken to ensure the timely translation of the documents mentioned above, with a view to enabling the effective participation of civil society prior to the consideration of the treaty-specific document at the Committee’s forty-first session in November 2008?*

1. UNMIK produced translations of the treaty-specific document in the Albanian and Serbian languages, and distributed 250 copies (200 Albanian, 50 Serbian) through the Office of the High Commissioner for Human Rights to civil society groups and other relevant stakeholders.

2. Civil society organizations and minority communities had very limited involvement in the preparation of the document on Kosovo. However, they are actively engaged in the shadow reporting process coordinated by the OHCHR Kosovo office.

II. GENERAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED

Question 2. *Please clarify why the Covenant has been omitted from Chapter 3 of the Constitutional Framework for Provisional Self-Government in Kosovo (HRI/CORE/UNK/1, para. 124) and from article 22 of the “Constitution” as adopted by the Kosovo Assembly on 9 April 2008 (hereafter referred to as the “Constitution”), specifying the international human rights treaties which are directly applicable in Kosovo, despite the criticism expressed by the Ombudsman Institution and by non-governmental organizations. Are there any plans to include the Covenant in the list of directly applicable human rights treaties in article 22 of the “Constitution”? If not, will the Covenant be directly applicable in the courts of Kosovo as an international treaty that has been ratified by the former Yugoslavia?*

3. To ensure the full realization of international human rights in Kosovo, the SRSG promulgated UNMIK Regulation No. 1999/24 on the Law Applicable in Kosovo, thereby importing international human rights instruments directly into Kosovo law and allowing these instruments to be applicable by “all persons undertaking public duties or holding public office in Kosovo”. Even though Chapter 3 of the Constitutional Framework (UNMIK Regulation No. 2001/9) does not refer to the Covenant, the Covenant is part of the applicable law in Kosovo pursuant to UNMIK Regulation No. 1999/24.

4. UNMIK had no official involvement in the drafting of the Kosovo Constitution that came into effect on 15 June 2008 and is accordingly not in a position to comment on the official reason behind the omission in article 22 of the Kosovo Constitution as adopted by the Assembly of Kosovo on 9 April 2008.

Question 3. What measures have been taken to ensure that the recommendations of the Ombudsperson Institution concerning alleged human rights violations by public authorities are being implemented by the Provisional Institutions of Self-Government (PISG) and the Kosovo Police Service (KPS)? Please indicate the steps taken to remedy the protection gap that existed between 2006, when the jurisdiction of the Ombudsperson Institution over UNMIK was revoked by UNMIK Regulation No. 2006/6 on the Ombudsperson Institution in Kosovo (HRI/CORE/UNK/1, para. 167), and January 2008, when the UNMIK Office of the Legal Adviser retroactively restored the Ombudsperson's jurisdiction over UNMIK.

5. Pending the appointment of an Ombudsperson by the Assembly of Kosovo under UNMIK Regulation No. 2006/12, the Acting Ombudsperson appointed by the SRSG has continuously had jurisdiction over UNMIK as established under UNMIK Regulation No. 2000/38. Pursuant to the transitional provisions of section 19 of UNMIK Regulation No. 2006/6, the Ombudsperson Institution was to be constituted upon the appointment of the Ombudsperson and the Deputy Ombudsperson. Until such time as these appointments were made, the Acting Ombudsperson, appointed by the SRSG, remained in his post and exercised all powers and responsibilities of the Ombudsperson in accordance with the provisions of UNMIK Regulation 2000/38. Section 3.1 of this Regulation provides that the Ombudsperson shall have jurisdiction to receive and investigate complaints from any person or entity in Kosovo concerning human rights violations or actions constituting an abuse of authority by the interim administration. Accordingly, there was never any gap in the formal protection framework. In this context, it is important to note that the Human Rights Advisory Panel ("HRAP") was established concurrently to UNMIK Regulation No. 2006/12. The HRAP has the mandate to examine complaints from any person or group of individuals claiming to be the victim of a human rights violation by UNMIK. Although the jurisdiction of the HRAP is limited under Section 2 to the time after 23 April 2005, or to facts that took place earlier but nevertheless allegedly give rise to a continuing human rights violation, the HRAP provides effectively a further mechanism of accountability by UNMIK.

Question 4. Please clarify how the independence of the Human Rights Advisory Panel appointed by the Special Representative of the Secretary-General to issue non-binding determinations relating to complaints of violations of human rights by UNMIK (HRI/CORE/UNK/1, paras. 138-141) is guaranteed, and provide information on any cases concerning alleged violations of economic, social and cultural rights by UNMIK considered by the Panel, and on their outcome.

6. The Human Rights Advisory Panel adopted its Rules of Procedures in February 2008. These procedures allow UNMIK the opportunity to provide submissions in two stages - first, prior to a decision on admissibility, and second, prior to the Panel adopting its findings and recommendations. Under these procedures, UNMIK has no other part in the process until the Panel puts forward its findings and recommendations to the SRSG for approval. However, to date, the Panel has not yet adopted an opinion on the merits of any case.

7. An issue that can impact negatively, in reality or perception, is the Panel's co-location with UNMIK, presently in the UNMIK Main HQ. Such physical co-location could give the impression that it is an administrative office of UNMIK and could have negative implications from an independence perspective. Despite this possible perception, the Panel believes that it enjoys the confidence of the complainants as evidenced by its rising caseload, currently standing at 48 cases.

8. The Panel deals with issues such as property rights, fair hearing, access to courts, the right to life, freedom of expression, and employment issues. Although practically all complainants invoke violations of civil and political rights, some of the Panel's cases have economic, cultural and social rights as their objective. In this regard, the Panel deals with cases in relation to non-discrimination, in particular with respect to the right to work, the right to work in relation to the privatization process, the right to an adequate standard of living in the housing context and the right to health in regard to environmental contamination.

Question 5. *What measures have been taken to address the lack of reliable demographic data (HRI/CORE/UNK/1, para. 8) and of updated statistical data on the equal enjoyment of the Covenant rights by, in particular, women, children, minorities, persons living in rural and deprived urban areas, persons with disabilities and other disadvantaged and marginalized groups (HRI/CORE/UNK/1, para. 202; E/C.12/UNK/1, para. 38)? In particular, are there any plans to carry out a new census and to establish a systematic method of data collection?*

9. The Statistical Office of Kosovo (SOK) has been disaggregating data by sex since 2003 when, with the support of the UNMIK Gender Adviser, a gender unit has been established in SOK. The findings are published in the series "Women and Men in Kosovo", the most recent edition being published in 2007.

III. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (arts. 1-5)

Article 2, paragraph 2 - Non-discrimination

Question 6. *Please provide information on the progress achieved in establishing an internal oversight mechanism to monitor the implementation of the Anti-Discrimination Law (E/C.12/UNK/1, para. 39; HRI/CORE/UNK/1, para. 203), and describe the main features of such mechanism. Please specify which sub-legal acts for the implementation for the Anti-Discrimination Law (ADL) have been enacted by the working group mentioned in paragraph 41 of the treaty-specific document, and clarify whether systematic training on the application of the ADL is provided to judges and civil servants. Please also provide information on any cases where the ADL has been invoked in the courts to challenge discrimination in the area of economic, social and cultural rights.*

10. UNMIK is aware of one case before the Kosovo Supreme Court, where the plaintiff in judicial review of administrative action cited UNMIK Regulation 2004/32 on the Anti-Discrimination Law to challenge alleged discrimination. The administrative law case involved plaintiffs of the Gorani community who submitted the claim before the Kosovo

Supreme Court against the Ministry of Education, Science and Technology because the respective Ministry had not responded to the plaintiff's claim within the prescribed deadline. On 3 October 2007, the Supreme Court dismissed the claim.

Question 7. Please provide detailed information on measures taken to ensure that legal provisions on affirmative action for recruitment of members of minority communities in the civil service, as well as the methodology for establishing proportional community representation in the civil service, are being implemented, and that posts reserved for minorities are being filled, including at senior management levels and in the judiciary (E/C.12/UNK/1, paras. 43-49; HRI/CORE/UNK/1, paras. 205-210).

11. Staffing tables of most municipalities include non-Albanian community representation, as required by the applicable civil service legislation, in particular to the Fair Share Finance policy. As a positive step, procedures for extension of deadlines and multi-ethnic composition of recruitment panels are usually followed, in implementation of legal requirements to adopt affirmative actions for enhancing non-Albanian community representation within the civil service.

12. However, and because the Fair Share Financing policy only promotes numerical representation rather than equal opportunities and effective participation of persons belonging to non-Albanian communities, the end result of the above-mentioned measures is often deceiving. As a matter of fact, to comply with the targets prescribed by the Fair Share Financing policy, municipalities often retain non-Albanian community employees on their payrolls, even when they have stopped working. As part of this practice, many Kosovo Serbs that have boycotted municipal bodies continue to receive salaries from the Kosovo Consolidated Budget.

13. Available statistics are not disaggregated to distinguish between senior and non-senior posts. Gender representation within communities is also not accounted for. The continued displacement of around 240,000 persons belonging to non-Albanian communities,¹ and the absence of an official population census make it difficult to ascertain if a residing non-Albanian community is proportionally represented in the municipal civil service. The Roma, Ashkali and Egyptian (RAE) communities are especially vulnerable amongst non-Albanian communities, being systematically underrepresented in the public sector Kosovo-wide and almost totally excluded from senior positions. Non-Albanian communities are over-represented in posts dedicated to communities and returns, but underrepresented in all other sectors of the municipal civil service.

14. Implementation of equal opportunity procedures to promote a multi-ethnic civil service remains insufficient in municipalities. Only a few municipalities have adopted equal opportunity

¹ *Source:* Internal Displacement Monitoring Centre/United Nations High Commissioner for Refugees, December 2007.

policy statements and implementing strategies and appointed Equal Opportunity Officers responsible for supporting and reporting on their implementation. Outreach to inform non-Albanian communities of recruitment opportunities needs improvement.

15. Women from non-Albanian communities are even more underrepresented as a result of “double discrimination” resulting in both unequal gender and community representation/participation. Very few women belonging to non-Albanian communities occupy senior civil service positions, only being substantially represented in lower level positions in the health sector.

16. **Note:** The 17 February events led to a work boycott of many Kosovo Serbs in municipal and central institutions. Most of these institutions have applied a rather tolerant and considerate approach to signal to Kosovo Serbs a genuine wish to ensure their return to their posts. Continuation of the boycott has already led to dismissal of several boycotting officials.

Question 8. *What measures are being taken to provide members of the Roma, Ashkali and Egyptian communities and internally displaced persons who are not registered or lack important personal documents with the required documents, e.g. by waiving application fees and simplifying bureaucratic procedures, with a view to ensuring their equal access to employment, social security, housing, health care, education and other public services?*

17. Concrete policy and measures are being considered but are still to be adopted in order to ensure the registration of and prevent the risk of statelessness for a considerable number of persons belonging to the RAE communities and internally displaced persons. More broadly and in the framework of the integration of these communities into Kosovo society, it is foreseen that some of these measures will be implemented once an Integration Strategy for the Kosovo RAE communities in Kosovo is adopted.

18. UNHCR implementing partner on legal aid, Civil Rights Programme Kosovo (CRP/K), has concluded 22 Memorandums of Understanding with Kosovo municipalities for fee exemption for registration of RAE community members. No official statistics are available on the results achieved by the MoUs. Most of the municipalities promote the flexible approach in relation to the fee exemption, but not always in a consistent manner. The project continues in 2008 with an expected further 3,000 registrations.

19. The overly-complex civil status registration procedures, especially regarding “subsequent/late” registration and home births, the inconsistent interpretation of the current legislation pertaining to civil status registration, the procedural differences among municipalities and the little or no use of administrative remedies continue to pose challenges.

20. Since October 2006 UNHCR through the CRP/K has facilitated the civil registration of 4,313 persons as habitual residents of Kosovo (which entails the issuance of UNMIK ID cards and travel documents) and civil status registration (issuance of birth, marriage and death certificates). Between January and mid-June 2008, CRP/K assisted 1,432 such cases (civil status: 1246; civil registration: 186).

Question 9. *Please indicate whether the Kosovo Assembly is considering the adoption of a specific law on the rights of persons with disabilities. What legal provisions are in place requiring the accessibility of public buildings for persons with disabilities and how are they enforced in practice (E/C.12/UNK/1, para. 701)?*

Article 3 - Equal rights of men and women

Question 10. *Please provide updated statistical data on the representation of women in legislative, judicial and executive bodies, including in central and local government bodies. Please describe the concrete measures taken to increase the participation of women in the public service, including at senior management levels (E/C.12/UNK/1, table 24), and to implement the equal gender participation requirement of 40 per cent in the Law on Gender Equality (para. 60), as well as the Kosovo Action Plan for the Achievement of Gender Equality (paras. 79-83). Please also provide information on any cases where the Gender Equality Law has been invoked in the courts to challenge gender-based discrimination in the area of economic, social and cultural rights.*

21. According to statistics provided by the Kosovo Judicial Council on gender representation in the Kosovo judicial system at the beginning of 2008, 43.1 per cent of judicial staff are female and 56.9 per cent are male.

22. A study carried out by the OSCE Mission in Kosovo in June 2008 reveals that only 19 per cent of the civil servants in the municipal administration are women. This statistic not comprise primary health care (family health centres), and primary and secondary education (schools managed by the municipality).

23. Kosovo has introduced a quota system of 30 per cent to encourage women participation in politics. As a result, Kosovo has the highest percentage in the Balkans² of women in the parliament and in municipal assemblies. However, there is still room for improvement insofar as women representation in key leadership positions is concerned.

24. For instance, there are 30.8 per cent women in the Assembly of Kosovo (AoK), but only 2 out of 13 Assembly commissions are headed by women: the Committee for Economy, Trade, Industry, Electricity, Transport and Telecommunication, and the Committee for European

² The UNDP *Human Development Report, Kosovo* (2004) placed the country among the high development countries in terms of the Gender Empowerment Measure (GEM). The GEM reflects women's role in decision-making in public and private sectors, specifically the percentage of parliamentary seats held by women; percentage of female legislators, senior officials and managers; women in professional and technical positions, and the estimate earned income of women at purchasing power parity compared with that of men. Kosovo was ranked at 52 out of 177 countries.

Integration. More often than not, there are complaints that introducing the quota system imposed a trade-off - quality vs. quantity - as women in the AoK are, rightly or wrongly, not perceived as being particularly active.

25. There are two woman Ministers in the current Kosovo Government (Ministry of Energy and Mining and Ministry of Justice), and two Deputy Ministers (Ministry of Health and Ministry of Culture, Youth, Sports and Non-Residential Issues).

Central elections - Assembly of Kosovo (2007)

Total	M	W	% (W)
120	83	37	30.8%

Parliamentary committees

	Total committees	M	W	% (W)
Chairpersons	12	10	2	16.6%
1st Vice-chairperson	12	9	3	25.0%
2nd Vice-chairperson	12	8	4	33.3%

There is no woman mayor in Kosovo, and there is only one Deputy-Mayor in Gjilan/Gnjilane.

IV. ISSUES RELATING TO SPECIFIC PROVISIONS OF THE COVENANT (arts. 6-15)

Article 6 - The right to work

Question 11. *Please provide more detailed information on specifically targeted measures, and their results, taken to reduce the unacceptably high unemployment rate (E/C.12/UNK/1, paras. 204 and 208) and to promote the employment of women, youth and minority communities, including the Roma, Ashkali, Egyptian and Serb communities, in the formal economy (paras. 187, 226 and tables 13, 19, 21, 27, 28 and 29).*

26. Local institutions have taken positive steps to improve the low rate of employment. The Ministry of Labour and Social Welfare is preparing possible cooperation with the Ministry of Trade and Industry on developing a strategy on empowerment of persons belonging to non-Albanian communities in private business through incentives, such as subsidies. Other sponsored programmes comprise strengthening employment opportunities through job training and pre-employment training, supporting rural income activities by providing technical assistance and grants to farmers, and support to the accounting and auditing profession in Kosovo through upgrading of the Society for Certified Accountants and Auditors. This investment is geared towards a sustainable private sector in Kosovo by creating jobs and income for families from all communities.

27. The Ministry of Labour and Social Welfare is an implementing partner in the United Nations Development Programme's Employment Generation Programme since 2004. The programme has been implemented through local and regional employment offices. Two specialized programmes are part of it: the "Support to Agricultural Organizations" assists individual farmers to join together into Agricultural Cooperatives, provides technical assistance, grants and training; and the "Active Labour Market Programme" has been designed in response to the high youth unemployment rate. Information on application procedures for the programmes is also available in the Serbian language and at the employment offices in non-Albanian inhabited areas.

Question 12. Please provide additional information on the privatization process (E/C.12/UNK/1, paras. 167-170). What measures have been implemented to ensure an ethnically proportionate composition of the workforce following the privatization of former socially owned enterprises (para. 169)? What measures have been implemented to prevent any discrimination in the distribution of 20 per cent of the sale proceeds from the liquidation and privatization of such enterprises to "eligible" workers and what are the criteria for defining such eligibility (para. 168)?

28. It has to be understood that prior to privatizing any former socially-owned enterprise, the Kosovo Trust Agency furnished all private investors with Information Memoranda and additional information as requested and prepared for each enterprise to be privatized. The Information Memoranda contained amongst other information details of the enterprise's employee composition. Certain enterprises of strategic importance and with large numbers of employees were offered for privatization with the understanding that a minimum level of employment had to be retained. Respective provisions safeguarding this policy were all contained in sales contracts for these enterprises and thereby reflected the ethnic composition of the population in the geographical area the enterprise was located in. Though such provisions would deal with numbers of employees retained, they certainly did not reflect predetermined ethnic quotas to a private investor buying the enterprise. In addition, enterprises to be privatized usually consist of different ethnic compositions depending on their location within Kosovo.

29. As to measures that were taken by UNMIK to prevent any discrimination in the distribution of 20 per cent of the sale proceeds, under UNMIK Regulation No. 2004/45 Amending UNMIK Regulation No. 2003/13 on the Transformation of the Right of Use to Socially-Owned Immovable Property, the representative body of employees in the concerned enterprise in cooperation with the Federation of Independent Trade Unions of Kosovo is to establish on a non-discriminatory basis and submit to the Kosovo Trust Agency a list of eligible employees entitled to receive payments. The Kosovo Trust Agency then reviews the list received and makes such adjustments as it deems necessary to ensure equitable access by all eligible employees to the funds to be distributed. The criteria for defining eligibility of an employee are specifically designed to ensure access to the workers' benefits for all ethnic groups of workers, regardless of their actual employment by the enterprise to be privatized. In particular, the eligibility criteria required an employee to be registered with the enterprise at the time of privatization or initiation of the liquidation procedure and to have been on the payroll of the enterprise for not less than three years. Employees could, however, claim they would have been registered as employed by the enterprise had they not been subjected to discrimination. These

employees are not precluded from the entitlement, but would have to submit an application for review of the list to the Kosovo Trust Agency and if such application was not successful could have complained to the Special Chamber of the Supreme Court of Kosovo. Any complaints regarding the list of eligible employees to the Kosovo Trust Agency and thereafter to the Special Chamber could be based on the grounds of discrimination.

Question 13. *What measures are being taken to regularize the situation of persons working in the informal economy?*

Article 7 - The right to just and favourable conditions of work

Question 14. *Please indicate the current minimum wage levels and whether such levels are sufficient to ensure an adequate standard of living for workers and their families (E/C.12/UNK/1, para. 248).*

Question 15. *Please specify how the principle of equal remuneration for work of equal value is being enforced in practice, especially as regards women and members of minority communities (E/C.12/UNK/1, para. 246).*

30. GDP per capita stands at 1,573 euros in 2007.³ Approximately 45 per cent of the population lives in poverty (below 1.42 euro/day), and 15 per cent in extreme poverty (below 0.93 euro/day).⁴ Unemployment is pervasive, standing around 40 per cent. Women in general have an unemployment rate of 60 per cent, with the highest rate in the 15-24 age group where it reaches 81 per cent.

Article 8 - Trade union rights

Question 16. *Please indicate whether the right to strike is explicitly guaranteed by law (E/C.12/UNK/1, para. 291) and whether the draft laws on strike and on freedom of association in trade unions in Kosovo (para. 262) have been promulgated. Please describe the specific guarantees and restrictions of these laws regarding the right to strike and the establishment and operation of trade unions for the different categories of employees.*

31. The right to strike is still not explicitly guaranteed by law, as the draft Laws on Strike and on Freedom of Association in Trade Unions in Kosovo have not been promulgated yet.

32. According to the Legal Office of the Ministry of Labour and Social Welfare, the draft Labour Law, the draft Law on Strike and the draft Law on the Right and Freedom of Association in Kosovo were sent back from the Assembly of Kosovo to the Government for reconsideration. These laws will most likely be part of the 2009 legislative agenda.

³ International Monetary Fund, *Aide Memoire*, 21-29 April, 2008.

⁴ *Idem* 2.

Question 17. Please specify when the General Collective Agreement of September 2004 entered into force (E/C.12/UNK/1, para. 266) and whether a new collective agreement has been adopted or is currently being discussed to replace the General Collective Agreement after its expiry (para. 238). Please provide detailed information on the content and implementation of the General Collective Agreement currently in force.

33. The General Collective Agreement entered into force on 20 September 2004. According to information obtained from the Ministry of Labour and Social Welfare the General Collective Agreement has been implemented only partially since 1 January 2005 due to budgetary implications. The signatory parties of the General Collective Agreement (the Ministry of Labour and Social Welfare, the Association of Trade Unions of Kosovo and Kosovo Economic Chamber) are discussing possibilities to involve in the dialogue other social and economic partners in Kosovo, such as the Kosovo Alliance of Business, for a new General Collective Agreement.

34. The General Collective Agreement regulates among others: the establishment of labour relations; rights, obligations and responsibilities of the employer and the employee; the procedure for the verification of knowledge and skills; a preliminary classification for work and work results; assignment (reassignment to another position) of employees in extraordinary circumstances; reassignment of employees from one place (location) to another; finding a job with another employer; work at home; assignment of employees out of technical, technological and structural redundancy; compensation during the procedure of assignment of the redundant employees; working hours; night work; right to paid and unpaid leave of personal incomes; systematization of disabled employees into working positions; annual leave; maternity leave; responsibilities and disciplinary procedure; damage compensation; extension of the term for termination of work relation; safety and security at work; young professionals; activity and conditions of trade unions functioning; material conditions for trade union activity and functioning; trade unions' immunity; general regulations on salaries and other personal incomes; salaries based on work results; payments of expenditures related to work; rights and obligations of parties and means to resolve conflicts; and the harmonization of basic salaries.

Article 9 - Social security

Question 18. Please indicate whether the minimum levels of war invalids' and survivors' benefits (E/C.12/UNK/1, table 36), basic old-age pension benefits (para. 332) combined with contribution-based old-age pension benefits (para. 324), disability pension benefits (para. 341), as well as social assistance payments (table 52), are sufficient to ensure an adequate standard of living for recipients and their dependants, and how these amounts relate to average salaries in Kosovo.

Question 19. Please provide more detailed information on the impact of the loss of pension entitlements that Kosovo Albanians who lost their jobs within the public, publicly-owned and socially-owned sectors of employment had accrued under Yugoslav law (E/C.12/UNK/1, para. 304). Please also indicate whether any habitual residents of Kosovo receive pensions from the Serbian authorities.

Question 20. *Please indicate whether there are any groups, such as the Roma, Ashkali, Egyptian or other minority communities, who are not covered by existing social security schemes, or are covered by those schemes to a significantly lesser percentage than other groups of the population. What measures are being taken to ensure that such disadvantaged groups are provided with adequate access to social security, in particular social assistance?*

35. The access to social security schemes among Kosovo Roma, Ashkali and Egyptians remains an issue. Habitual residence in Kosovo is a necessary requirement for a person and/or a family to benefit from the social assistance scheme. Therefore, the lack of civil registration⁵ among Kosovo Roma, Ashkali and Egyptians⁶ accounts as the main factor that prevents access to these benefits.

Article 10 - Protection of the family, mothers and children

Question 21. *Please provide information on measures taken to prevent acts of domestic violence, e.g. by intensifying public awareness campaigns and training for judges, prosecutors and the police on the strict application of criminal law provisions punishing acts of domestic violence, reviewing sentencing policies and ensuring that the statutory time limits for issuing protection orders are being enforced. Please also indicate the measures taken to enhance the assistance provided to victims of domestic violence, e.g. by increasing the capacity of existing shelters and by opening new shelters and strengthening rehabilitation and victim protection programmes (E/C.12/UNK/1, paras. 102-110).*

Question 22. *Please provide more detailed and updated information on the number of reported cases of women and children who are trafficked to, from, within and in transit through Kosovo for purposes of forced labour, sexual exploitation and organ trafficking, and indicate the measures taken to ensure the strict application of article 139 of the Provisional Criminal Code of Kosovo by judges and prosecutors who “often resort to minimum charges and subsequent convictions for facilitation of prostitution, instead of opting for charges of trafficking” (E/C.12/UNK/1, para. 112). Please also clarify the concept of “anti-social” children and why such children are deprived of the special forms of protection available for children victims of trafficking (para. 456).*

⁵ The issue of registration and documents encompasses two different procedures. The first procedure refers to the registration of being a habitual resident in Kosovo and includes the issuing of identification cards and travelling documents. The second procedure refers to the civil status registration and concerns the issuing of documents such as birth, marriage and death certificates.

⁶ UNHCR estimates that approximately 20 per cent to 40 per cent of members of Kosovo Roma, Ashkali and Egyptian communities are not registered as habitual residents in Kosovo.

Question 23. *What concrete measures have been taken by the Labour Inspectorate, the Centres for Social Work and other child protection institutions to combat child labour and what have been their results (E/C.12/UNK/1, paras. 400-419)?*

Article 11 - The right to an adequate standard of living

Question 24. *Please describe in detail the programmes in place to reduce the poverty rate of 37 per cent (E/C.12/UNK/1, paras. 464 and 474), especially among families with numerous children, unemployed persons and non-Serb ethnic minority communities (para. 469). In particular, what steps are being taken to achieve the aim for the period 2007-2013 of eradicating extreme poverty (paras. 493 and 479), which is most prevalent in rural areas (para. 469) and particularly affects female-headed households (para. 480), internally displaced persons (para. 483) and the Roma, Ashkali and Egyptian communities (para. 484)?*

Question 25. *Please comment on reports that Category A claims submitted by Kosovo Albanians have frequently been recognized prima facie, while residential property claims by Kosovo Serbs (predominantly Category C claims) have been treated less favourably by the Housing and Property Claims Commission (E/C.12/UNK/1, paras. 518-522). Please specify whether a deadline has been set for the submission of claims to the Kosovo Property Agency and whether the need to inform potential claimants has been taken into account in determining such deadline. Please also provide information on the progress achieved in the resolution of the civil claims for compensation of property damage allegedly caused by KFOR, UNMIK, the PISG or the municipalities during the March 2004 riots, which have been suspended upon request by the UNMIK Department of Justice in August 2004 (paras. 534-536).*

36. Cases involving Category A and Category C claims are amongst the most complex and contentious cases within the Housing and Property Directorate caseload. Dissatisfied parties and political actors have in the past often accused the Housing and Property Claims Commission of bias. UNMIK and the OSCE Mission in Kosovo do not have substantive evidence supporting such allegations. Claims were adjudicated by the HPCC on their merits according to the applicable law in Kosovo and based on the documentation submitted in support of the claim.

37. The deadline for claim intake was set through Section 8 of UNMIK Administrative Direction 2007/8 Implementing UNMIK Regulation 2006/50 On the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property. The deadline for the submission of claims to the KPA elapsed on 3 December 2007 and was not extended. In order to disseminate information regarding the deadline for submitting claims to the KPA, the KPA launched an advertising campaign in August 2007 throughout the region including Serbia proper informing and notifying potential claimants of the impending deadline. Although funding constraints prevented an aggressive campaign, the deadline was nevertheless widely publicized through several interviews on TV, radio and newspapers as well as through the dissemination of information leaflets. Notification also appeared on the Agency's official website.

38. There is currently discussion and consultation relating to the resolution of civil claims for compensation of property damage allegedly caused by KFOR, UNMIK, the Provisional Institutions of Self-Government or the municipalities (such claims in the majority of cases do not pertain to the March 2004 riots but to the 1998/1999 conflict) to be addressed before the competent courts. The UNMIK Department of Justice instructed on 15 November 2005 the courts in Kosovo to process those claims for damage committed by identified natural persons and for damage committed after October 2000. Such cases constitute a minor number within the 18,000 cases and the bulk of the caseload remains unsolved for the time being.

Question 26. Please provide a detailed assessment of the impact of the strategies and programmes designed to create the necessary social and economic conditions for the voluntary and sustainable return of internally displaced persons and refugees belonging to minority communities (E/C.12/UNK/1, paras. 563-584). Please also provide information on the impact of measures taken to enable minority returnees to safely access their illegally occupied land, including agricultural land.

39. More voluntary minority returns to Kosovo occurred in 2007 than in 2006, thus reversing the continuously declining trend of returns since 2003. As per UNHCR statistics, 1,799 minority community members returned in 2007, as against 1,669 persons in 2006. This increase in returns was achieved in spite of the lowest ever funding for returns in 2007 amounting to €5.2 million only from Kosovo Consolidated Budget.

40. The increase in minority returns in 2007 can be attributed to the new returns policy, revised Manual for Sustainable Returns, and protocol of cooperation on returns between Belgrade and Pristina, all facilitated by UNMIK in 2006. These policies simplified the steps for return and delivery of assistance to the returnees, and improved the conditions for voluntary return of minority IDPs and refugees to Kosovo. Importantly, organized returns projects in 2007 were completed in more or less six-seven months, as compared to the past when it used to take more than one year to fully complete projects. It may be stressed that the overall number of returns continues to be abysmally low, and much more effort - including increased funding - shall be required of both Kosovo institutions and the international community if all of Kosovo's displaced minority community members, who are willing to return, are able to do so.

41. Minority returns are able to occur by virtue of the fact that these returnees are able to access their residential properties. Minority returnees can approach the local courts as well as the Kosovo Property Agency (KPA) to gain access to any additional residential properties, or agricultural or commercial properties, that are illegally occupied.

42. The Manual for Sustainable Returns was declared as no longer binding by the Ministry of Communities and Returns, and the intention was expressed by the Minister and senior ministerial officials to conduct a revision of the document shortly.

43. At the municipal level, Municipal Return Strategies were developed and endorsed in 50 per cent of the Kosovo municipalities. It has to be noted that the level of involvement of internally displaced persons and their representatives in the drafting of these strategies was low, partially due to the boycott of institutions by the Kosovo Serb community following the 17 February events, partially due to the lack of capacity and engagement of the Municipal Return

Officers. The Strategies often are not based on an accurate and realistic needs assessment and do not reflect the actual conditions and resources available in the municipalities. Income generation components that are part of organized return projects are not always fully implemented and therefore often are not efficient enough to ensure economic sustainability. Access to the labour market is limited for returnees, mainly due to lacking language skills and to the perceived and actual limitations of freedom of movement. The process of land repossession by returnees, even if implemented and enforced by the Kosovo Police Service, in many cases is met with resistance from illegal occupants and with recurring, partially violent, attempts to reverse the repossession.

Question 27. Please provide updated information on the numbers of forced returnees, as well as on the measures taken to enable them to return safely, ensure their economic and social reintegration in Kosovo and protect their rights under the Covenant (E/C.12/UNK/1, para. 563).

44. So far, Kosovo has readmitted more than 51,000 Kosovars since 2000. According to the UNMIK/OCRM database, the number of forced returnees from January to June 2008 stands at 1,332 persons. The highest number of forced returns are from Germany, followed by Switzerland and Sweden. Kosovo has an obligation to accept the repatriation of Kosovars, who have no legal status in host countries, in accordance with the UNHCR recommendations on the Continued International Protection Needs of Individuals from Kosovo. The host countries are obliged by international law to take such recommendations under consideration and to ensure that persons still in need of international protection are not forcibly returned to their country of origin.

45. In order to ensure economic and social reintegration of forced returnees UNMIK/OCRM together with the Kosovo institutions had drafted the Strategy for Reintegration of Repatriated Persons and its Action Plan for implementation. The Strategy covers the areas of immediate reception assistance, access to civil documents, education, health, employment, social welfare and housing. It foresees affirmative action towards minority groups who have less opportunities. Both the Strategy and its action plan were approved by the Government of Kosovo; however, there is no financial support to start its implementation.

Question 28. Please provide data, including the number of women and children, on the remaining 272 individuals living in the lead-contaminated camps in Northern Mitrovicë/Mitrovica and Zvečan/Zveçan, as well as detailed information on the process of providing information to those individuals causing them to remain “by their choice” in the camps concerned (E/C.12/UNK/1, para. 560). Please indicate whether those individuals have meanwhile been relocated to environmentally safe sites and whether all victims of lead poisoning, especially children, have received follow-up medical treatment and compensation for the damage caused to their health (E/C.12/UNK/1, para. 558). Please also provide information on the measures taken to provide adequate long-term accommodation for the inhabitants of the Osterode camp (para. 559).

46. According to a May 2008 survey conducted by the implementing partner, Norwegian Church Aid (NCA), for the management of RAE IDP camps in northern Mitrovica/e's, 38 families (140 individuals) continue to reside “by their choice” in Cesmin Lug camp. It may be recalled that, of the three camps identified for emergency relocation to Osterode camp - Zitovac,

Kablar Barracks, and Cesmin Lug - only Cesmin Lug camp has not been completely evacuated. This data, however, has not been disaggregated to indicate the number of women and children among this population sample. It is useful to note that, among these 38 families, the average family size is 3.68, and the number of female-headed households is 2.

47. NCA, with funding from UNICEF, has performed lead sensitization activities in all three of northern Mitrovica/e's RAE IDP camps (Liposavic, Cesmin Lug and Osterode) to inform IDPs of the dangers of lead exposure. UNMIK also continues to consult with Cesmin Lug residents and leaders, as well as the wider RAE leadership in the region and RAE advocacy organizations within Kosovo and abroad, to impart the humanitarian urgency of a complete and voluntary evacuation of remaining Cesmin Lug residents to Osterode camp. According to camp leaders, the unwillingness of these remaining Cesmin Lug residents to relocate to Osterode camp is based on three main factors: (1) lack of faith that safe, permanent housing will result from their humanitarian relocation, and that Cesmin Lug residents will not simply be relocated, yet again, from one "temporary" situation to another; (2) the perceived higher standard of living and social cohesion within Cesmin Lug camp when compared to conditions at Osterode; (3) the perception that Osterode camp, although intended to provide safe medical relocation and treatment for RAE IDPs exposed to unsafe levels of lead exposure, is, itself, just as contaminated as Cesmin Lug. This perception results from the close proximity of Osterode to Cesmin Lug, as well as a recent (April 2008) round of capillary blood-lead level testing, commissioned by northern Mitrovica/e's RAE leadership and carried out by the Serbian-government Institute of Public Health, indicating dangerously high blood-lead levels among children at Osterode camp. These tests were carried out without the involvement of WHO and have not been endorsed by WHO.

48. Medical treatment, including chelation therapy and nutritional supplements, was carried out for those IDPs relocated to Osterode camp. These medical components were discontinued in 2007 as determined by WHO to no longer be of necessity.

49. Since March 2008, a Board of Inquiry, instituted by UNMIK, is examining the facts surrounding the situation experienced by the residents of Roma Mahalla, Mitovicë/a, Kosovo following their displacement in 1999, including the Roma, Ashkali and Egyptian population's health and humanitarian condition and to identify potential strategies for addressing any residual issues resulting from that displacement.

50. Osterode camp continues to have the necessary infrastructure to afford long-term accommodation of all present residents, as well as to receive all remaining Cesmin Lug residents. Consultations recently concluded between UNMIK/OCRM and Kosovo's Ministry for Returns and Communities (MCR) has elicited a pledge by MCR for continued funding and support of Osterode camp through 2009.

Question 29. What progress has been achieved in reconstructing the Roma "Mahalla" on the south bank of the Ibar river in Mitrovicë/Mitrovica, which was destroyed in 1999, and in regularizing and upgrading existing informal settlements of Roma, Ashkali and Egyptian communities (E/C.12/UNK/1, para. 553)?

51. According to UNDP, the recently completed Phase I of the multisectoral "Return to Roma Mahala, Mitrovicë/a Municipality" project saw the construction of 48 apartments and 54 private

housing units. According to UNDP, 95 families (approximately 440 individuals) have moved into these units. Implementing partner Norwegian Church Aid is also currently constructing two additional apartment buildings, scheduled for completion in spring 2009, which will house an additional 24 families. This first phase was coordinated by UNMIK and Mitrovica/e Municipality, utilizing funds from various international donors, as well as UNMIK, UNDP and PISG (Kosovo Government) funding. A proposed Phase II, "Sustainable Return and Development in Roma Mahala", coordinated by Mitrovica/e Municipality and UNKT (United Nations Kosovo Team), reflects the need to accomplish returns within a development framework that aims at socio-economic sustainability and full integration in the wider Mitrovica/e area. It is proposed that significant income generation and community development components accompany the construction of a further 104 units for RAE beneficiaries at Roma Mahala. At this time it appears that funding, allocation of land by the municipality (of the 15-hectare "footprint" of the original Mahala, only 3.49 hectares have been allocated for reconstruction), as well as the willingness of IDPs themselves to return to the Roma Mahala (recent survey data on northern Mitrovica/e's IDPs indicates concerns over income and security are impacting IDPs' willingness to return) are the key issues which will affect continued reconstruction and returns at Roma Mahala.

52. According to UNHCR, the possession of newly constructed apartment units at Roma Mahala has been turned over to former Mahala residents without formal documentation of property ownership. These Mahala residents have nonetheless been accepted as "habitual residents" of Roma Mahala by Mitrovica/e Municipality and, as such, determined to be eligible for return/housing assistance, thus "regularizing" their previously informal status.

53. No concrete policy measures have been taken so far to confer legal security of tenure for persons living in informal settlements. An action plan on regularization of informal settlements is yet to be developed. Notably, there is some discussion in individual cases, such as for Rudesh/Rudeš settlement in Istog/Istok Municipality.

Question 30. What measures have been taken to prevent any form of discrimination in the rationing of the supply of electricity, including through the "ABC policy" (E/C.12/UNK/1, para. 606)?

Article 12 - The right to the highest attainable standard of physical and mental health

Question 31. Please provide detailed information on the measures taken to reduce the high infant and maternal mortality rates (E/C.12/UNK/1, paras. 712-715) as well as the estimated high number of clandestine abortions (para. 734).

Question 32. Please provide an assessment of the impact of the community-based approach to mental health (E/C.12/UNK/1, paras. 754-755), as well as information on any legal provisions which regulate the process of committing mental health patients to psychiatric or social-care institutions and protect their rights within such institutions, and on their enforcement.

54. In respect of legislation in this area, the Yugoslav Law on Non-Contentious Procedure has always been applicable in Kosovo. On 30 May 2008, in accordance with the Constitutional

Framework, the Assembly of Kosovo forwarded a new Law on Non-Contentious Procedure, to the SRSG for promulgation. This law also dealt with regulating the process of committing persons to mental health institutions. UNMIK responded to the Assembly on 14 June 2008 stating that this Law could not be promulgated due to its lack of overall legal clarity. UNMIK found the law fundamentally flawed in a number of substantive areas, reflecting outdated methods related to mentally ill persons, which are inconsistent with current international practices.

Articles 13 and 14 - The right to education

Question 33. Please provide more detailed information on school attendance and dropout rates at the primary and secondary levels, disaggregated by gender, rural/urban areas and ethnic communities.

Question 34. What measures are being taken to address the lack of classrooms and transport in rural areas to ensure that pupils do not travel long distances, often by foot (E/C.12/UNK/1, para. 765), to attend school, in particular after the introduction of an additional compulsory ninth grade, which is frequently taught in the facilities of secondary schools in urban areas (E/C.12/UNK/1, para. 786), “resulting in many females leaving the school due to the difficult economical and social conditions, lack of transportation and lack of safety” (paras. 803 and 100)? Please also describe the impact of measures taken to mitigate the effects of running schools in up to four shifts per day and to ensure an adequate electricity supply to schools (paras. 769 and 786).

Question 35. Please provide information on the reasons why some ethnic communities rely on “parallel” education institutions (HRI/CORE/UNK/1, para. 233) in Kosovo and indicate the measures taken to ensure the quality of education in such institutions.

55. The unavailability of Kosovo curricula, textbooks and courses in the Serbian language accounts for the increasing reliance on parallel education institutions managed by the Republic of Serbia by non-Albanian communities, particularly Serbian-speaking pupils and students.

56. Few efforts have been initiated with the aim of integrating parallel schools into a single unified education system and there has been no dialogue between Kosovo Serbs and the Ministry of Education, Science and Technology regarding the establishment of a commonly agreed Kosovo curriculum in all the official languages.

57. On a positive note, recently adopted legislation on Local Self-Government and Municipal Education by the Assembly of Kosovo creates mechanisms whereby central authorities, in consultation with local authorities, communities, the authorities of the Republic of Serbia, and the International Civilian Representative may recognize Serbian language education curricula and integrate them in the Kosovo educational system. As part of this legislation, municipalities in which Kosovo Serbs are the majority receive enhanced competencies inter alia in the sector of education.

Question 36. Please provide detailed information on the availability and quality of mother-tongue education and of instruction of Albanian as a non-native language for minority children, including Bosniak, Gorani, Turkish and Roma children, at the primary, secondary and tertiary levels. To what extent are the cultures and traditions of minority communities reflected in school curricula (E/C.12/UNK/1, para. 857)?

58. Although the applicable legislation contains legal safeguards on education in mother tongue, such education is available only for Kosovo Turkish and Bosnian communities. However, no curriculum-based textbooks in the Turkish and Bosnian languages are available for secondary education. According to central authorities, the high number of courses as opposed to the small number of non-Albanian communities students within secondary education, makes printing schoolbooks in their languages economically unattractive for print houses.

59. As for higher education, the University of Prishtinë/Priština provides courses only in the Albanian language, whereas Education and Business Faculty branches in Prizren and Pejë/Pec provide courses for a limited number of students in the Turkish and Bosnian languages.

60. Kosovo Roma, Ashkali and Egyptian pupils, and in particular girls, are most vulnerable to non-enrolment or early dropout from compulsory education due to community-specific traditions. The action of responsible authorities to promote increased access to education and ensure compulsory enrolment remains insufficient. No educational subjects have been created to provide Kosovo Roma children also with education in their language, history and culture.

61. Gorani pupils who wish to receive education in the Serbian language continue to face great difficulties. A Kosovo education curriculum in Serbian is not available yet. As of the school year 2007/08, the Ministry planned but did not implement a transition of Gorani pupils from parallel education into the Kosovo-wide curriculum. As long as no adequate educational structures are in place for those students who wish to receive education in the Serbian language, including the Gorani students, parallel schools will continue to fill a gap existing in the Kosovo educational system by ensuring access to education in an official language which members of the Gorani community are naturally inclined to speak.

Article 15 - The right to take part in cultural life

Question 37. Please provide information on the measures taken to protect, preserve, promote and disseminate minority cultures, and to promote the use of minority languages, including in official communications.

62. In May 2008, a Language Commission was established to receive complaints and oversee the implementation of UNMIK Regulation 2006/51 on the Law on Languages. The Law recognizes and requires equal public authority use of the Albanian and Serbian official languages at all administrative levels. In addition, at the municipal level, languages of other Kosovo communities can be used in relation with municipal authorities and recognized as official or in official use in accordance with the requirements set forth by the Law.

63. However, the effective implementation of the law in question is impeded by lack of budget, human resources and capacities at central and local level. The lack of an official

population census prevents recognition of community languages through demographic thresholds. The Language Commission does not reflect the linguistic diversity of Kosovo and lacks adequate budget and office space to exercise its mandate. The obligations of institutions and the rights of users of official and other community languages are broadly unknown in Kosovo, partly caused by the non-publication of important administrative instructions implementing the Law and the failure to undertake a public information campaign. Although the Turkish language has been recognized in three municipalities, other community languages traditionally spoken at the municipal level, such as the Romani language, have not been recognized yet. There continues to be no public protection, neither through education nor other measures, of particularly vulnerable languages such as the Romani, whose usage remains restrained to the private sphere.

Question 38. What measures are being taken to promote a culture of tolerance and mutual respect among the different ethnic groups in Kosovo?

64. At central level, key institutions such as the Prime Minister and President's Offices and the Assembly of Kosovo have established focal points to uphold the rights of communities specifically, but more generally to promote inter-communal tolerance. For example the Communities Consultative Council in the President's Office aims to "contribute to harmonious relations between all communities" in Kosovo. These are welcome developments, but much of the Government's measures remain symbolic in nature through public statements, the impact of which is difficult to ascertain. In general, implementation of specific measures to promote a culture of tolerance and mutual respect among the different ethnic groups and respect remains problematic.

65. The OSCE Mission in Kosovo has observed that the implementation of specific measures is inconsistent, with some municipalities performing well due to active and committed Municipal Communities Offices and Municipal Returns Officers, while others neglect their obligations to promote peaceful inter-community relations. In some municipalities increased outreach activities by municipal authorities to Kosovo Serbs and other communities was noticed prior to the 17 February events, but this positive trend has not continued afterwards. Many municipal initiatives that aim at building bridges often take the form of support to cultural events or targeted visits to address specific issues. However, very few explicit projects for inter-community dialogue are implemented by municipalities.
