

REPUBLIC OF SERBIA¹

Follow-up - State Reporting

i) Action by Treaty Bodies

CCPR, A/60/40 vol. I (2005)

CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

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233. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the comprehensive table presented below. Since 18 June 2004, 15 States parties (Egypt, Germany, Kenya, Latvia, Lithuania, Morocco, the Netherlands, the Philippines, Portugal, the Russian Federation, Serbia and Montenegro, Slovakia, Sweden, Togo and Venezuela) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only six States parties (Colombia, Israel, Mali, Republic of Moldova, Sri Lanka and Suriname) have failed to supply follow-up information that had fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

224. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

<u>State Party</u>	<u>Date Information Due</u>	<u>Date Reply Received</u>	<u>Further Action</u>
...			
<i>Eighty-first session (July 2004)</i>			
Serbia and Montenegro	29 July 2005	4 November 2004 (on Kosovo) and 24 November 2004 (confirming further replies to come within one-year time	Decision on further action will be required at the eighty-fifth session.

frame)

11 July 2005

(complete reply)

¹ [Ed. Note: Effective 6 June 2006, Serbia and Montenegro changed its name to Republic of Serbia].

CCPR, A/61/40 vol. I (2006)

CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

234. In chapter VII of its annual report for 2003 (A/58/40, vol. I), the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/60/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2006.

235. Over the period covered by the present annual report, Mr. Rafael Rivas Posada continued to act as the Committee's Special Rapporteur for follow-up to concluding observations. At the Committee's eighty-fifth, eighty-sixth and eighty-seventh sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions on a State-by-State basis.

236. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table. Over the reporting period, since 1 August 2005, 14 States parties (Albania, Belgium, Benin, Colombia, El Salvador, Kenya, Mauritius, Philippines, Poland, Serbia and Montenegro, Sri Lanka, Tajikistan, Togo and Uganda) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only 11 States parties (Equatorial Guinea, Greece, Iceland, Israel, Mali, Moldova, Namibia, Suriname, the Gambia, Uzbekistan and Venezuela) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

237. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

State party	Date information due	Date reply received	Further action
...			
Eighty-first session (July 2004)			
...			
Serbia and Montenegro	29 July 2005	4 November 2004 (on Kosovo) and 24 November 2004 (confirming further replies to come within a one-year time frame)	-
Initial report examined	Paras. 11, 14 and 18	11 July 2005 (complete reply)	At its eighty-sixth session, the Committee decided to take no further action.
...			

CCPR, A/62/40 vol. I (2007)

CHAPTER VII. FOLLOW-UP ON CONCLUDING OBSERVATIONS

220. In chapter VII of its annual report for 2003 (A/58/40, vol. I), the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/61/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2007.

221. Over the period covered by the present annual report, Mr. Rafael Rivas-Posada continued to act as the Committee's Special Rapporteur for follow-up to concluding observations. At the Committee's eighty-fifth, eighty-sixth and eighty-seventh sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State. In view of Mr. Rivas-Posada's election to the Chair of the Committee, Sir Nigel Rodley was appointed the new Special Rapporteur for follow-up on concluding observations at the Committee's ninetieth session.

222. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.¹ Over the reporting period, since 1 August 2006, 12 States parties (Albania, Canada, Greece, Iceland, Israel, Italy, Slovenia, Syrian Arab Republic, Thailand, Uganda, Uzbekistan and Venezuela) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only 12 States parties (Brazil, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Mali, Moldova, Namibia, Surinam, Paraguay, the Gambia, Surinam and Yemen) and UNMIK have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

223. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided before 1 August 2006 to take no further action prior to the period covered by this report.

...

Eighty-seventh session (July 2006)

...

State party: Kosovo (Serbia)

Report considered: Report by UNMIK, submitted on 19 and 20 July 2006.

Information requested:

Para. 12: Investigation of outstanding war crimes; prosecution of the culprits; reparation for victims; introduction of effective witness-protection programmes; full cooperation with the International Criminal Tribunal for the former Yugoslavia (arts. 2.3, 6 and 7).

Para. 13: Effective investigation of disappearances and abductions; prosecution of perpetrators; giving relatives access to information about victims' fate and adequate compensation (arts. 2.3, 6 and 7).

Para. 18: Steps to ensure safe conditions for sustainable return of displaced persons, in particular those belonging to minorities; efforts to ensure they recover their property, receive compensation and benefit from rental schemes for property temporarily administered by the Kosovo Property Agency (art. 12).

Date information due: 1 January 2007

Date information received: NONE RECEIVED

Action taken:

19 April 2007 A reminder was sent to UNMIK.

29 June 2007 A further reminder was sent.

Recommended action: Consultations should be scheduled for the ninety-first session.

Next report due: ...

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Note

1/ The table format was altered at the ninetieth session.

CCPR, CCPR/C/SR.2533 (2008)

Human Rights Committee
Ninety-second session

Summary record of the 2533rd meeting
Held at Headquarters, New York,
on Wednesday, 2 April 2008, at 11 a.m.

...

Follow-up to concluding observations on State reports and to Views under the Optional Protocol

Progress report of the Special Rapporteur for follow-up on concluding observations

1. Sir Nigel Rodley (Special Rapporteur for follow-up on concluding observations), introducing an updated English version of his earlier report (CCPR/C/92/R.1) tracking the changes made in the light of developments since its publication, said that he had consulted with representatives of the Central African Republic, Mali, Namibia, Sri Lanka and Suriname and would soon be meeting with representatives of the Democratic Republic of the Congo. Regrettably, it had not been possible to meet with representatives of the Gambia and Namibia, which had not been forthcoming in making the necessary arrangements.

2. The Special Rapporteur's role was to urge States to provide prompt feedback on the points raised by the Committee in its concluding observations. Such efforts were counter-productive, however, if requests for information were made year after year and a subsequent periodic report of the State party was due or overdue. In those cases, the State party should be encouraged to submit a report rather than respond to concerns paragraph by paragraph. Nevertheless, failing the submission of a report, a response to the individual paragraphs would be better than nothing.

3. He hoped that the updated version of his report could be reformatted to make it more reader-friendly. Concerning overdue responses to concluding observations, he recommended, with respect to Moldova and Uzbekistan, that no further action should be taken in view of the States parties' submission of periodic reports.

...

31. Mr. O'Flaherty wondered whether any action had been taken on the earlier suggestion that a follow-up on the question of Kosovo might be arranged with the relevant officials in New York.

32. Sir Nigel Rodley said that such a meeting had been requested and that a communication had been received in that connection from the United Nations Mission in Kosovo which, unfortunately, he had not been able to study in time for the current session.

33. *The recommendations contained in the progress report of the Special Rapporteur for*

follow-up on concluding observations, as amended, were approved.
The meeting was suspended at 12.30 p.m. and resumed at 12.35 p.m.

...

CCPR, CCPR/C/SR.2564/Add.1 (2008)

HUMAN RIGHTS COMMITTEE

Ninety-third session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 2564th MEETING

Held at the Palais Wilson, Geneva,

on Wednesday, 23 July 2008 at 11.25 a.m.

...

FOLLOW-UP TO CONCLUDING OBSERVATIONS ON STATE REPORTS AND TO VIEWS UNDER THE OPTIONAL PROTOCOL

...

Report of the Special Rapporteur for follow-up on concluding observations (CCPR/C/93/R.1)

1. Sir Nigel RODLEY, Special Rapporteur for follow-up on concluding observations, introduced his report contained in document CCPR/C/93/R.1.

...

9. The following information should be inserted under "Action taken" in the case of Kosovo (Serbia), on which a report had been submitted by the United Nations Interim Administration Mission in Kosovo (UNMIK): "22 July 2008: During the ninety-third session the Special Rapporteur met with Mr. Roque Raymundo, senior human rights adviser to UNMIK, who provided additional written and oral information on paragraphs 12, 13 and 18 and undertook to submit further information on: (a) cases where perpetrators of disappearances and abductions were tried and sentenced; access by relatives to information about the fate of victims and measures taken to secure adequate resources for victim compensation schemes (para. 13); and (b) measures taken to implement the strategies and policies to ensure safe and sustainable return, in particular for minority returnees, as well as to ensure that minority detainees benefit from the special rental scheme of the Kosovo Property Agency (para. 18). The meeting was also attended by a representative of the OHCHR Priština Office." It was at present unclear exactly where responsibility lay in Kosovo, since both the territorial Government and the international community were taking transitional measures for the establishment of authorities. The situation needed to be monitored closely and reviewed at the ninety-fifth session.

...

13. [Ms. CHANET] With regard to Kosovo, it was important to ensure that the Committee retained a contact person once UNMIK was dismantled.

...

19. Mr. LALLAH expressed support for Ms. Chanet's suggestion regarding the situation in Kosovo.

...

30. [Sir Nigel RODLEY] He took note of the point concerning the need to maintain contact with the representatives of Kosovo during the ongoing transition and trusted that the OHCHR representative in Priština, who was not the same as the human rights officer attached to UNMIK,

would provide the kind of vigilance called for by Ms. Chanet.

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39. The draft report of the Special Rapporteur for follow-up on concluding observations was adopted.

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CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

194. In chapter VII of its annual report for 2003,²⁰ the Committee described the framework that it has set out for providing for more effective follow up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/62/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2008.

195. Over the period covered by the present annual report, Sir Nigel Rodley acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-first, ninety-second and ninety third sessions, he presented progress reports to the Committee on inter-sessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

196. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.²¹ Over the reporting period, since 1 August 2007, 11 States parties (Bosnia and Herzegovina, Brazil, Hong Kong Special Administrative Region (China), Mali, Paraguay, Republic of Korea, Sri Lanka, Suriname, Togo, United States of America and Ukraine), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow up procedure. Since the follow up procedure was instituted in March 2001, 10 States parties (Barbados, Central African Republic, Chile, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Honduras, Madagascar, Namibia and Yemen) have failed to supply follow up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

197. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow up responses provided to it, decided before 1 August 2007 to take no further action prior to the period covered by this report.

198. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Gambia, Equatorial Guinea).

20/ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40 (A/58/40), vol. I.*

21/ The table format was altered at the ninetieth session.

...

Eighty-seventh session (July 2006)

...

State party: Kosovo (Serbia)
Report considered: Report by UNMIK, submitted on 2 February 2006.
Information requested: Para. 12: Investigation of all outstanding cases of war crimes, crimes against humanity and ethnically motivated crimes committed before and after 1999; prosecution of perpetrators; compensation for victims; introduction of effective witness-protection programmes; full cooperation with International Criminal Tribunal for the former Yugoslavia prosecutors (arts. 2 (3), 6 and 7). Para. 13: Effective investigation of all outstanding cases of disappearances and abductions; prosecution of perpetrators; ensure that relatives of disappeared and abducted persons have access to information about victims' fate and to adequate compensation (arts. 2 (3), 6 and 7). Para. 18: Intensify efforts to ensure safe conditions for sustainable returns of displaced persons, in particular those belonging to minorities; ensure that they may recover their property, receive compensation for damage done and benefit from rental schemes for property temporarily administered by the Kosovo Property Agency (art. 12).
Date information due: 1 January 2007
Date information received: <u>11 March 2008</u> Partial reply (responses incomplete with regard to paragraphs 13 and 18).
Action taken: Between April and September 2007, three reminders were sent. <u>10 December 2007</u> The Special Rapporteur requested a meeting with the

Special Representative of the Secretary General (SRSG) or a representative designated by the SRSG, to be convened during the ninety-second session.

11 June 2008 The Special Rapporteur requested a meeting with a representative of UNMIK.

22 July 2008 During the ninety-third session, the Special Rapporteur met with Mr. Roque Raymundo, Senior Human Rights Adviser to UNMIK, who provided additional written and oral information on paragraphs 12, 13 and 18 and undertook to submit further information on (a) cases where perpetrators of disappearances and abductions were tried and sentenced, access by relatives to information about the fate of victims, and measures taken to secure adequate resources for victim compensation schemes (para. 13); and (b) measures taken to implement the strategies and policies to ensure safe and sustainable returns, in particular for minority returnees, as well as to ensure that minority returnees benefit from the special rental scheme of the Kosovo Property Agency (para. 18). The meeting was also attended by a representative of the OHCHR Pristina Office.

Recommended action: The situation should be reviewed at the ninety-fifth session.

Next report due: ...

...

VII. FOLLOW UP TO CONCLUDING OBSERVATIONS

237. In chapter VII of its annual report for 2003,²⁰ the Committee described the framework that it has set out for providing for more effective follow up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/63/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2009.

238. Over the period covered by the present annual report, Sir Nigel Rodley acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-fourth, ninety-fifth and ninety-sixth sessions, he presented progress reports to the Committee on inter-sessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

239. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.²¹ Over the reporting period, since 1 August 2008, 16 States parties (Austria, Barbados, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, France, Georgia, Honduras, Hong Kong Special Administrative Region (China), Ireland, Libyan Arab Jamahiriya, Madagascar, Tunisia, Ukraine and United States of America), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow up procedure. Since the follow up procedure was instituted in March 2001, 11 States parties (Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Panama, Sudan, the former Yugoslav Republic of Macedonia, Yemen and Zambia) have failed to supply follow up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.²²

240. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow up responses provided to it, decided before 1 August 2008 to take no further action prior to the period covered by this report.

241. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Gambia, Equatorial Guinea).

...

Eighty-seventh session (July 2006)

...

Report considered: Report by UNMIK on the human rights situation in Kosovo, submitted on 2 February 2006.

Information requested:

Para. 12: Investigation of all outstanding cases of war crimes, crimes against humanity and ethnically motivated crimes committed before and after 1999; prosecution of perpetrators; compensation for victims; introduction of effective witness-protection programmes; full cooperation with International Criminal Tribunal for the former Yugoslavia prosecutors (arts. 2 (3), 6 and 7).

Para. 13: Effective investigation of all outstanding cases of disappearances and abductions; prosecution of perpetrators; ensure that relatives of disappeared and abducted persons have access to information about victims' fate and to adequate compensation (arts. 2 (3), 6 and 7).

Para. 18: Intensify efforts to ensure safe conditions for sustainable returns of displaced persons, in particular those belonging to minorities; ensure that they may recover their property, receive compensation for damage done and benefit from rental schemes for property temporarily administered by the Kosovo Property Agency (art. 12).

Date information due: 1 January 2007

Date information received:

11 March 2008 Partial reply (responses incomplete with regard to paragraphs 13 and 18).

Action taken:

Between April and September 2007, three reminders were sent.

10 December 2007 The Special Rapporteur requested a meeting with the Special Representative of the Secretary-General (SRSG) or a representative designated by the SRSG, to be convened during the ninety-second session.

11 June 2008 The Special Rapporteur requested a meeting with a representative of UNMIK.

22 July 2008 During the ninety-third session, the Special Rapporteur met with Mr. Roque Raymundo, Senior Human Rights Adviser to UNMIK, who provided additional

written and oral information on paragraphs 12, 13 and 18 and undertook to submit further information on (a) cases where perpetrators of disappearances and abductions were tried and sentenced, access by relatives to information about the fate of victims, and measures taken to secure adequate resources for victim compensation schemes (para. 13); and (b) measures taken to implement the strategies and policies to ensure safe and sustainable returns, in particular for minority returnees, as well as to ensure that minority returnees benefit from the special rental scheme of the Kosovo Property Agency (para. 18). The meeting was also attended by a representative of the OHCHR Pristina Office.

3 June 2009 A letter was sent to request additional information.

Recommended action: If no information is received, a reminder should be sent.

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20/ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40 (A/58/40), vol. I.*

21/ The table format was altered at the ninetieth session.

22/ As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Mali, Sri Lanka, Suriname, Namibia, Paraguay, and the Democratic Republic of the Congo.

...

Chapter VII: Follow-up to Concluding Observations

203. In chapter VII of its annual report for 2003,¹⁶ the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report,¹⁷ an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2010.

204. Over the period covered by the present annual report, Mr. Abdelfattah Amor acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-seventh, ninety-eighth and ninety-ninth sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

205. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.¹⁸ Over the reporting period, since 1 August 2009, 17 States parties (Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, France, Georgia, Japan, Monaco, Spain, the former Yugoslav Republic of Macedonia, Sudan, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Zambia), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, 12 States parties (Australia, Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Nicaragua, Panama, Rwanda, San Marino and Yemen) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the preparation of the next periodic report by the State party.¹⁹

206. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, the report does not cover those States parties with respect to which the Committee has completed its follow-up activities, including all States parties which were considered from the seventy-first session (March 2001) to the eighty-fifth session (October 2005).

207. The Committee emphasizes that certain States parties have failed to cooperate with it in

the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Equatorial Guinea, Gambia).

...

Eighty-seventh session (July 2006)

...

Report considered: Report by UNMIK on the human rights situation in Kosovo, submitted on 2 February 2006.

Information requested:

Para. 12: Investigation of all outstanding cases of war crimes, crimes against humanity and ethnically motivated crimes committed before and after 1999; prosecution of perpetrators; compensation for victims; introduction of effective witness-protection programmes; full cooperation with International Criminal Tribunal for the former Yugoslavia prosecutors (arts. 2, para. 3; 6; and 7).

Para. 13: Effective investigation of all outstanding cases of disappearances and abductions; prosecution of perpetrators; ensure that relatives of disappeared and abducted persons have access to information about victims' fate and to adequate compensation (arts. 2, para. 3; 6; and 7).

Para. 18: Intensify efforts to ensure safe conditions for sustainable returns of displaced persons, in particular those belonging to minorities; ensure that they may recover their property, receive compensation for damage done and benefit from rental schemes for property temporarily administered by the Kosovo Property Agency (art. 12).

Date information due: 1 January 2007

Date information received:

11 March 2008 Partial reply (responses incomplete with regard to paras. 13 and 18).

7 November 2008 Partial reply (responses incomplete with regard to paras. 13 and 18).

12 November 2009 Information received (recommendations implemented in parts, not in others).

Action taken:

Between April and September 2007 Three reminders were sent.

10 December 2007 The Special Rapporteur requested a meeting with the Special Representative of the Secretary-General (SRSG) or a representative designated by the SRSG, to be convened

during the ninety-second session.

11 June 2008 The Special Rapporteur requested a meeting with a representative of UNMIK.

22 July 2008 During the ninety-third session, the Special Rapporteur met with Mr. Roque Raymundo, Senior Human Rights Adviser to UNMIK, who provided additional written and oral information on paragraphs 12, 13 and 18 and undertook to submit further information on (a) cases where perpetrators of disappearances and abductions were tried and sentenced, access by relatives to information about the fate of victims, and measures taken to secure adequate resources for victim compensation schemes (para. 13); and (b) measures taken to implement the strategies and policies to ensure safe and sustainable returns, in particular for minority returnees, as well as to ensure that minority returnees benefit from the special rental scheme of the Kosovo Property Agency (para. 18). The meeting was also attended by a representative of the OHCHR Pristina Office.

3 June 2009 A letter was sent to request additional information.

27 August 2009 A reminder was sent.

Recommended action: While taking note of the cooperativeness of UNMIK, the Committee should send a letter in which it notes the measures taken but indicates that none of the recommendations has been fully implemented.

Next report due:...

...

¹⁶ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40, vol. I (A/58/40 (vol. I)).*

¹⁷ *Ibid., Sixty-Fourth Session, Supplement No. 40, vol. I (A/64/40 (vol. I)).*

¹⁸ The table format was altered at the ninetieth session.

¹⁹ As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Austria, Brazil, Central African Republic, Democratic Republic of the Congo, Hong Kong (China), Mali, Namibia, Paraguay, Republic of Korea, Sri Lanka, Suriname and Yemen.

Follow-up - State Reporting

ii) Action by State Party

CCPR, CCPR/C/UNK/CO/1/Add.1 (2008)

Comments by the United Nations Interim Administration Mission in Kosovo (UNMIK) on the Concluding Observations of the Human Rights Committee (CCPR/C/UNK/CO/1)*

[11 March 2008]

Recommendation in paragraph. 12

1. **War crimes and crimes against humanity** - Since 2004, UNMIK Department of Justice (DOJ) international prosecutors have investigated and brought to trial fourteen cases, ten of which resulted in convictions. The sentences imposed ranged from two years and five months to twenty years imprisonment. In terms of pending cases, thirty-seven cases (involving 119 suspects) are under pre-indictment. There are nine post-indictment cases (involving 35 suspects).

2. **Inter-ethnic crimes** - DOJ international prosecutors have investigated and brought to trial eight cases, resulting in six convictions. Sentences have ranged from an eight months suspended sentence to six years and six months imprisonment. In terms of pending cases, there are five pre-indictment cases involving nine suspects and three cases with unknown suspects. Post-indictment there are three cases involving five suspects.

3. **March 2004 riots** - The number of defendants prosecuted by international prosecutors and convicted in relation to the March 2004 riots is thirty, convicted of a total of 70 crimes (including Aggravated Murder, Inciting Ethnic Hatred, and Causing General Danger, among other offences). Of these 30 defendants, 12 received prison sentences and 18 received suspended sentences. One defendant prosecuted by an international prosecutor in relation to the March 2004 riots was acquitted, and an appeal against that acquittal filed by the international prosecutor is pending. Of those convicted, 12 defendants have announced or filed appeals. The verdicts against the remaining 19 defendants are final. A further 5 defendants are awaiting trial, and international prosecutors are continuing investigations against several additional defendants.

4. **Local prosecutors** have brought criminal charges against over 300 people, resulting in convictions for 145 persons in Municipal and District Courts. There are 21 unsolved cases. In respect to Minor Offences Courts there have been 157 persons charged, resulting in convictions for 116 persons. There are no more unsolved cases within the Minor Offences Courts.

5. As evidenced above, a substantial number of charges linked to the March 2004 riots have been brought by both local and international prosecutors.

6. In addition, any assessment of what has been, and what can be, achieved in establishing criminal responsibility for crimes committed, must bear in mind the difficulties inherent in prosecuting these types of cases. One of the biggest obstacles in establishing criminal

responsibility is the gathering of evidence. These crimes generally involved large crowds within a chaotic situation. As a result, many witnesses have been unable to identify perpetrators, which is clearly a major obstacle when there has been no admission of responsibility. Unfortunately, even where witnesses can identify perpetrators, most of them are afraid or unwilling (or both) of coming forward and testifying.

7. **ICTY** - Under UN Security Council resolution 1244 of 10 June 1999, UNMIK is required to cooperate with the ICTY. UNMIK is strongly committed to cooperation with the Tribunal. The ICTY has itself verified that UNMIK's exercise of its duties with regard to cooperation with the Tribunal in general and, in particular with regard to the case against Ramush Haradinaj, has been in full conformity with ICTY judicial decisions.

8. On 17 January 2006, a Trial Chamber of the ICTY described UNMIK's actions as "diligent and responsible." On 10 March 2006, an Appeals Chamber of the ICTY dismissed allegations by the Prosecutor of preferential treatment by UNMIK toward Mr. Haradinaj and found that "UNMIK has been scrupulous about its responsibilities" regarding the provisional release of Mr. Haradinaj, and "has shown the Accused no special favours." And as recently as 20 July 2007, a Trial Chamber of the ICTY stated its satisfaction with UNMIK's "compliance with any conditions that may be imposed by the Trial Chamber."

9. On a regular basis, UNMIK coordinates closely with the Tribunal's Registry, Chambers, Office of the Prosecutor, and defence counsel. UNMIK strives to provide any, and all, assistance requested by the Tribunal in a timely and comprehensive manner. This is particularly true for requests for assistance or information from the Office of the Prosecutor. With regard to UNMIK DOJ its record of cooperation with the ICTY is borne out in its timely and complete responses to all ICTY Office of the Prosecutor and defence counsel requests for assistance.

10. **Witness protection** - A Witness Protection Task Force was established on 2 August 2007 by the Principal Deputy to the Special Representative Secretary-General (PDSRSG) of UNMIK. The reason for its establishment was that witness protection services in Kosovo were insufficient. Many attempts were made in the past to improve this service, but the results were varied and often short-lived. These attempts to improve were rarely successful mainly because of the high turn-over of personnel in UNMIK Police, due to contingent rotation, but also because an effective witness protection service requires specialist knowledge and skills rarely available amongst mission personnel. Other complicating factors were -and are - the need for funding (since the Kosovo budget is severely limited) and a complete lack of international agreements with other jurisdictions to (permanently or temporarily) relocate protected persons from Kosovo, which results in difficulties to find jurisdictions willing and able to receive such persons. So far, all cases relocated to foreign jurisdictions have been done on an *ad hoc* and informal basis. The most important part of the mandate of the Task Force is to make recommendations towards structural improvements of witness protection in Kosovo. These structural improvements include legislation, particularly the preparation of an UNMIK Regulation establishing a Witness Protection Programme; the drafting of new guidelines for the judiciary and police; and the design of new Standard Operating Procedures. The final report of the Task Force will also include a project-plan for the establishment of a Witness Protection Programme, including a recommended

organizational structure and minimum resource requirements for the start-up and running of the Programme. The Task Force is expected to produce a full report on its activities and recommendations (to the PDSRSG) in the first quarter of 2008.

11. Compensation. UNMIK has established a mechanism for compensation for victims of trafficking, but for various reasons, in particular a lack of financial resources, it has not been implemented. A general compensatory scheme has not been established, again in particular due to the lack of financial resources.

Recommendation in paragraph. 13

12. Missing persons - In an attempt to correct the lack of results with respect to bringing perpetrators to justice in relating to disappearances and abductions, the UNMIK Office of Missing Persons and Forensics (OMPF) was provided with a number of international staff members with investigating and law enforcement experience. They have been invaluable in obtaining information on the whereabouts of missing persons; however, they have a purely humanitarian mandate and do not have the authority of police officers. Regarding compensation, please refer to the comments provided under paragraph 12.

13. ICTY have provided information to OMPF, including over 85,000 documents which ICTY agreed to hand over upon condition that OMPF assumes exclusive legal custody. Additionally, OMPF as part of the Sub-working group on Forensic within the Pristina - Belgrade Dialogue Working Group on Missing Persons, is refining the methodology to match and double check DNA results. This is an effort to obtain further matches and close a more files

14. The most serious problem in progressing with the missing persons' files (and consequently the prosecution of the relevant cases) appears to be the strong reluctance of potential witnesses to provide information. The total number of missing persons has decreased (it is currently 1,998). However, at present, there are virtually no further leads to explore.

15. The War Crimes Investigations Unit (WCU) was created in late 2004 and includes the former Missing Persons Unit (MPU) and the War Crimes Investigation Section (WCIS) of the former Central Criminal Investigations (CCIU). The WCU is responsible for the investigations of Crimes Against Humanity that occurred during the period of conflict including the investigation of Missing Persons cases where there are indicia of criminality.

16. The Ante Mortem & Exhumations Section (AMES) of the WCU is focused on the missing persons issue including locating grave sites and assisting the Office of Missing Persons and Forensics (OMPF) in exhuming those sites and recovering mortal remains. When there is a Missing Persons case, with indicia of criminality, a case will be opened in both the AMES and the WCIS.

17. The WCU is involved in a continuing project to update its databases in order to provide more accurate reporting information and, while a large portion is yet to be completed, the information below is the best information available at this time.

18. **Ante-mortem and Exhumations Section (AMES):** between 01 January 2007 and 31

December 2007, AMES has conducted a total of approximately 67 assessments/exhumations. From these field operations, 183 bodies and body parts have been recovered, secured and transferred to the mortuary for autopsy and identification.

	2004	2005	2006	2007	TOTAL
Field operations (exhumations, assessments, human remains found on surface)	81	61	59	67	286
Sets of human remains recovered (complete and incomplete bodies)	176	118	59	183	536

Ante-mortem investigation cases to date

Total Cases	1894
Found Alive	22
Closed	466
Pending	1366
Database Not Updated	40

Post-mortem investigation cases to date

Total Cases	1547
Closed	208
Pending (Remains to OMPF for ID)	55
To OMPF for Exhumation/Assessment	514
Database Not Updated	770

War Crimes Investigation Section

Total WCU cases:	801
Under Investigation:	35
Pending Invest / Assignment:	670
Referred to DOJ:	21
Turned over to ICTY:	28
Tried and Decided:	10
Dismissed by Article 208:	3
Current suspects under indictment:	7
Suspended by prosecutor:	8
Unfounded:	47

Recommendation in paragraph. 18

19. The period 2006-2007 has witnessed dynamic changes in the returns process in Kosovo, as UNMIK together with the Provisional Institutions of Self-Government (PISG) introduced a

comprehensive policy framework to ensure the safety and sustainability of minority returns in Kosovo. This revised returns strategy has simplified the steps necessary for returns, while firmly orienting all returns processes within a rights-based approach to returns. Key policy milestones during this period included the PISG's promulgation of updated returns policies on 24 May 2006, the signing of a protocol of cooperation on returns between Prishtinë/Priština and Belgrade on 6 June 2006, and the subsequent revision of the Manual for Sustainable Return. These three documents, which came out in quick succession in a short span of about six weeks, significantly altered the minority returns landscape in Kosovo, leading to the recognition of IDPs' right to free and informed choice of residence, along with greater financial assistance to support that choice.

20. The Revised Manual for Sustainable Return simplifies the steps for return and delivery of social services for minority returnees, while reaffirming international standards and best practices. Extensive briefing sessions about the revised Manual were conducted in all five regions of Kosovo for the key field staff members of UNHCR and UNMIK. The training session for PISG (including The Ministry of Communities and Returns (MCR), the Ministry of Local Government Administration (MLGA) and municipalities), simultaneously conducted in Albanian and Serbian languages, was attended by Municipal Returns Officers (MROs), Municipal Community Officers (MCOs) and Standard Coordination officers of Pejë/Pec, Gjakovë/Đakovica, Istog/Istok, Klinë/Klina, Kaçanik/Kacanik, Shtime/Štimlje, Ferizaj/Uroševac, Rahovec/Orahovac, Dragash/Dragaš, Prizren, Gjakovë/Đakovica, Malisheve/o, Skenderaj/Srbica, Vushtrri/Vucitrn, Mitrovicë/Mitrovica, Prishtinë/Priština, Obiliq/Obilic, Podujeve/o, Lipjan/Lipljan, Fushë Kosovë/Kosovo Polje Gjilan/Gnjilane, Kamenicë/Kamenica, and Viti/Vitina municipalities.

21. Below are some of the key principles guiding the returns process in Kosovo. Most important is the fundamental guiding principle of returns as a rights-based process.

Rights-based Return

22. A rights-based approach to returns, which allows free and informed decisions for all displaced populations of Kosovo, remains the best approach to ensuring voluntary and sustainable returns. Every individual displaced person has a right to make a free and informed choice about the return options available. This approach empowers the most affected people to take decisions best suited to them and de-politicise the returns issue. This right applies to all ethnic communities and all places of displacement, be it within Kosovo, within Serbia, or in other countries.

23. Updated PISG Policies on Voluntary Returns affirm the right of IDPs to freely choose where to live and to receive assistance in that regard. The process for returning has been simplified with IDPs taking a central role throughout and removing extraneous structures that are outdated.

24. The Returns Protocol between Prishtinë/Priština and Belgrade likewise recognizes the IDP's right to choose where to live. It also paves the way for direct dialogue between municipalities of displacement and return and PISG guarantees that returnees will have full rights.

25. The Comprehensive Policy Framework for Minority Returns introduced by UNMIK together with PISG in 2006 has effected instrumental changes at the institutional level within Kosovo, as the capacity of municipalities to execute returns projects has been strengthened and as key competencies have been transferred to the MCR. These achievements, together with the establishment of simplified reporting lines between municipal and ministerial representatives, has facilitated a results-driven landscape for minority returns projects in which safety and sustainability are universally recognized as the key indicators of success.

26. The Kosovo Property Agency has established a rental scheme with the support of the Provisional Institutions in order to enable property rights holders to receive rental payments from those currently occupying the property.

Establishment of Dual Reporting Lines to Strengthen Cooperation and Coordination on Returns and Minority-related Matters

27. Dual reporting lines for the MROs to MLGA and MCR were established with the signing of Letter of Intent in September 2006 by the two ministries. While MROs and MCOs are within the municipal structures, and thus under the MLGA chain of command, their work mostly relates to the MCR. The dual reporting line will strengthen the cooperation and coordination on returns and minority related matters.

Capacity Building of Local Institutions to Facilitate Minority Returns

28. In 2007, a total of twenty-two municipalities developed and endorsed 2007 Municipal Returns Strategies (MRS) and another four have prepared such strategies, which are pending endorsement. Two municipalities, Dragash/Dragaš and Kamenicë/Kamenica, have prepared the 2008 MRS.

29. Implementation of the strategies is, however, incomplete, in part because of a lack of financial resources. The planning and implementation processes of MRS would also benefit from intensified coordinating activities between central and local institutions and greater involvement by representatives of the internally displaced community.

30. Nevertheless, despite these challenges, municipalities are demonstrating the capacity to directly implement components of minority returns projects, such as construction, infrastructure, income generation, dialogue, and this makes them more sustainable and less expensive.

31. Eighteen Concept Papers for returns initiatives, worth more than _11.3 million, were approved by the Central Review Mechanism (CRM), chaired by MCR following the transfer of this competency from UNMIK to MCR in 2006. Six projects, costing _3.7 million for the return of 140 families, were undertaken in 2007 in Lipjan/Lipljan, Abdullah Presheva/Presevo (Gjilan/Gnjilane), Vushtrri/Vucitrn, Berkovë/Berkovo (Klinë/Klina), Lismir/ Dobri Dub and Nakaradë (Fushë Kosovë/Kosovo Polje), with a project in Klinavc/Klinavac (Klinë/Klina) expected to be completed in Spring 2008. The Vushtrri/Vucitrn project was directly implemented by MCR.

32. While ever more returns projects are being developed by municipalities, lack of funding remains the single most important obstacle to returns. The funding gap currently (as of 1 January 2008) stands at _18 million for 23 approved organized returns projects alone. Additional funding will be needed for Individual Returns and Community Development and Stabilization projects. UNMIK put in place a system whereby funding for returns is allocated in a transparent manner, after consultation with all relevant stakeholders. This has increased the confidence of the donor community in allocating funds for returns.

Transfer of Competencies

33. In line with UNMIK's policy of transfer of competencies to the PISG, which is also required by UNSCR 1244, most of the competencies in voluntary returns have already been transitioned by UNMIK's Office of Communities, Returns and Minorities Affairs (OCRM) to the Provisional Government, primarily to the MCR, which is increasingly being empowered to take over minority returns and community stabilization related responsibilities.

34. The management of the CRM, which reviews all voluntary return projects and other initiatives by the Municipal Working Groups (MWGs), was transferred to MCR in 2006. The transfer was in accordance with the provisions of the Revised Manual for Sustainable Return, which specifies that the MCR should take over functions of Chair and Secretariat of the CRM from UNMIK and UNDP, respectively.

35. Based on the same manual, the Chair, as well as secretariat functions of the Communities Outreach and Communication Group (COCG), were handed over to the MCR. Formed in November 2004, the COCG is mandated to implement the outreach and communication strategy regarding returns related issues, projects and activities, as well as to enhance coordination between all information providers in the returns process.

36. MCR was also enabled to take over functions related to communities and returns, such as the planning and implementation of Community Development and Stabilization (CDS) projects. In 2007 the Ministry, in consultation with the international community, approved 51 CDS projects worth _2.08 million to facilitate equitable integration of all communities and their members currently residing in Kosovo.

37. MCR is also being assisted by UNHCR to take over functions related to data collection about returnees. The Ministry has appointed a Returns Information Coordinator (RIC) to work with the UNHCR on returnee registration and the creation of an IDP database. MCR, together with the Ministry of Finance and Economy (MFE) has also been monitoring the implementation of Fair Share Financing (FSF) requirement by the Municipalities.

38. The competency on humanitarian transportation, including the budget line of _2.675 million, was transferred to the Ministry of Transportation and Communication (MTC). To date, the humanitarian transport service carries an estimated 32,000 beneficiaries on trains and 25,000 beneficiaries on bus lines monthly. The service, which promotes the freedom of movement of minority communities in Kosovo, is crucial for enabling minority access to essential services, institutions, and opportunities.

Safety and Sustainability of Minority Returns in Kosovo

39. The number of minority returns to Kosovo continues to remain low, although some marginal improvements have occurred. More internally displaced persons returned to Kosovo between January and November 2007 than during the corresponding period last year. UNHCR estimates that, as of 30 November, 1,561 minority community members had returned in 2007, with the highest number of returns in the regions of Mitrovicë/Mitrovica and Gjilan/Gnjilane. As of November 2007, the total number of minority returnees since 1999 is estimated at 17,698.

MINORITY RETURNS TO KOSOVO FROM INTERNAL AND EXTERNAL DISPLACEMENT (as per UNHCR)								
Returns 2000	Returns 2001	Returns 2002	Returns 2003	Returns 2004	Returns 2005	Returns 2006	Returns 2007	Total Returns
1906	1453	2756	3801	2469	2126	1627	1,561*	117698

*1,561 figure - as of Nov. 2007 (pending UNHCR's returns statistics update for the whole of 2007)

40. Thus, while remaining steady, the number of minority returns to Kosovo is nevertheless unsatisfactory. The primary factors affecting the willingness of minority IDPs to return continue to include lack of economic opportunities, uncertainty about the status of Kosovo, and, to a much lesser degree than in the past, security.

At the same time, however, the attitude of receiving communities continues to improve. Cooperation on returns between the PISG and Belgrade, via the Coordination Centre for Kosovo (CCK), has continued at the local level, particularly on matters of humanitarian concern. Crucially, freedom of movement and security for minority returnee communities has also improved.

41. At the policy level, UNMIK has carried out a comprehensive revision of the returns process for Kosovo, placing the rights of displaced persons and the role of Kosovo institutions at the centre of this process. This new approach has created a fundamentally rights-based process, simplifying the steps for returns and clearly setting out the guiding principles for safe and sustainable returns projects. The safety and sustainability of minority returns in Kosovo is directly linked to the recognition of IDPs' right to free and informed choice of residence, along with greater financial assistance to support that choice.

42. This comprehensive policy framework for returns has begun to be realized 'on the ground' by Kosovo institutions - both central and local. Most instrumental in this process has been UNMIK's oversight of the transfer of many key returns-related competencies to the MCR, as well as capacity-building for Kosovo's municipalities.

43. It is clear that this revised policy framework, including new and simplified mechanisms for minority returns, has started to bear fruit. With the continuing guidance and funding support of the international community, actual implementation of minority returns projects by Kosovo

institutions will continue to expand, as will the capacity of Kosovo institutions to facilitate the safe and sustainable returns for all displaced persons, particularly those belonging to minority communities, who are willing to return to Kosovo.

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

CCPR, CCPR/C/UNK/CO/1/Add.2 (2008)

Further information received from the United Nations Interim Administration Mission in Kosovo (UNMIK) on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/UNK/CO/1)*

[10 December 2008]

1. The following information, compiled from inputs by relevant UNMIK sections, pertain to (a) access by relatives to information about the fate of victims, and measures taken to secure adequate resources for victim compensation schemes; and (b) measures taken to implement the strategies and policies to ensure safe and sustainable returns, in particular for minority returnees, as well as to ensure that minority returnees benefit from the special rental scheme of the Kosovo Property Agency.

Missing persons

2. The Office of Missing Persons and Forensic (OPMF) has included the families of missing persons and family associations in the search for missing persons, bringing increased transparency, public scrutiny and accountability to the process. Families have access to the morgue and can ask any type of information. Regular meetings with family associations are organised to keep them informed of the process and progress.

3. As soon as a body is identified, OMPF informs the family without delay. Family members are provided with information pertaining to exhumation place, identification and cause of death (and injuries). OMPF issues for the families an identification certificate and medical Death Certificate (stating the cause of death if known).

4. However, there is still no information regarding the fate of 1940 missing persons.

5. Generally, if a missing person incident has been reported or classified as a criminal offence and criminal proceedings (investigation or trial) are ongoing, article 143 of the Provisional Criminal Procedure Code of Kosovo (PCPCK) applies. It states that the injured party shall be entitled to access case files including records or physical evidence under certain circumstances and within certain limitations.¹

6. To date there is no "victim's compensation fund" established in Kosovo for families or relatives of missing persons. Although claims for compensation by family members of victims can be addressed to the Kosovo courts, as a practical matter the judges handling criminal cases usually do not resolve compensation issues on the basis that doing so would "considerably prolong criminal proceedings (PCPCK art. 107, para. 1 and art. 111). Generally the criminal courts state in criminal judgments that injured parties can pursue property claims in civil litigation. However, many families of missing persons do not have the financial resources to hire private attorneys to represent them in compensation claims. These shortcomings are expected to be addressed in the Draft Law on Missing Persons with the Ministry of Justice. As its

stands, it proposes a framework that includes the creation of missing person status and a fund for victim compensation. For the time being there is only the law on martyrs, war victims, etc which allows to provide compensation, however this law is highly discriminatory (minorities are excluded).

Safe and sustainable returns

7. 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, 1,802 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 Kosovo Consolidated Budget funding of _5.2 million for returns in 2007.

8. The increase in minority returns in 2007 can be attributed to the new returns protocols introduced by UNMIK in 2006, which simplified the steps for return and delivery of assistance to returnees ('Revised Manual for Sustainable Returns'), 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 to 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 efforts - 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.

9. As per the provisions for the humanitarian reallocation of properties contained in 2006's Revised Manual for Sustainable Return, the Kosovo Property Agency (KPA) has agreed in principle to temporarily administer presently vacant reconstructed living units at Mitrovica/e's Roma Mahala RAE returns site for the temporary relocation of willing and eligible RAE IDPs currently residing in northern Mitrovica/e's Cesmin Lug camp. KPA has announced the following criteria for such temporary reallocation to move ahead: (a) written consent of the property owners of these vacant units for KPA to temporarily administer these units on their behalf; (b) a determinate period of time for such a temporary reallocation of these properties, and a guaranteed 'exit strategy' by which those IDPs temporarily relocated to these vacant living units shall be provided permanent housing of their own; and (c) a source of funding for rental subsidies for these temporarily reallocated units for the period of relocation determined.

10. Implementing partner for Roma Mahala reconstruction, Danish Refugee Council (DRC), has contacted property owners to secure the written consent of those property owners willing to participate in such a scheme. Consultations are under way with the Municipality to determine if those willing IDPs eligible for temporary relocation to currently vacant Roma Mahala units might be afforded priority in the beneficiary selection process for 24 new units presently under construction at Roma Mahala (anticipated completion Spring 2009), thus providing an 'exit strategy', or permanent housing solution for these IDPs. At this time, this beneficiary selection process for future permanent housing, as well as the absence of a clear source of funding to cover rental costs for these units, remain the key obstacles to KPA moving ahead with the proposed temporary re-allocation of these vacant properties.

1/ Article 143 of the PCPCK states:

(1) The injured party and his or her legal representative . . . shall be entitled to inspect, copy or photograph records and physical evidence available to the court or to the public prosecutor if he or she has a legitimate interest.

(2) The court or public prosecutor may refuse to permit the inspection, copying or photocopying of records or physical evidence if the legitimate interests of the defendant or other persons override the interest of the injured party or if there is a sound probability that the inspection, copying or photocopying may endanger the purpose of the investigation or the lives or health of people or would considerably delay the proceedings or if the injured party has not yet been examined as a witness.

(3) If the public prosecutor refuses the inspection of the files, the injured party can file an appeal with the pre-trial judge. The decision of the pre-trial judge is final.

(4) If the pre-trial judge refuses the inspection of the files available to the court, an appeal can be filed with the three-judge panel.

(5) The provisions of the present article are subject to the measures protecting injured parties and witnesses and their privacy and the protection of confidential information as provided for by law.

CCPR, CCPR/C/UNK/CO/1/Add.3 (2009)

Further information received from the United Nations Interim Administration Mission in Kosovo (UNMIK) on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/UNK/CO/1)

[12 November 2009]

1. The following information is compiled in response to the letter dated 3 June 2009 from Sir Nigel Rodley, Special Rapporteur for Follow-up on Concluding Observations of the Human Rights Committee and a follow-up letter dated 27 August 2009 from his successor Mr Abdelfattah Amor, requesting additional information on paragraphs 13 and 18 of the Concluding Observations, in particular: (a) the prosecution and sentencing of perpetrators and the compensation scheme for victims, including the establishment of a compensation fund for families or relatives of missing persons and legal aid schemes available to indigent claimants; and (b) on the safe return of displaced persons, in particular minorities, the measures taken to improve the socio-economic conditions for returnees and their recovery of their properties or compensation for the loss, as well as on the inclusion of returnees in the rental scheme established by the Kosovo Property Agency.

Prosecution and sentencing of perpetrators

2. UNMIK retains one forensic expert at the Office of Missing Persons and Forensics (OPMF) who serves, among others, as the focal point for Serbian authorities on all issues related to missing persons, and represents UNMIK in the Sub-Working Group on Missing Persons. The expert is also responsible for planning and execution of assessment and exhumation of potential grave sites of Serbian cases, autopsies and identification of suspected Serbian remains, and coordination of handover to the families of identified Serbian remains.

3. The War Crimes Investigation Unit (WCIU) handles the investigation and prosecution of cases, and along with OMPF, have been handed over to EULEX. On 9 December 2008 EULEX Kosovo reached its Initial Operational Capacity and officially took charge of relevant UNMIK case files and evidence.

4. EULEX OPMF has since identified 30 human remains and is currently working on the identification of 28 additional cases. There are 1895 persons still missing from the conflict¹.

5. EULEX Kosovo Police Component inherited 1049 war crimes cases from UNMIK Police. As at 12 October 2009, the status of these cases is as follows: cases dismissed 153; cases with request to investigate 854; new cases opened 5; active inherited cases 44; cases tried and decided 3; cases transferred to district prosecutors 3. (Please note that once EULEX Kosovo has received and reviewed an UNMIK case, files have been rearranged in two or more distinct reporting categories, hence all the categories do not necessarily add up to the total.)

Ante-mortem and Exhumation Statistics 09 December 2008 to 12 October 2009

6. In this period, 98 field operations were conducted, resulting in 71 exhumations and recovery of 67 sets of human remains.

<i>Ante mortem investigation:</i>	
Total case	1911
Found alive	0
Closed	20
Pending	1855
Investigations	36
<i>Post mortem investigations:</i>	
Total number of cases	76
Waiting for assessment and/or court order	7
Waiting for exhumation	4
Waiting for autopsy/DNA	40
Waiting for a reply/additional information	4
Closed	20

7. By February 2009 the handover from UNMIK to EULEX Kosovo Prosecutors of approximately 275 cases was completed. This included cases at the preliminary investigation, pre-trial, trial, or appeal stage. Some cases were handed over to the district courts (where EULEX Kosovo prosecutors were deployed) and a further 178 were checked by the Special Prosecution Office of Kosovo to verify whether they fell under its competence. The prosecution office took over 51 war crimes cases.

Establishment of a compensation fund for families or relatives of missing persons

8. To date there is no "victim's compensation fund" established in Kosovo for families or relatives of missing persons. Although claims for compensation by family members of victims can be addressed to the Kosovo courts, as a practical matter the judges handling criminal cases usually do not resolve compensation issues on the basis that doing so would "considerably prolong criminal proceedings (PCPCK Article 107, paragraph 1, and PCPCK Article 111). Generally the criminal courts state in criminal judgments that injured parties can pursue property claims in civil litigation. However, many families of missing persons do not have the financial resources to hire private attorneys to represent them in compensation claims. These shortcomings are expected to be addressed in the Draft Law on Missing Persons with the Ministry of Justice. As it stands, it proposes a framework that includes the creation of missing person status and a fund for victim compensation. For the time being there is only the Law on Martyrs and War Victims which provides for compensation; however, this law is highly discriminatory as minority communities are unable to benefit from it.

Legal aid schemes available to indigent claimants

9. The Legal Aid Commission (LAC) and legal aid scheme was established pursuant to UNMIK Regulation 2006/36 as an independent body responsible for providing free legal aid in

criminal civil and administrative cases to those who would otherwise be denied effective access to justice because they lack sufficient resources. On 24 June 2008, the LAC assumed full responsibility for the functioning of legal aid from UNMIK's former Department of Justice. Although the LAC has a mandate to provide legal aid in criminal matters the LAC is not yet in a position to completely fulfill that mandate as the Kosovo Judicial Council is still managing the "Criminal Defense Fund". LAC may provide legal information and advice regarding criminal proceedings in which the applicant has standing as a victim pursuant to section 9.1 of UNMIK Reg. 2006.36. Families of missing persons may obtain legal aid pursuant to this provision if they satisfy the criteria for recipients under the scheme².

10. In 2008 legal aid was provided in a total of 1384 cases, 454 civil cases, 833 administrative cases and 97 criminal cases. More detailed statistics are not kept by the LAC. However, we are advised that few if any families of missing persons have applied for legal aid.

11. The Victims Advocacy and Assistance Unit (VAAU) was established following the promulgation of UNMIK Reg. 2005/53 which expanded the role of the Ministry of Justice as a Provisional Institution of Self-Government, to include, amongst other things, providing assistance to victims of crime, and in particular victims of domestic violence and trafficking in human beings. The (VAAU) has 14 regional offices providing services and advice to victims of crime. The VAAU helps victims with legal advice, information about available public services and NGO provided services and in some cases, protection from further crime.

Safe returns of displaced persons and measures taken to improve the socio-economic conditions for the returnees

12. During 2008 and 2009, Kosovo authorities (including the President and Prime Minister) continued to officially encourage returns, including through reaching out to communities, displaced persons and their associations. However, it was only on the insistence of UNMIK that return-related activities were included in Kosovo's medium-term budget expenditure framework in 2008, which formed the basis for a donor conference in July 2008, pointing to the need for increased efforts by the Kosovo government to promote and implement returns and reintegration of non-majority communities. While more returns projects are being developed by Kosovo's municipalities, continued adequate funding needs to be secured.

13. As per the revised Manual for Sustainable Return of the Ministry for Communities and Return, following an assessment of the beneficiaries' skills, interests and local market demand, tailor-made assistance is rendered to the returnee in several ways including agricultural income generation grants, vocational skills training, tools for small handiwork businesses and contributions in kind, e.g. cattle or poultry. Relevant UN agencies and other international partners provide appropriate support to the GoK to ensure access to essential services for all communities including displaced persons and returnees, as well as broad support to enhance safe and sustainable returns of all displaced persons.

14. UNDP continues to manage the Sustainable Partnerships for Assistance to Minority Returns to Kosovo (SPARK) Programme which provides an integrated umbrella mechanism for delivering the full spectrum of multi-sectoral assistance for returns. The Programme is financed

by the Government of Kosovo and the British Government to the value of 20 million US dollars. Operational since October 2005, SPARK combines support to both Individual/Spontaneous and Organised/Group Returns. SPARK was further complemented by the launch in November 2008 of a new initiative, the Return and Reintegration in Kosovo (RRK) budgeted at 7 million euros and funded jointly by the European Commission and UNDP.

15. SPARK Organised Returns provides specific holistic assistance to support larger organised and group returns of minority IDPs displaced in Serbia and Montenegro as well as within Kosovo using a community based, multi-sectoral approach which may include, but is not limited to: housing assistance; socio-economic assistance; community mobilization and development; inter-ethnic tolerance building and dialogue activities to support reconciliation. Furthermore, vital infrastructure support is provided in many areas including the rehabilitation of entire water, electrification and sanitation systems, as well as social development and access to vital services through the rehabilitation of schools and health centres. Strong focus is placed on designing specific economic sustainability strategies with the returnees for their communities, to further prospects of a sustainable return.

16. In March 2009, the authorities in Serbia in co-ordination with UNHCR, have initiated a thorough survey of displaced persons from Kosovo to identify those interested in returning to Kosovo. The information collected will be transferred by UNHCR offices in Belgrade and Prishtinë/Priština for incorporation into the MCR database for further action.³

17. In order to provide displaced persons with first-hand information on the current situation in their places of origin, as well as on procedures that need to be followed for return, UNHCR/DRC and other relevant partners continued to organize "go and see visits" and "go and inform visits".⁴ In this regard, the Municipal Returns Officer, Municipal Communities' Officer and UNHCR coordinate with KPS and KFOR to assist potential returnees assess returns-related concerns including safety and access to public services and economic opportunities.

18. Many of the municipalities have developed municipal return strategies in 2008 and 2009, while encouraging the participation of displaced persons and their representatives. The implementation of these strategies needs further support, including allocation of funds. In an attempt to improve the co-ordination of return activities between central authorities and the municipalities, a "Localization Co-ordination Team" was set up in the Office of the Deputy Prime Minister in November 2008, composed of four permanent staff seconded by UNHCR.

Recovery of properties or compensation for the loss of property

19. The establishment of the Kosovo Property Agency (KPA) in March 2006 represented a significant step in creating an environment conducive to sustainable return, by providing for a mechanism for resolution of claims relating to private immovable property, including agricultural land and commercial property. However, the closure of the KPA offices outside Kosovo, following the political developments in 2008, has created a gap in effective access to this mechanism by displaced persons. To address this, UNMIK has been and continues to work closely with relevant international agencies to develop contacts with Belgrade to encourage returns in general, as well as to develop practical institutional arrangements to fill this gap and

develop other measures necessary to ensure respect for the right to property of displaced persons.

KPA Rental scheme

20. As previously reported, agreement was reached in principle for the KPA to temporarily administer presently vacant reconstructed living units at Mitrovica/e's Roma Mahala RAE returns site for the temporary relocation of willing and eligible RAE IDPs. However, the conditions required for this scheme to work proved difficult to obtain and its implementation was hampered by lack of donor support, lack of consent by property owners, including Roma beneficiary/owners of the vacant units, and reluctance of eligible IDPs to move south of the Ibar river. International and local actors committed to a sustainable relocation of the RAE IDPs currently living in Cesmin Lug and Osterode camps in northern Mitrovica are discussing alternative solutions to the KPA rental scheme to secure conditions, especially consent of the property owners, to allow the vacant units to be utilized for the return of IDPs.

¹ This means that 68% of some 5989 cases of missing persons initially recorded has been solved.

² The criteria set the following requirements for applicants. Namely, that they are: habitual residents of Kosovo, temporary residents of Kosovo from jurisdictions that provide reciprocal legal aid to habitual residents of Kosovo, or other persons determined by law or international agreement. And they satisfy the financial criteria, namely: persons who are receiving social assistance or are in an equivalent financial position. And that the merits of the case warrant a grant of legal aid, considering: the relative value of the claim or property involved; the reasonableness of the applicant's case / arguments in support of compensation in the case of victims; the probability of succeeding in the action; the complexity of the case; and the ability of the person to represent themselves.

³ The MCR database finally became operational in February/March 2009. The database was earlier demonstrated to staff of the MCR on 19 December 2008. Municipal Return and Communities Officers have been trained in the use of the database in March/April 2009.

⁴ In 2008, a total of 64 "go and see visits" and eight "go and inform visits" were undertaken, with 692 and 143 beneficiaries respectively funded by UNHCR and the Bureau of Population Refugees and Migration, while 26 "go and see visits" and 17 "go and inform visits" were organized as of end of May 2009 by all relevant stakeholders. The arrest of a Kosovo Serb internally displaced person from Serbia on 12 March 2008 for alleged war crimes (after the declaration of independence) and an attack against a Kosovo Serb returnee on 21 May 2008 may have seriously hampered return-related activities, including "go and see visits".