



REPUBLIC OF SERBIA  
OFFICE FOR KOSOVO AND METOHIJA

*A better life for internally  
displaced persons and returnees*



European Union

# Sustainable return of IDPs to Kosovo\* as a Step Forward



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The project is implemented by IDC in partnership with  
CSO Proaktiv and the Municipality of Vrnjačka Banja

# Sustainable return of IDPs to Kosovo\*<sup>1</sup> as a Step Forward

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<sup>1</sup> This designation is without prejudice to positions on status, and is in line with UNSCR resolution 1244/99 and the International Court of Justice Opinion on the Kosovo declaration of independence

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Authors

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## LIST OF ABBREVIATIONS

|       |  |
|-------|--|
| AQH   | Accessible Quality Healthcare Austria                    |
| ASB   | Arbeiter Samariter Bund South East Europe                |
| CESCR | UN Committee on Economic, Social and Cultural Rights     |
| CoE   | Council of Europe  |
| CRA   | Civil Registration Agency                                |
| CRC   | Central Review Committee                                 |
| CSO   | Civil Society Organization                               |
| CSW   | Centre for Social Welfare                                |
| DEU   | Delegation of European Union                             |
| DMS   | Data Management System                                   |
| DRC   | Danish Refugee Council                                   |
| ECMI  | European Centre for Minority Issues                      |
| ECtHR | European Court of Human Rights                           |
| EMIS  | Education Management Information System in Kosovo*       |
| ESPN  | European Social Policy Network                           |
| EU    | European Union   |
| EULEX | European Union Rule of Law Mission in Kosovo*            |
| GRK   | Government of Kosovo*                                    |
| HCNM  | High Commissioner for National Minorities of OSCE        |
| HPCC  | Housing Property Claims Commission                       |
| HPD   | Housing and Property Directorate                         |
| ICT   | Information and Communications Technologies              |
| IDP   | Internally Displaced Person                              |
| IO    | Institutions of Ombudsperson                             |
| IOM   | International Organization for Migration                 |
| IPA   | Instrument for Pre-Accession Assistance                  |
| KiM   | Kosovo and Metohija                                      |
| KPA   | Kosovo* Property Agency                                  |
| KPCC  | Kosovo* Property Claims Commission                       |
| KPCVA | Kosovo* Property Comparison and Verification Agency      |
| KS    | Kosovo*  |
| KSF   | Kosovo* Security Force (Kosovo* Armed Force)             |
| KTA   | Kosovo* Trust Agency                                     |
| KVPA  | Kosovo* Verification Property Agency                     |
| LAP   | Local Action Plan  |
| MCR   | Ministry for Communities and Return                      |
| MCSC  | Municipal Community Safety Councils                      |
| MEST  | Ministry of Education, Science and Technology of Kosovo* |
| MLSW  | Ministry of Labour and Social Welfare                    |
| MCsR  | Municipal Commission for Return                          |
| MOCR  | Municipal Offices for Communities and Return             |



|            |  |
|------------|--|
| MOE        | Municipal Office for Employment  |
| MoH        | Ministry of Health in Kosovo*  |
| NDS        | National Development Strategy of Kosovo*   |
| NGO        | Non-governmental organization  |
| NGO ECMI   | NGO European Centre for Minority Issues Kosovo*  |
| OKiM       | Office for Kosovo and Metohija of the Government of Republic of Serbia   |
| OSCE       | Organization for Security and Co-operation in Europe   |
| PAK        | Privatization Agency of Kosovo*  |
| PES        | Public Employment Services in Kosovo*  |
| PHC        | Primary Health Centre  |
| PHD        | Doctor of Philosophy/Science   |
| PRTANs     | Manuals for Municipal and School Prevention and Response Teams towards Abandonment and Non-Registration in Compulsory Education in Kosovo* |
| RAE        | Roma, Ashkali and Egyptians  |
| RKS        | Kosovo*  |
| RRK        | Return and Reintegration in Kosovo*  |
| SCRM       | Commissariat for Refugees and Migration of the Republic of Serbia  |
| SHC        | Secondary Health Centre  |
| SMES       | Ministry of Education, Science and Technological Development of the Republic of Serbia   |
| SMIA       | Improving Kosovo*'s education management system  |
| SMoH       | Ministry of Health of the Republic of Serbia   |
| SoE        | Socially Owned Enterprises   |
| THC        | Tertiary Health Centre   |
| UMN        | University of North Mitrovica  |
| UN         | United Nations   |
| UNHCR      | United Nations High Commissioner for Refugees  |
| UNICEF     | United Nations Children's Fund   |
| UNMIK      | United Nations Interim Administration Mission in Kosovo*   |
| UNSCR 1244 | United Nations Security Council Resolution 1244  |
| VET        | Vocational, Education and Training   |
| VTCs       | Vocational Training Centres of Kosovo*   |

## Executive Summary

Since the first wave of displacement from Kosovo and Metohija during spring of 1999, the trend of displacement has continued over the past two decades, especially since the unilaterally declared independence of Kosovo\* in February 2008 till the present day. Today more than 200,000 people remain displaced and are facing many challenges in their everyday lives. On the other hand, a small number of those who decided to return to Kosovo\* remain to be in an undesirable situation.

Despite the fact that the authorities in Serbia have established various affirmative measures and implemented a large number of programs funded by the EU, UNHCR, Government of the Republic of Serbia, OSCE, USAID and other international donors, internally displaced persons and returnees to Kosovo\* continue to face a large number of difficulties, regardless of whether they decide to stay in Serbia or return to Kosovo\*.

In this comprehensive study *The Research on Sustainable Return of IDPs to Kosovo\* – Towards the Step Forward*, under *The Return as a Step Forward Project* implemented by IDC in cooperation with NGO ProAktiv and the Municipality of Vrnjacka Banja, the focus was on:

1. Obtaining relevant and credible information from IDPs and other stakeholders;
2. Achieving a better understanding of the possibilities for return in terms of implementation of the institutional and legal framework of the return process of IDPs;
3. Identifying the obstacles and constraints as well as specific needs of IDPs who are willing to return to Kosovo\*
4. Exploring how well the needs of IDPs and displaced returnees are currently addressed in Kosovo\*
5. Presenting recommendations on how to improve support for the IDPs' return and sustainable reintegration.

This focus is a reflection of IDC on long-lasting solution work the main emphasis was given to identifying urgent needs of internally displaced persons and providing support for addressing these needs by providing programmes related to return and assistance in return through an individual and participatory approach.

Furthermore, this research is action-oriented, and it aims to inform all interested actors from civil society organizations, governmental and institutional officials, the private sector, donors and the general public about the IDPs and displaced returnees to Kosovo\* and the possible actions that could provide durable solutions for the return and reintegration. Finally, we do believe that this publication will encourage further discussion and cooperation aimed at strengthening return and reintegration to Kosovo\*.

The research report is based on qualitative and quantitative research carried out in Serbia and Kosovo\*. In order to obtain a comprehensive snapshot of the durable solutions for IDPs, we conducted the following activities:

- A desk review was conducted during January and February 2019 to identify national legislation, strategies and policies concerning the return and reintegration process in Serbia and Kosovo\* and looking into evidence on how these legislation, strategies and policies are being implemented.
- Brief literature review (publications, reports and other relevant documents) has been conducted in February 2019 to gather relevant information and identify potential problems as well as good practices evidence.
- They were interviewing 70 internally displaced persons in Serbia and 31 returnees who have already returned to Kosovo\* to identify their specific needs regarding return and reintegration through semi-structured, qualitative interviews between January and March 2019. Interviewees were recruited through the IDC IDPs database and the Ministry of Communities and Return in Kosovo\* after consultations with caseworkers to determine eligibility. Our first barrier was finding enough IDPs and returnees to Kosovo\* who were willing to talk to us; some caseworkers felt their beneficiaries, mainly Roma people, were too vulnerable to be interviewed. Of all eligible people, some did not feel ready to discuss their experiences or were afraid of potential implications on their status. Others were unwilling to go through yet more interviews discussing their experiences.
- Interviewing 27 national authorities and institutions, civil society organizations, international organizations in Serbia and Kosovo\* with the aim of identifying priorities and long-term strategies in the field of return and reintegration, as well as the status and perspectives of internally displaced



persons and returnees in Kosovo\*, specific activities and measures, strengths and weaknesses related to durable solutions. All interviews have been conducted between January and April 2019. Representatives of the Ministry of Culture, Youth and Sports in Kosovo\* refusing an interview was yet another obstacle; some of them provided concise answers without going into details.

- Two focus groups discussions were held on February 21st in Vrnjačka Banja and on 19th March in Niš with more than 30 IDPs and relevant local actors. The focus of these sessions was exploring under which conditions IDPs would decide to return to Kosovo\*, as well as identifying their needs and difficulties and finally the practical experience of these frontline persons.

The key findings of this report are:

- There is no legal document in the form of law that would articulate an overall and long-term approach to return process and guarantee the right to the voluntary return of IDPs on bases of public and parliamentary debate. This implies that essential precondition for sustainable return is not yet fulfilled.
- Regardless of the applicable policy framework and various procedures relevant to the general population<sup>2</sup> which are applicable for the internally displaced persons and displaced returnees to Kosovo\*, and currently adopted measures and supports by the competent authorities for their implementation, there are no sufficient conditions to enable sustainable return.
- In many aspects displaced returnees to Kosovo\* are not recognized as a particularly vulnerable category, nor there is a comprehensive analysis of the needs and position of returned IDPs in Kosovo\* which would make a basis for the development of applicable policies.
- Both Serbia and Kosovo\* have limited resources which are predominantly depending on donative support from the international donations for the implementation of proposed activities and measures.
- In ranking factors of impact on the decision to return, interviewed IDPs reported freedom of movement and security as a primary concern that influences their decision regarding their return. These concerns are followed by the concerns about access to Serbian health institutions, equal job opportunities without discriminating, particularly Roma IDPs, women and youth, education in their mother tongue as well as return and reconstruction of properties etc.
- The three most significant challenges that were underlined by returnee's respondents are the following: unemployment, low income and low living standards/poverty. While, respondents who have experienced the return process to Kosovo\* where they spend several years before returning to Serbia identified the following reasons for returning to Serbia: a) insecurity (experiencing various types of incidents such as burglary, demolition of the house and impossibility to cultivate the land due to usurpation by non-owner); constant provocation by the Albanians and threats of expulsion; b) inability to find a job; c) restricted freedom of movement; d) isolation; e) low level of possibilities for children's education.

The research report is divided into seven sections. The first section provides information on the methodology and participants' profiles while the second section explores the conceptual framework, and the following five sections provide detailed information and analysis on the guaranteed rights, from the status rights and property/housing rights to socio-economic rights; they also provide information on how to exercise to guaranteed rights and available supports.

Finally, this research offers a broad set of recommendations to improve different aspects of return and sustainable reintegration, which are provided at the end of this report.

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<sup>2</sup> In Serbia, internally displaced persons as citizens of Serbia have the same rights as the domicile population under legally defined criteria, and the required documentation entitles them to all types of available assistance. In Kosovo\* is the same situation, the returnees exercise various rights if they have Kosovo\* documents and meet defined criteria.

## Introduction

Dissolution of Socialist Federal Republic of Yugoslavia and conflicts in the Balkans during the '90s resulted in a mass influx of refugees and internally displaced persons in Serbia. According to the data of Serbian Commissariat for Refugees and Migration more than 800,000 refugees from the former Yugoslav republics and more than 200,000 internally displaced persons from Kosovo and Metohija obtained protection in the Republic of Serbia. The registration of internally displaced persons in Serbia that was conducted in 2000 has shown that the number of IDPs slightly decreased to 186,000 IDPs. However, the influx has been continued after the ethnic cleansing of minority communities of Serbian and RAE ethnicities committed on 17 March 2004, and more than 4,500 people were displaced.<sup>3</sup> Furthermore, additional displacement occurred after the Unilateral Declaration of Independence of Kosovo\* on 17 February 2008. During 2018, the number of IDPs that are registered in Serbia is 201,047 (2.85% out of the estimated total of 7,040,272 inhabitants in 2018).<sup>4</sup> According to the data of Ministry for Communities and Return Kosovo\* the overall number of IDPs that returned to Kosovo\* within the period 2001-2018 is 28.061 individuals.<sup>5</sup> Nevertheless, according to the records of SCRMT Trustee located in Kosovo\* the overall data of returned IDPs within the period 1999-2018 is 1,349 families (3,931 individuals), whereas 376 families (975 individuals) have left Kosovo\* meanwhile. Thus, the overall number at the end of 2018 was 1,803 families (2,922 individuals).<sup>6</sup> Governmental and international stakeholders have assisted the vast majority of the returned IDPs through the implementation of various programs and projects. More than 3,500 individuals have been assisted in the process of return to Kosovo\* through the funding of international donors.<sup>7</sup> On the other hand, the number of IDPs who have expressed of interest in a voluntary return to Kosovo\* remains significantly high with 20,000 individuals according to the data of MCR.<sup>8</sup> Nonetheless, in 2016, UNHCR conducted a regional assessment of the needs of the families who have earlier expressed an interest to return. At the moment of conduction, the assessment of 2,237 families (8,651 individuals) applied to their return. Besides, newly interviewed 398 families (1,319 individuals) have expressed their interest to return.<sup>9</sup>

In line with international standards on a durable solution for IDPs, this study will provide an overview of the right of voluntary return to Kosovo\* as one aspect of a durable solution for IDPs. The study will elaborate on the implementation of the institutional and legal framework of the return process of IDPs and links between the decision to return, the reintegration process and sustainable return. Moreover, it will try to explore the impact of international organizations and international assistance in these processes, due to the role that they have in this regard. On the other hand, it will analyse how individual return decision is being influenced by:

- structural conditions (conditions in the place of origin, property rights, security issues, the sustainability of return);
- subjective conditions, including individual attributes and social relations;
- policy interventions.

Therefore, this comprehensive study seeks to understand better the interconnection of a rights-based approach in the reintegration process and the impact on the individual decision to return. The study will not deal with political issues in details, electoral rights, nor with the instruments of transitional justice and reconciliation in a post-conflict society, although, it acknowledges the importance of its fulfilment as a precondition for sustainable return of IDPs to Kosovo\*

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<sup>3</sup> The collapse in Kosovo\*, International Crisis Group, European Report no.155, 22 April 2004, retrieved from <https://www.crisisgroup.org/europe-central-asia/balkans/kosovo/collapse-kosovo>

<sup>4</sup> Situation and needs of IDPs in the Republic of Serbia, Serbian Commissariat for Refugees and Migration, 2018

<sup>5</sup> Ministry for Communities and Return, Questionnaire on the Sustainable Return of IDPs to Kosovo\*, fulfilled and submitted to IDC, February 2019

<sup>6</sup> The data includes the number of individuals that have been registered with full individual/private data and individuals that have been recorded in the field with necessary individual information (i.g.name and surname).

<sup>7</sup> According to the data obtained from ASB and DRC

<sup>8</sup> Ministry for Communities and Return in Kosovo\* official website: <http://mzp-rks.org/sr-l/>

<sup>9</sup> Displaced persons from Kosovo\* in the region – a re-assessment of interest to Return (2016), Report, UNHCR Regional Office in South East Europe

Acknowledging that there is no clear consensus on the definition of sustainable return, and how it relates to reintegration, the study will analyse the following aspects:

- a) access to documents/ status rights;
- b) access to the right to property (property repossession), including the right to adequate housing;
- c) access to employment and social welfare;
- d) access to the right to education;
- e) access to the right to health, by using the tool/international indicators for measurement of economic and social rights.

The main criteria to measure the enjoyment of economic, social and cultural rights were following the standards set by the UN Committee on Economic, Social and Cultural Rights (CESCR), as follows:

- a) availability;
- b) accessibility: - non-discrimination, - physical accessibility, - economic accessibility, - information accessibility;
- c) acceptability and
- d) quality.<sup>10</sup>

In this regard, the study will be structured as follows: the first chapter will introduce the methodology and participants' profile. The second chapter will elaborate on the conceptual framework in Kosovo\*, which will include applicable legal and institutional framework, supported by the international standards of the right to return. The main aim of the second chapter is to see how these frameworks are structured and how it complies with the right to sustainable return. The third, fourth, fifth, sixth and seventh chapters will elaborate on the access to the above- mentioned rights and will be structured as seven sub-chapters. The main focus of these chapters will be to provide an overview of the following aspects: 1) background and justification; 2) legal and policy framework; 3) role of state and local self-government in promotion and protection of IDPs' rights and their sustainable return and reintegration, 4) role of international community and civil society in promotion and protection of IDPs rights and their sustainable return and reintegration; 5) general access to particular rights; 6) situation, needs and reasons to return of IDPs – (assessment of the analysis of the survey results that acknowledge subjective standpoint of the respondents); 7) available services. The final chapter will connect the conceptual framework and closing remarks of the research and will provide a set of recommendations.

## 1. Methodology and participants profile

This research took a qualitative approach, beginning with a desk research and review of available secondary data, including crucial available sources, such as national legal framework, international human rights standards and indicators for measuring the fulfilment of the socio-economic rights, various strategies and action plans, needs assessments and reports from various national and international sources. It was followed by a series of in-depth individual interviews with IDPs in Serbia and returned IDPs in Kosovo\*.<sup>11</sup> The qualitative approach was used in order to understand why and how decisions were made. During the analysis phase, interview data were triangulated with findings from the literature review. The series of interviews were conducted with competent national authorities and international organizations in Serbia and Kosovo\*. Also, two focus group discussions were held. Focus group discussions were used as a way to examine in-depth the issues of concern to potential returnees. The social interaction within each group provides the possibility to facilitate more extensive discussion both of aspirations for return and the perceived obstacles for return. Two focus group discussions have been held in Vrnjacka Banja and Nis. Participants in the focus group were invited by the local SCRM Trustee and NGO Proaktiv. The target size for each session was ten to fifteen participants (including male and female) with the aim to incorporate individuals with some shared experiences but who did not necessarily know each other before the meeting.

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<sup>10</sup> General Comments no. 13 The right to education, General Comments no.14 The right to highest attainable standards of health and General Comments no. 19. The Right to social security, UN Committee on Economic, Social and Cultural Rights

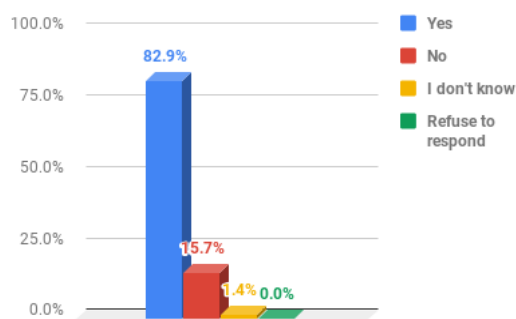
<sup>11</sup> The interviews were conducted with returnees who are settled in following enclaves/towns: Gorazdevac, Belo Polje, Dobrotin, Donja Gusterica, Klina, Vidanje, Blagaca, Istok, Lukavac, Srbobran, Crkolez, Dragoljevac, Kos and Dubrava.

## 1.1 Identification and selection of participants

Participants were selected among IDPs populations settled in Aleksinac, Belgrade, Bujanovac, Cacak, Kragujevac, Kraljevo, Nis, Smederevska Palanka, Svilajnac, and Vrnjacka Banja. Notably, it is taking into consideration the vulnerable IDP Roma population in Salvatore Collective Center in Bujanovac, where the interviews were conducted with the assistance of local RAE representative. Apart from the IDPs population, participants were selected among the population of returnees who returned to Kosovo\*, including returned IDPs who came back to Serbia, due to various reasons and/or IDPs who are living partially in Serbia and Kosovo\*. Primary data were collected from 101 participants (70 IDPs located in Serbia and 31 returned IDPs located in Kosovo\*) between January and February 2019.<sup>12</sup> The purposive sample was designed to include RAE and Serbian ethnicity. In addition to ethnicity, participants were selected in order to allow indicative comparisons by age, gender, and education. Besides, two focus group discussions have been held in Nis and Vrnjacka Banja.

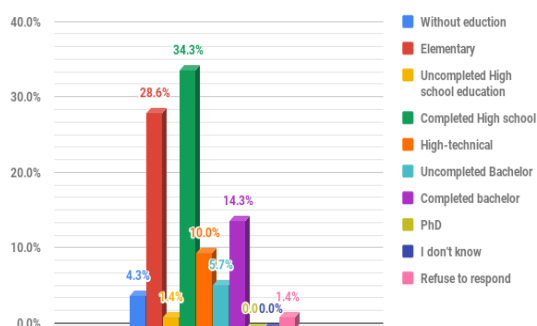
IDPs' ethnic structure followed RAE 37,7% and Serbian 62,3% (Appendix I, Chart No.1). The majority of the respondents have official IDP status in Serbia and do possess the relevant identification card. Regarding the level of education, the majority of IDPs respondents have completed high school, following completed elementary school, but without completed bachelor, MA or PhD studies.

**Do you have official IDP status in Serbia?**



*Chart No.1 IDP status in Serbia*

**Education level**



*Chart No.2 IDPs level of Education*

*Table 1: IDPs age structure*

| 21-30 | 31-40 | 41-50 | 51-60 | 61-70 | 71-80 | 81-90 |
|-------|-------|-------|-------|-------|-------|-------|
| 19.1% | 16.2% | 29.4% | 19.1% | 13.2% | 2.9%  | 0.0%  |

*Table 2: Returnees' age structure*

| 21-30 | 31-40 | 41-50 | 51-60 | 61-70 | 71-80 | 81-90 |
|-------|-------|-------|-------|-------|-------|-------|
| 14,8% | 25,9% | 11,1% | 18,5% | 18,5% | 7,4%  | 3,7%  |

<sup>12</sup> In Serbia, the partner organization Proaktiv on the *Project Return as a Step Forward* conducted semi-structured interviews with selected participants, each lasting 30-60 minutes. All participants gave informed consent before participating and were free to terminate the interview at any time. The research experts conducted interviews with competent authorities and international organizations in Serbia. In Kosovo\*, the interviews with selected participants, competent authorities and international organization have been conducted by researcher Edona Lekaj. In close cooperation with the representatives of the Ministry for Communities and Return in Kosovo\* the interviews were carried out with municipal Offices for Communities and Return and returned IDPs who are settled in Serbian enclaves.

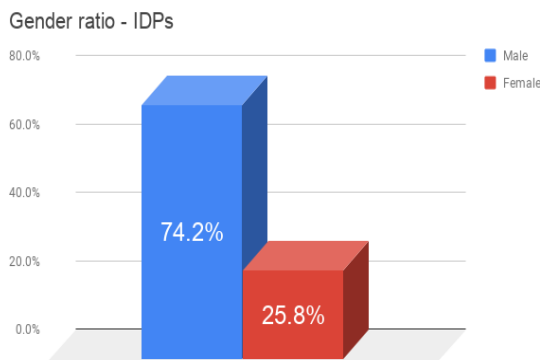


Chart No.3 Gender Ratio IDPs

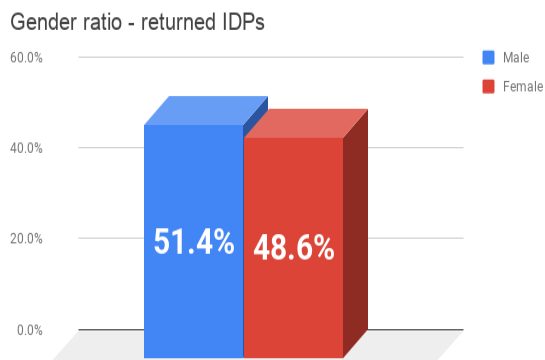


Chart No. 4 Gender Ratio Returned IDPs to Kosovo\*

Regarding the level of education of returned IDPs respondents, the majority have completed elementary school, while the percentage of the respondents with completed high school was rather low at 27,3%, but without completed bachelor and PhD studies (Appendix No. I Chart 2). All returnees' respondents have returned to the place of origin, where they are currently residing.

Since, the Study examines the process of sustainable return to Kosovo\* the representatives of 21 competent institutions in Kosovo\* were included in conducting the interviews, such as Institutions of Ombudsperson, Ministry for Communities and Return, municipal offices for communities and return, Ministry of Labour and Social Welfare, Ministry of Education, Science and Technology and others. It followed the set of the interviews with international actors, such as Delegation of European Union to Kosovo\*, including the local and international civil society organizations such as NGO Aktiv and European Center for Minority Issues Kosovo\*. Besides, interviews were carried out with competent authorities in Serbia, such as the Serbian Commissariat for Refugees and Migration and Office for Kosovo and Metohija, including international organizations such as ASB, DRC and the Mission of the EU Delegation to Serbia.

## 1.2 Limitation

The following limitations should be acknowledged. The first relates to the restriction related to the impossibility of implementation of IPA Serbia project in Kosovo\*. Namely, any activities of the action could not be implemented in Kosovo\*, due to the concurrence of jurisdictions between the two EU Missions. Therefore, the interviews with some of the representatives of the Kosovo\* institutions could not be conducted in the form of face-to-face interviews. The second relates to the decision of the Kosovo\* government to impose a discriminatory economic blockade by imposing taxes of 100% on products coming from central Serbia and Bosnia and Herzegovina in November 2018.<sup>13</sup> The introduction of this measure increased the security tensions in Kosovo\*. Thus, some of the institutions were reluctant to participate in the research such as Ministry of Culture, Youth and Sports and others. Moreover, it influenced the responses of the respondents, and it shaped more bias and less objective responses. The third relates to the data sample, which has been collected from the 70 participants of the IDP population and 31 participants of returned IDPs population in the locations mentioned above in Serbia and Kosovo\* in which the number of the IDPs and returnees is extensive. However, any challenges identified are neither exhaustive nor necessarily applicable to other location. Findings may also be quite different for the IDPs and returned IDPs that have a residence in the different locations.

<sup>13</sup> Source: BBC, *Kosovske takse za robu iz Srbije i BiH: "Nismo imali izbora"*, journal article 23 Novembre 2018, retrieved from <https://www.bbc.com/serbian/lat/balkan-46318515>

## 2. Conceptual Framework

According to UNHCR data, there are still around 57,000 refugees from the territory of the former Yugoslav republics and 204,000 IDPs from Kosovo\* in Serbia out of which approximately 90,000 are with displacement related needs. Moreover, it is estimated that there are between 50,000 – 60,000 outstanding claims on damaged, destroyed or illegally occupied property of IDPs, as a result of the conflict in Kosovo\*, where most of them belong to Kosovo\* Serbs<sup>14</sup>.

UNHCR estimates that 17,227 additional persons remain displaced within Kosovo\*, with the majority residing in the north of Kosovo\* and Gracanica municipality.<sup>15</sup> The OSCE report *An Assessment of the Voluntary Returns Process in Kosovo\**, indicates that 11,898 displaced households (some 50,000 people) have expressed desire to return to Kosovo\*<sup>16</sup>. As it is mentioned above, UNHCR's database, after reassessing the options, contains data on 1,254 families registered and profiled as families wishing to achieve a sustainable return to Kosovo\*.<sup>17</sup>

The security situation in Kosovo\* still remains complicated and fragile, with many challenges. Kosovo\*. EU Progress Report 2018 for Kosovo\*, underlined that *the overall security situation for minority communities remains relatively stable*. It acknowledges numerous incidents of property theft and burglary that affect Kosovo\* Serb returnees in western Kosovo\* and other minority communities in other municipalities. Often, the incidents are inadequately followed by judicial authorities which increases insecurity and hampers the return process. The return process and reintegration of refugees and displaced persons continues to be slow, with 498 individuals returning in 2017.<sup>18</sup>

According to the Report on Negotiation Process between Belgrade and Pristina, the total number of local incidents increased significantly during 2018 resulting in 42 registered incidents, compared to 30 incidents recorded in the two previous years.<sup>19</sup> The process of transformation of the KSF into so-called Kosovo\* armed forces had an impact in increasing the overall instability in the region in 2018; consequently, it had an indirect impact on the return process.<sup>20</sup>

As of 2011, the EU facilitated dialogue between Serbia and Kosovo\* is on-going (the so-called *Brussels negotiations* process). It includes several chapters such as freedom of movements, police, judiciary, free trade, university diplomas, civil registry books, cadastre, civil protection and others. Within eight years, agreements on freedom of movement, exchange of cadastre records, civil registries, and other topics have been reached and implemented. In 2013, a more essential *Brussels Agreement* was reached.<sup>21</sup> It covered topics on the establishing an Association of Serbian municipalities, and integration of judiciary and police structures. This agreement was not implemented in practice, particularly, its main provisions regarding the the establishment of an association of Serbian municipalities. The process of negotiation was marked with constant tensions and disputes among involved actors.

The competent authorities in the Republic of Serbia such as Office for KiM and Serbian Commissariat for Refugee and Migration support the return process in various pathways. Under its mandate, the Office for KiM develop and implement various public policies and deals with relevant issues in supporting the overall

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<sup>14</sup> OSCE Public Survey, which was conducted in November 2014 by the research company Regional Enterprise Agency (Pristina REA) and Centre for Legal Aid and Regional Development (CLARD), supported by the OSCE Mission in Kosovo\*

<sup>15</sup> UNHCR Statistical Overview, 2014

<sup>16</sup> *An Assessment of the Voluntary Returns Process in Kosovo\**, OSCE Mission to Kosovo\*, December 2014, retrieved from <http://www.osce.org/kosovo/129321>

<sup>17</sup> Displaced persons from Kosovo\* in the region – a re-assessment of interest to Return (2016), Report, UNHCR Regional Office in South East Europe

<sup>18</sup> Kosovo\* Progress Report, 2018, European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic, and Social Committee and Committee of the Regions, 2018 Communication on EU Enlargement Policy

<sup>19</sup> Progress Report on the Dialogue between Belgrade and Pristina, (Covering the period from May 1 to December 15, 2018), Office for Kosovo and Metohija and Office for the Coordination of Affairs in the Process of Negotiation with the Provisional Institutions of Self-Government in Pristina, Government of Republic of Serbia

<sup>20</sup> Ibid

<sup>21</sup> The Agreement was concluded on 19 April 2013 as a result of negotiations process led by Serbian Prime Minister Ivica Dacic, and Kosovo\* Prime Minister Hashim Thaci and mediated by EU High Representative Catherine Ashton, Retrieved [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2013/sr\\_spring\\_report\\_2013\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2013/sr_spring_report_2013_en.pdf)



Serbian community in Kosovo\*. It develops and implements policies in finding the solution for IDPs during their displacement. Office for KiM through its local units on the ground (Gracanica, Kosovska Mitrovica) monitors and supports the returned IDPs in Kosovo\*. Through its trustee in the local self-government bodies (municipalities), the system of the Republic of Serbia is directly monitoring and supporting the returnee population. Due to the external circumstances, Office for KiM provides certain types of assistance through various (intermediary) channels such as national food for socially vulnerable, free legal aid through EU funded projects and so forth. Through the diplomatic and other channels, an advocating part of the activities is carried out, especially concerning the protection of property rights. In practice, this type of support has stabilized and is well received by the returned IDPs.<sup>22</sup> On the other side, SCRM under its mandate covers the issues of accommodation and protection of rights of IDPs. Therefore, one of the priority goals of SCRM is the improvement of the living conditions of the most vulnerable categories of IDPs, individuals and families.

Additionally, SCRM covers the issues of the access to rights, services and resources of IDPs under the law and enabling the exercise of the rights as other citizens. Consequently, SCRM provides programs to improve the living conditions of the IDPs during the displacement (including about 16,000 IDPs in the territory of Kosovo\*). Both governmental bodies are consistently committed to finding comprehensive and sustainable solutions for IDPs in line with the *Guiding Principles of Internal Displacement* and the *Framework on Durable Solution for Internally Displaced Persons*. One of the possible solutions is return process of IDPs and improvement of the living conditions of IDPs during displacement, as well as proving the support in protecting of the rights and interests of IDPs at the place of origin.<sup>23</sup>

## 2.1 Right to voluntary return

As it is underlined in Pinheiro principles, displaced persons have the right to voluntarily return to their homes in safety and dignity and to recover their properties and possessions (or receive appropriate compensation).<sup>24</sup> According to the Pinheiro principles, the *voluntary return in safety and dignity must be based on a free, in informed, individual choice and that refugees and displaced persons should be provided with complete, objective, up-to-date and accurate information, including on physical, material and legal safety issues in countries or places of origin*. Moreover, this right could not be subject to arbitrary or unlawful time limitations.<sup>25</sup> In addition, the right to property, freedom of movement, right to return the country are stipulated in international human rights law and instruments which are directly applicable in Kosovo\*.<sup>26</sup> Furthermore, as it is underlined in principle 28 of the Guiding Principles on Internal Displacement that IDPs have a right to a durable solution and often need assistance in this regard. Consequently, the competent authorities have the primary duty and responsibility to establish conditions and to provide the means, that allow IDPs to voluntarily return, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another location. Apart from the state authorities, the role of humanitarian and international actors is crucial in the process of assisting a durable solution.<sup>27</sup> Facilitating durable solutions requires that all stakeholders, including national and local authorities and humanitarian and development actors, work together in identifying the proper strategies and activities to assist IDPs in this process, and to establish criteria that will help determine to what extent a durable solution has been achieved. Due to the lack of the precise definition of sustainable return, many scholars and actors

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<sup>22</sup> Office for Kosovo and Metohija Government of Republic of Serbia, Questionnaire on Sustainable Return to Kosovo\*, fulfilled and submitted to IDC, March 2019

<sup>23</sup> Commissariat for Refugees and Migration of Republic of Serbia, Questionnaire on Sustainable Return to Kosovo\*, fulfilled and submitted to IDC, March 2019

<sup>24</sup> Economic and Social Council, Final Report of the Special Rapporteur, Paulo Sérgio Pinheiro Principles on housing and property restitution for refugees and displaced persons, Retrieved from <https://digitallibrary.un.org/record/552535>

The UN Sub-Commission on the Promotion and Protection of Human Rights adopted the *Principles on housing and property restitution for refugees and displaced persons*, E/CN.4/Sub.2/2005/17, August 11, 2005

<sup>25</sup> Ibid

<sup>26</sup> See article 13.2 of the Universal Declaration of Human Rights; Art. 12.4 of the International Covenant on Civil and Political Rights; Art. 5.d ii of the International Convention on the Elimination of all Forms of Racial Discrimination; All of these standards are directly applicable and guaranteed in Kosovo\* due to the Constitutional provision (article 22 of the Kosovo\* Constitution).

<sup>27</sup> UNHCR IASC Framework on Durable Solution for Internally Displaced Persons, 2010, Retrieved from <https://www.unhcr.org/50f94cd49.pdf>

equalize sustainability and durability.<sup>28</sup> Taking into consideration the completion of only one criterion that the returnees do not change the place of return for a return process to be sustainable. A similar approach can be found in the *Strategy for Communities and Return(2014-2018)*<sup>29</sup> Other relevant conditions/dimensions for a sustainable return process are not provided in the strategy. A Manual for Sustainable Return goes further in stressing that return can only be considered sustainable where returnees can gain access to rights to services, shelter, and freedom of movement.<sup>30</sup> The UNHCR Framework on Sustainable Return defines that durable solution is achieved when internally displaced persons no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement. It can be accomplished by sustainable reintegration at the place of origin, sustainable local integration in areas where IDPs are settled and sustainable integration in another part of the country.<sup>31</sup> According to Richard Black, the durability represents only one aspect of sustainable return, while sustainability refers to the much broader concepts that include various dimensions. Firstly, the return can be viewed as 'sustainable' concerning the situation of each returnee, and also with the home society as a whole. Secondly, 'sustainability' for individuals can be considered from the (subjective) standpoint of the returnees, as well as in terms of objective measurement of their situation. Thirdly, sustainability can be measured concerning the physical location or desired location of migrants after return, but also with socio-economic and political-security considerations.<sup>32</sup> Therefore, four main criteria could be underlined as vital in measuring the sustainable return:

- a) physical security (ethnically motivated violence and property, freedom of movement);
- b) material security (housing and property issue, employment and economic status);
- c) social security (education, health care, social security system, and infrastructure);
- d) legal security (access to documents and information, and access to courts).

Thus, as it is mentioned above, the study will explore the sustainable return to Kosovo\* taking into consideration the following dimensions: access to documentation, property right, and housing, employment and social rights, right to education, right to health and subjective/personal point of view, through the above - mentioned measurement criteria.

## 2.2 National Legal and Policy Framework of the Right to Voluntary Return

The legal and institutional frameworks reaffirm the right to return in compliance with international standards, in the following documents: a) Regulation on the Return of Displaced persons and Durable Solutions, including Guidelines for implementation of the Regulation;<sup>33</sup> b) The Law on Protection and Promotion of the Rights of Communities;<sup>34</sup> c) Protocol on Voluntary and Sustainable Return,<sup>35</sup> d) Regulation for the Municipal Offices for Communities and Return<sup>36</sup>; e) Revised Manual on Sustainable Return; f) Guidelines for Implementation of Returns Support<sup>37</sup>. The *Strategy for Communities and Returns and Action Plan 2014-2018*<sup>38</sup> has expired and the new strategy accompanied by the Action Plan is in the drafting process. The adoption is expected until the end of 2019, and delays are due to the technical reasons, as it is underlined by the Ministry for Communities and Return. On the other hand, the evaluation report on

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<sup>28</sup> Black, Richard, Khalid Koser, Karen Munk, (2004) Understanding Voluntary Return, Sussex Centre for Migration Research

<sup>29</sup> Strategy for Communities and Return 2014-2018, Government of Kosovo\*, December 2013, Retrieved from [http://www.kryeministri-ks.net/repository/docs/STRATEGY\\_FOR\\_COMMUNITIES\\_AND\\_RETURN\\_2014-2018.pdf](http://www.kryeministri-ks.net/repository/docs/STRATEGY_FOR_COMMUNITIES_AND_RETURN_2014-2018.pdf)

<sup>30</sup> UN Mission in Kosovo (UNMIK, 2003), Manual for Sustainable Return

<sup>31</sup> UNHCR IASC Framework on Durable Solution for Internally Displaced Persons, 2010, Retrieved from <https://www.unhcr.org/50f94cd49.pdf>

<sup>32</sup> Black, Richard, Khalid Koser, Karen Munk, (2004) Understanding Voluntary Return, Sussex Centre for Migration Research

<sup>33</sup> Guidelines for Implementation of Regulation (GRK)-No.02/2018 on the Return of Displaced Persons and Durable Solutions (10.01.2019) Ministry for Communities and Return, Regulation (GRK) – No. 02/2018 on the Return of Displaced Persons and Durable Solutions (16.01.2019), Government of Kosovo\*

<sup>34</sup> The Law on Protection and Promotion of the Rights of Communities and their members in Kosovo\*, no. 03/L-047, March 2008

<sup>35</sup> Protocol on Voluntary Return and Sustainable Return between United Nations Interim Administration Mission in Kosovo and Provisional Institutions of Self-Government in Kosovo and Government of Serbia", 6 June 2006

<sup>36</sup> Regulation No. 02/2010 for the Municipal Offices for Communities and Return, Office of Prime Minister Kosovo\*, August 2010

<sup>37</sup> Guidelines for the Implementation of Returns Support, Ministry for Communities and Return in Kosovo\* March 2012

<sup>38</sup> Strategy for Communities and Return 2014-2018, Government of Kosovo\*, December 2013

the achievements will be drafted and published soon.<sup>39</sup> Nevertheless, the process of drafting the Law on Return of Displaced Persons is still a pending issue. Consequently, it creates an ambiguity of the corpus of the rights, procedures, legal protection and other aspects of the return process. Nevertheless, it should be acknowledged that initiative exists, including a political will for its adoption, but without current activities in this regard.<sup>40</sup> The Regulation on the Return of Displaced persons and Durable Solutions, accompanied with Administrative Instruction for its implementation are the first and the only by-law regulations that were adopted after 1999, that regulates the procedure of return process of IDPs and durable solutions, including guarantees of specific rights. For the first time, IDPs within the Kosovo\* that do not possess the IDPs documentations are legally recognized. In addition, it guarantees return and assistance not only in the place of origin but also in the other locations within Kosovo\*. For the first time, the procedure for the return and durable solutions have been precisely defined, and criteria for the assistance to displaced persons have been established.<sup>41</sup>

The regulation stipulates the creation of a Data Management System (SUP) that will facilitate the work of the Municipal Office for Communities and Returns as well as the ministry itself. It envisages that the entire process of return, as well as subsequent monitoring of returnees, is carried out by the system, and within the system itself. A periodic report should be automatically generated by the system and automatically published on the website of the Ministry for Communities and Returns. The Data Management System has not yet been operationalized, due to the minor problems, but it is expected to be fully operational soon. Meanwhile, the Ministry for Communities and Return has organized training for officials of municipal offices for communities and returns as well as municipal commissions within the period from January to the end of February 2019.<sup>42</sup> According to the data obtained from Municipal Offices for Communities and Return in Klina and Istok, the Task Force Municipal Offices in these municipalities are operational and started with work based on the municipal decision, whereas in Pec municipality the functioning of Task Force Municipal Office is still pending issue.<sup>43</sup> Nonetheless, in the majority of the municipalities, the Task Force Municipal offices have been established and become operational based on the municipal decision, with the exclusion of fourth north municipalities Zubin Potok, Leposavic, Zvecan and Mitrovica in which the mayors have resigned.<sup>44</sup>

The UNHCR Kosovo\* in coordination with all actors will contribute to this strategy by providing its expertise. It will continue to advocate for the collection of the specific data and durable solutions for IDPs and interim solutions for the most vulnerable IDPs with the focus on collective centres.<sup>45</sup> A regional initiative towards finding durable solutions for IDPs from Kosovo\* has been established in 2014 with the support of OSCE and UNHCR, commonly known as the *Skopje process*.<sup>46</sup> It includes the following thematic areas: a) property rights; b) personal documentation; c) security dialogue and reintegration; d) data management; e) solutions planning. The main achievements of this initiative until 2018 could be summarized as follows: a) development of the guidelines for responses to incidents affecting local communities by the Implementation Working Group and shared by Ministry for Communities and Return with Municipal Offices for Communities and Return. It includes returnee representatives in MCSC meetings as a standard practice; b) development of the guidelines for implementation of the Hate Crime Memorandum between Ministry of Internal Affairs, Kosovo\* Police, Chief Prosecutors' Office and Kosovo\* Judicial

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<sup>39</sup> Ministry for Communities and Return Kosovo\*, Questionnaire on Sustainable Return to Kosovo\*, fulfilled and submitted to IDC, February 2019

<sup>40</sup> Ibid

<sup>41</sup> Ibid

<sup>42</sup> Ministry for Communities and Return, Questionnaire on Sustainable Return to Kosovo\*, fulfilled and submitted to IDC, February 2019

<sup>43</sup> Municipal Offices for Communities and Return Klina, Istok and Pec, Questionnaire on Sustainable Return to Kosovo\*, fulfilled and submitted to IDC, January 2019

<sup>44</sup> Ministry for Communities and Return, Questionnaire on Sustainable Return to Kosovo\*, fulfilled and submitted to IDC, February 2019

<sup>45</sup> UNHCR Office of the Chief of Mission in Kosovo\*, Interview on Sustainable return of IDPs to Kosovo\* conducted and submitted by Edona Lekaj on March 2019

<sup>46</sup> Inter-Institutional Initiative for Displaced Persons (Skopje process), facilitated by OSCE and UNHCR, includes 40 relevant institutional Focal Points (Ministry of Communities and Returns, Ministry of Justice, Ministry of Local Governance and Administration, Ministry of Environment and Spatial Planning, Ministry of Finance, Office of the Prime Minister, Kosovo\* Police, Kosovo\* Judicial Council, Office of the State Prosecutor, Civil Registration Agency, National Agency for Personal Data Protection and Kosovo\* Property Comparison and Verification Agency–KPCVA

Council.<sup>47</sup> Profiling of returnees that are carried out by UNHCR in the region identifies approximately 4,000 returnees who expressed their wish to return. In the incoming period, durable solutions should be found for them in a joint effort of different institutions/organizations. It identified that the donor strategy should be developed. The newly adopted regulation allows online application for assisted return, once the MCR database becomes functional. It is identified the need for engagement of representatives of displaced persons in planning for durable solutions. However, it remains to be discussed on its implementation which shall include administrative, financial and logistic aspects, but it is of imminent importance to have the displaced persons or their representatives included in the planning of the durable solution. Moreover, it has been underlined a positive example of good practice was cooperation on the issuance of personal documentation to displaced persons.<sup>48</sup>

The other aspects such as property and personal documents will be discussed in the following chapter, and it will include the finding of the Skopje initiative.

### *2.3 Identified challenges for sustainable return to Kosovo\**

The main challenges for the decision on the sustainable return of IDPs to Kosovo\*, which has been underlined by Office for KIM relates to lack of physical security (fear for personal wellbeing and family members), followed by obstacles in exercise of property rights. Other institutional challenges identified by Office for KIM related to access to documents for returnees, the process of harmonization of the cadastre, i.e. the verification of the property rights and economic instability.<sup>49</sup> Similarly, the Serbian Commissariat for Refugees and Migration underlined the main challenges to sustainable return as follows: a) security situation; b) lack of adequate and effective mechanisms for protection and access to rights; c) unresolved issue of property repossessions; d) the inability to use destroyed, usurped housing and agricultural property; e) insufficient funds for the reconstruction or construction of houses for returnees; f) difficult access to public services and the possibility of using their language; g) lack of economic opportunities to support return; h) complicated return procedures. However, the KPVA reports that close to 90% of the claims for the return of private property have been settled, the data on the number of IDPs that manage to repossess the property and to use it is not available. The private property of the IDPs is frequently alienated by fraudulent transactions based on forged signatures on contracts or power of attorneys. Regarding the destroyed property over 19,000 compensation claims were handed over to the courts in Kosovo\*, but most of the Kosovo\* courts declared themselves incompetent or refused to receive complaints. Following events on March 17, 2004, the provisional institutions undertook the obligation to restore destroyed facilities and provide the compensation. Nevertheless, most of the damaged houses have not been renovated. In the courts in Kosovo\*, there are 1,500 lawsuits for the damaged property on March 17, 2004, that are not being handled. Long-lasting and expensive judicial processes, demanding access to courts, the inability to use the Serbian language and translation of documents as well as limited freedom of movement make it impossible for IDPs to exercise their rights in court proceedings. In addition, agricultural land is mainly occupied by no owners, disabling property owners, returnees or internally displaced persons to use it. The privatization process in Kosovo\* does not respect the rights of the owners of the social property (Republic of Serbia) and the rights of workers who worked in these socially owned enterprises.<sup>50</sup>

In addition, the most significant challenge which is underlined by Ministry for Communities and Return is the adoption of the Law on Displaced Persons, their Return and Reintegration, as well as the full implementation of the Regulation on Displaced Persons and durable solutions in order to determine the rights of all displaced persons in the legal field. Secondly, it is a great challenge to increase the number of returnees in the incoming period and to obtain additional funding through various avenues of donors' support.<sup>51</sup>

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<sup>47</sup> Skopje Process – Inter-institutional Initiative on Durable Solutions for Displaced Persons from Kosovo\*, Leaflet 1, September 2018

<sup>48</sup> Skopje Process – Inter-institutional Initiative on Durable Solutions for Displaced Persons from Kosovo\*, Leaflet 2, December 2018

<sup>49</sup> Office for Kosovo and Metohija Government of Republic of Serbia, Questionnaire on the Sustainable Return of IDPs to Kosovo\*, fulfilled and submitted to IDC, February 2019

<sup>50</sup> Commissariat for Refugee and Migration of the Republic of Serbia, Questionnaire on the Sustainable Return of IDPs to Kosovo\*, fulfilled and submitted to IDC, March 2019

<sup>51</sup> Ministry for Communities and Return Kosovo\*, Questionnaire on the Sustainable Return of IDPs to Kosovo\* fulfilled and submitted to IDC, February 2019

The main obstacles/constraints for a sustainable return process of IDPs to Kosovo\* noted on behalf EU Office in Kosovo\* among others are listed as follows:

- (i) allocation of public land by municipal authorities in cases of landless beneficiaries or social housing projects;
- (ii) political developments;
- (iii) security reasons (this is limited to some areas and limited to some ethnicities);
- (iv) access to property/land;
- (v) inter-ethnic relations.<sup>52</sup>

In addition, the biggest challenge in return of RAE communities is the lack of sufficient public land allocation by respective municipal authorities as some of the displaced never owned any house/property or land in Kosovo\* despite being originally from Kosovo\*. Most municipalities have minimal public land under their management as most of it is so-called "socially-owned" and is under the management of KPVA. Furthermore, another challenge or obstacle for the return of some RAE community members is a lack of civil identification documents.<sup>53</sup> Similarly, the EU Delegation to Serbia confirms the complexity and diversity of the challenges for sustainable return such as security, property issues, and the impossibility of implementation of IPA project Serbia in Kosovo\*.<sup>54</sup> Likewise, the concurrences of jurisdictions are underlined as a main challenge in implementation of the IPA project supporting the return process of IDPs to Serbia by Arbeiter Samariter Bund SEE (ASB).<sup>55</sup>

The findings by UNHCR Kosovo\* through the protection monitoring system confirm the vulnerability of the IDPs due to the displacement context. The main concerns that they face are the obstacles in effective exercising property rights in the place of origin and that the majority of them have insufficient or no income. Besides, they lack adequate and decent accommodation. Lack of adequate care for the elderly and persons with disabilities is another protection risk. The most vulnerable IDPs are those accommodated in collective centres. The IDPs also face deplorable living conditions in containers and unmaintained buildings. Specific categories, in addition to displacement related needs, struggle with poverty and difficulties with public utilities due to unpaid bills. In addition, UNHCR's protection monitoring reveals that the primary protection concerns for returnees relate to a) unavailable assistance for durable solutions; b) difficulties accessing agricultural and residential property; c) landless/no property that is a precondition to benefit housing assistance often further complicated with lack of land for allocation or sometimes readiness for land allocation by local authorities; d) unequal treatment on assistance opportunities for specific groups; e) limited income generation opportunities; and f) lack of limited interaction with the receiving communities which requires inter-ethnic dialogue efforts. Socio-economic reintegration remains a challenge for returnees.

Furthermore, the precise data on IDPs is still lacking. UNHCR estimates that there are some 16,200 IDPs. However, no accurate data would enable responsible authorities and stakeholders to know the needs and capacities of IDPs, based on which they would plan and allocate funds for durable solutions. DRC conducted profiling of the IDPs in coordination with MCR, UNHCR and other relevant stakeholders in 2016 that contribute to the process of identification of the needs of IDPs that were part of the process.<sup>56</sup>

According to the finding of the civil sector, namely NGO Aktiv, obtaining precise and timely information relevant to the return process (property rights, access to social welfare institutions, personal documents and other similar issues) particularly when it comes to increasing their knowledge of their rights within the Kosovo\* system is still ambiguous. Returned IDPs are often faced with uncertainty due to the lack of information and the burden of bureaucratic requirements.<sup>57</sup>

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<sup>52</sup> Delegation of European Union to Kosovo\*, Interview on the Sustainable Return of IDPs to Kosovo\* conducted and submitted by Edona Lekaj in March 2019

<sup>53</sup> Ibid.

<sup>54</sup> Delegation of the European Union to Serbia, Interview on the Sustainable Return of IDPs to Kosovo\* conducted by Tamara Vučenović, March 2019

<sup>55</sup> ASB (Arbeiter-Samariter-Bund) in Serbia, Questionnaire on the Sustainable Return of IDPs to Kosovo\*, fulfilled and submitted to IDC, February 2019

<sup>56</sup> UNHCR Office of the Chief of Mission in Kosovo\*, Interview on Sustainable return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj on March 2019

<sup>57</sup> NGO Aktiv, Interview on Sustainable return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj on January 2019

Regarding the use of language at the local level, municipal institutions are often unable (or unwilling) to provide services in the Serbian language (i.e., forms and other documents are often only available in the Albanian language or employees are unable to communicate in Serbian.) For example, administrative decisions (i.e., regarding personal documents) have been issued to individuals whose mother tongue is Serbian in the Albanian language, without the provision of a translation. The public sector at a more central level is also problematic, as vital information is, at times, only made publically available in the Albanian language. The Serbian versions of ministerial and other governmental websites are often available in the Albanian and/or English languages.<sup>58</sup>

In addition, the courts often issue verdicts/orders/decisions only in the Albanian language or with a feeble Serbian translation. The Serbian translation(s) of Kosovo\* laws and criminal code are of inferior quality and often vary drastically from the Albanian original. Government agencies encounter great difficulties in providing acceptable written and oral translations – primarily due to a pool of professional interpreters/translators that are mostly untrained. Only very rarely are native Serbian speakers engaged in providing quality control of translated texts. When it comes to addressing violations of language rights - the process of filing complaints is often arduous and is further hindered by a generalized lack of knowledge of legal rights.<sup>59</sup>

#### *2.4 IDPs and Returnees reasoning/challenges for sustainable return to Kosovo\**

In order to assess the structural factors that influence IDPs decision to return and the role of the competent authorities, the various set of question has been raised. Firstly, it has been assessed the perception of the overall support to the return process on behalf of both societies by raising the following statements:

##### IDPs respondents in Serbia

- a) I feel like part of Serbian society - 32,9% totally agreed, 20 % partially agreed, 11, 4% completely disagreed (Appendix I, Chart No. 2);
- b) The Serbian society supports IDPs – 17,1 % totally agreed, 22,9 % partially agreed, 15,7% completely disagreed. A comparative analysis has shown that 10% of Roma IDPs totally agree with the statement that Serbian society supports IDPs, while 7,1% Serbian IDPs totally agree. When it comes to the gender perspective, the percentage is equal to 8,6%. (Appendix I, Charts No. 3, 3.1, 3.2, 3.3 and 3.4);
- c) The Government of Serbia is serious about the IDPs' concerns – 16,2% totally agreed, 14,7% partially agreed, 17,6 completely disagreed (Appendix I, Chart No. 4);
- d) I feel discriminated because I am IDP – 21,4% totally agreed, 11,4% partially agreed, 22,9% completely disagreed The interesting fact that came to light through looking at the results of comparative gender analysis is that the equal percentage of IDPs male respondents totally agree and completely disagree 12,9%. While an equal percentage of IDPs female respondents partially agree and completely disagree 10%. (Appendix I, Charts No. 5, 5.1 and 5.2).
- e) In the case that I decide to return to Kosovo\* - I feel like part of Kosovo\* society - 21,7% totally agreed, 4,3% partially agreed, 30% completely disagreed (Appendix I, Chart No. 6);
- f) In the case that I decide to return - The Kosovo\* society supports Serbs/RAE – 10% totally agreed, 11,6% partially agreed, 1,4% completely disagreed (Appendix I, Chart No. 7);
- g) In the case that I decide to return - The Kosovo\* government takes concerns of IDPs seriously – 2,9% totally agreed, 1,4% partially agreed, 34,3% completely disagreed (Appendix I, Chart No. 8);
- h) In the case that I decide to return - I feel discriminated because I am Serbian / REA IDP– 37,1% totally agreed, 2,9% partially agreed; 8,6% completely disagreed. One of the insights gained through comparative gender analysis is that male and female IDPs respondents would felt discriminated in the case that they decide to return due to their ethnicity. (Appendix I, Charts No. 9, 9.1 and 9.2) <sup>60</sup>

<sup>58</sup> Ibid

<sup>59</sup> Ibid

<sup>60</sup> The information/percentages on the options: partially disagree, neither agree nor disagree, I do not know, refused to respond for all mentioned statements are available in charts/graphs within Appendix I



An interesting fact that came to light through looking at the results of the statements. Namely, according to the standpoint of the respondents, both societies provide support to the return process of IDPs to Kosovo\*. IDPs respondents believe that the Serbian society supports the return process (17%), but also believe that the Kosovo\* society supports the return process (10%). Thus, there is a small percentage difference in this regards, which amounts to 7.1%. Also, one of the insights gained through comparative gender analysis is that the respondents of both sexes would equally feel discriminated in the case of return due to their ethnicity and social status.

In order to gain insights on IDPs perception of current and future status of Kosovo\* and how it correlates with return decision and the return process in general, the set of questions were raised:

| Would you think on durable return to Kosovo* if   | Yes | No  | I do not know | Refuse to respond |
|---|-----|-----|---------------|-------------------|
| Current status of Kosovo* is recognized by the majority of the state, but not Serbia          | 25% | 49% | 20%           | 6%                |
| Kosovo* becomes independent state recognized by the majority of the states, but not Serbia    | 9%  | 61% | 23%           | 7%                |
| Kosovo* becomes an independent state recognized by a majority of the states, including Serbia | 14% | 46% | 32%           | 7%                |
| Kosovo* it is out of complete competencies of Serbia?   | 6%  | 69% | 21%           | 4%                |

Table 3: Would you think on durable return to Kosovo\* if

As a result, the majority of the IDPs would not consider a durable return to Kosovo\* if it is completely out of Serbian competencies. Thus, IDPs respondents consider highly important the fact that Serbian institutions have competencies and executive powers through an existing pattern of parallel institutions in Kosovo\* in the process of sustainable return.

Being asked about the type of available assistance to IDPs, criteria for obtaining it, complaints procedure a majority of IDPs respondents are not familiar 41% (Chart below). Thus, the lack of the necessary information and complaints procedures to the IDPs related to the return process is an issue of concern.

### Are you familiar with the procedure of available assistance to IDPs

Type of assistance, criteria and complaint procedures

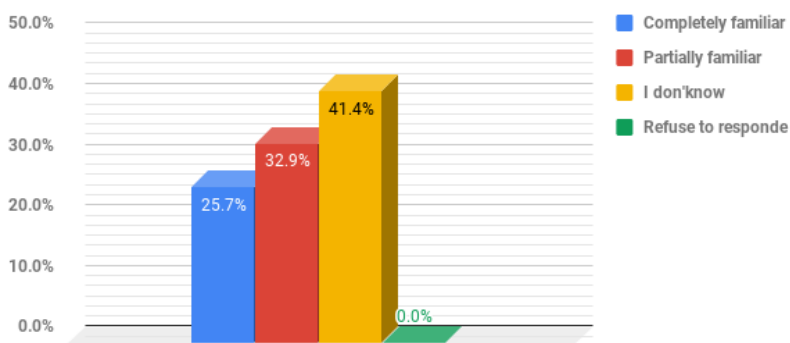


Chart No.5 IDPs level of familiarity with procedures of available assistance in the return process

Being asked whether they visited Kosovo\* after displacement, the majority of the respondents (62,9%) did not return to Kosovo\* after displacement. However, the importance of the possibility of visits Kosovo\* is highly ranked (51,4,%) of IDPs respondents. Among the (37,1%) of IDPs respondents that have visited/living in Kosovo\*, the main reasons for visits that were underlined are the following:

- a) visiting relatives/friends 29.5%;
- b) visiting the cemetery 26,2%;
- c) post/maintenance of the assets 12,1%,
- d) special occasions, wedding, funerals 12,1%.

Besides, the three main reasons to visit Kosovo\* in the case of impossibility of a durable return to Kosovo\* the IDP respondents underlined:

- a) visiting relatives/friends 26.7%;
- b) visiting the cemetery 26,2%;
- c) post/maintenance of the assets 12,6%. (Appendix I, Charts No.10, 11 and 12).

The respondents who have been experienced the return process to Kosovo\* where they spend several years and return to Serbia identified the following reasons for returning to Serbia: a) insecurity (experiences of various types of incidents burglary, demolition of the house, impossibility to cultivate the land due to usurpation by non-owner); constant provocation by Albanians, threats of expulsion; b) inability to find a job; c) restricted freedom of movement; d) isolation; e) low level of educational possibilities for children. Some of the respondents occasionally visit their assets in Kosovo\* (once per month).<sup>61</sup>

In ranking factors influencing the decision to return, IDPs respondents consider freedom of movement as an initial condition that will influence their return decision (72,46%), following the possibility to preserve the access to the Serbian health institutions (65,71%), the same job opportunities without discriminations (61,19%) and others. Thus, freedom of movement, access to economic, social, health, education rights, followed with stability in their exercise is the crucial motives for decision to return (chart below).<sup>62</sup>

### My decision to return

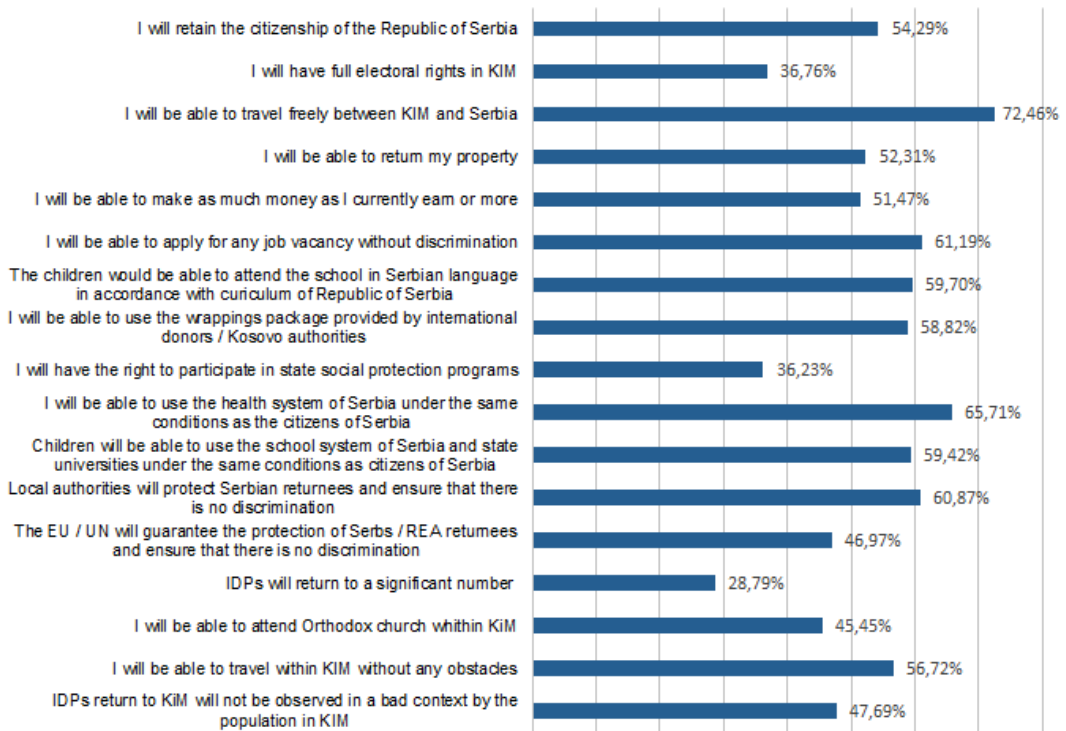


Chart No.6 Factors influencing the decision to return from IDPs point of view

<sup>61</sup> Focus group discussions and interviews with IDPs

<sup>62</sup> Otherwise, the responses showed some resistance to the notion that just one factor is of crucial importance in determining return motivations, especially amongst those who were actively considering the return.

## Returned IDP respondents

Whereas, in attempt to identify the motives by which IDPs were driven to return to Kosovo\* after displacement the majority of the respondents underlined a particular emotional affiliation to the place of origin (78,79%), followed by the relationships with household in the place of origin (12,12%) /Chart no.7. Being asked about availability or infrastructure, 52,5% of the respondents have access to electricity, 44,1% to running water, 1,7% to phone landline, 1,7% to sewage (Appendix I, Chart No. 13). Although the lack and poor condition of necessary infrastructure are apparent, it is not stated by respondents as crucial in deciding to return to Kosovo\*.

Regarding the year of the return to Kosovo\*, the majority (22,58%) of the IDPs returned to KIM in 1999. It confirms the general fact that displaced persons usually return to the place of origin recently after the end of the conflict. However, an exceptional fact that came into the light is equally high percentage 16,13% of IDPs that have returned to Kosovo\* in the years 2004 and 2008. (Appendix I, Chart No.14). Thus, the main return process of IDPs to Kosovo\* has occurred in the most unstable years in Kosovo\*. Bear in mind, that the worst ethnic violence against Serbian population happened in KiM in 2004<sup>63</sup>, whereas, the self - proclamation of Kosovo\* independence had occurred in 2008.<sup>64</sup>

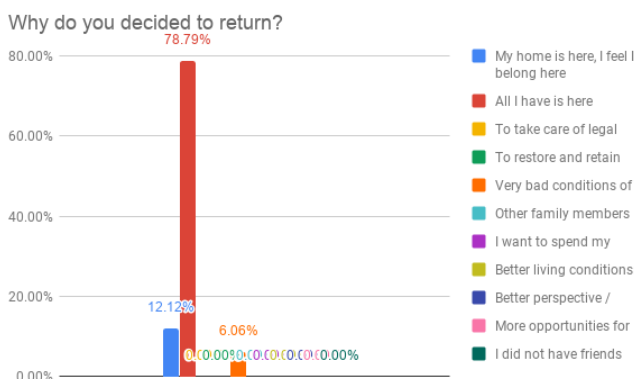


Chart No.7 Factors influencing the decision to return to Kosovo\*

Being asked about the biggest challenges that returnees are faced unemployment is highly ranked (28,4%), followed by low income (13,7%) and low living standards/poverty (9,5%).

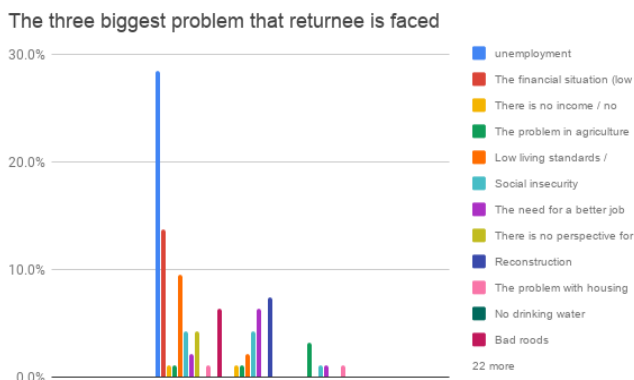


Chart No.8 The three biggest challenged that returned IDPs are faced in Kosovo\*

<sup>63</sup> UNHCR assists thousands displaced by Kosovo\*, Geneva, UNHCR (2004), retrieved from:

<https://www.unhcr.org/news/latest/2004/3/406030c74/unhcr-assists-thousands-displaced-kosovo-violence.html>

<sup>64</sup> "Kosovo\* proglasio nezavisnost" Journal Article on B92, Self-Proclaimed Independence (2008) retrieved from

[https://www.b92.net/info/vesti/index.php?yyyy=2008&mm=02&dd=17&nav\\_category=640&nav\\_id=285184](https://www.b92.net/info/vesti/index.php?yyyy=2008&mm=02&dd=17&nav_category=640&nav_id=285184)

The interesting insights were gained through the question related to the actors/stakeholders who can best assist the return process of IDPs to Kosovo\* and what factors can best contribute to the process of sustainable return of IDPs to Kosovo\*. The role of international organizations is highly ranked (60%), following the Serbian politicians (25,7%). Consequently, returned IDPs consider the role of international organization and Serbian stakeholders very important in the process of the return to Kosovo\*. In focus group discussions, as well as among IDPs currently residing in Serbia, the dominant feeling is that the international community can significantly provide security and political stability.

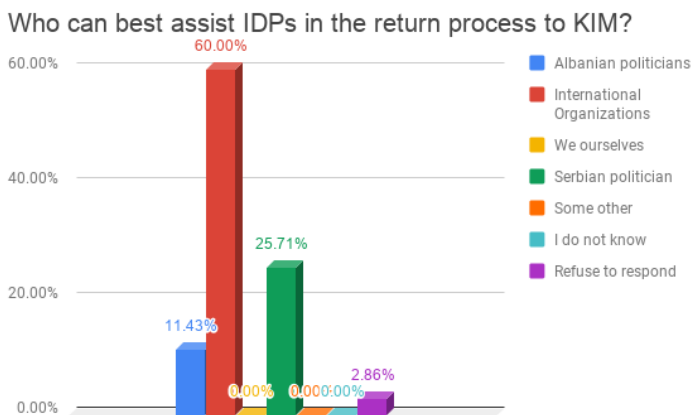


Chart No.9 Returned IDPs opinion on who can best assist the return process.

On the other side, being asked what factors can best contribute to the process of return the majority of the respondents (63,6%) agreed to the statement "more rights for Serbs and RAE." Thus, the additional rights and safeguard of the rights are seen as a primary precondition for the return process of IDPs to Kosovo\*.

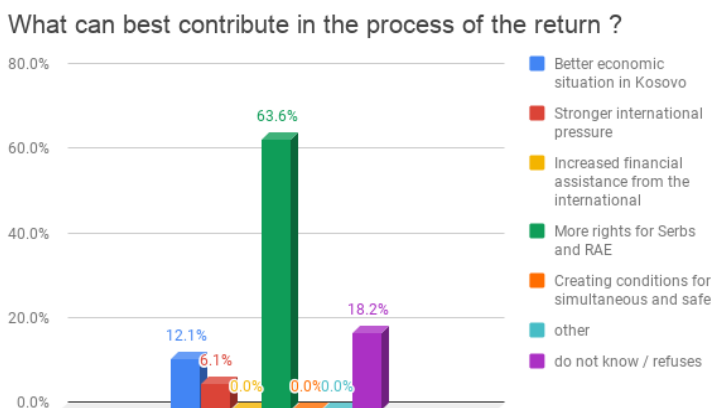


Chart No.10 Returned IDPs opinion on what can best contribute to the return process

### 3. Access to documents/status rights

#### 3.1 Background and Justification

As of June 1999, more than 250.000 persons that became IDPs from the territory of Kosovo\* have been faced with the problem accessing documentation and status. Regulating their status and therefore obtaining appropriate documents issued by competent authorities, remained a preliminary step in their continuous struggle to return property and consequently regain their human dignity. This prolonged effort remains still

in many aspects non-finalized. Many IDPs, but also others – members of minority communities – due to the arbitrary approach of Kosovo\* institutions in many situations face problems in trying to legalize their pre-war documentation or documentation issued after June 1999 by institutions of Republic of Serbia. This duality of status and documents remains a burden to IDPs and all members of minority communities.

During the research, valuable first-hand impressions and experience were collected from persons that have returned, IDPs that have accessed relevant and competent institutions, interviewees from relevant stakeholders. Competent scholars and researchers have already examined problems of access to documentation and status.

With the support of relevant stakeholders (international and local), some of these issues were addressed already, and progress was achieved, however many of displaced persons remain unable to obtain documents and status. It is limiting their capacities to return their property, and enjoy their rights. Without facilitated and synchronized approach by actors from the public sector, they will remain in such position. Consequently, they will remain in a position of social vulnerability.

### *3.2. Legal and Policy Framework*

According to Constitution of the Republic of Serbia, the legislative framework is composed of national legal acts as well as of ratified international legal documents and general international legal principles (directly applicable in Serbia's legal system). Most relevant applicable international legal documents related to position and status of IDPs are: International Covenant on Civil and Political Rights, International Pact on Economic, Social and Cultural Rights, UN Guiding Principles on Internal Displacement, UNSC Resolutions 1120/1997, 1244/1999, 2004/2, Pinheiro Principles on Housing and Property Repossession to IDPs and Refugees, Council of Europe's Convention on Protection of Human Rights and Basic Freedoms, Resolution of Parliamentary Assembly of Council of Europe 1708 on standards of property resolution of property problems of refugees and IDPs, and the decision of Council of European Union 2008/213/EC from February 18, 2008 on principles, priorities and conditions for European partnership between Republic of Serbia including Kosovo\*. All of these documents embody the highest standards related to the protection of rights of vulnerable groups of the population including members of refugee/IDP population. Since the 90s, a large influx of refugees and IDPs arrived in Serbia. It affected Serbia's legal system, which had developed a strong legislative and institutional framework focused on the protection of rights of the displaced population.

Main domestic legal acts regulating issues relevant to the status of members of vulnerable groups of the population, and specifically IDPs can be divided into two groups:

1) Strategies: *National strategy for issues of refugees and IDPs*, *Strategy of long term economic development of Serbian community on Kosovo and Metohija*, *Strategy of sustainable survival and return on Kosovo and Metohija*, *Strategy for social inclusion of Roma population in Republic of Serbia*, *National employment strategy 2011 - 2020*, *National strategy for gender equality 2016-2020*;<sup>65</sup> are among those most important.

2) Laws and bylaws: Law on civil registries, Law on the residence and Temporary Residence, Law on Social Housing, Law on Migration management, Law on non-contentious proceedings, Law on Refugees, Law on Administrative Proceedings, Law on Social Protection, etc. are primarily legal documents covering rights relevant for IDP population. In recent period state authorities adopted the pro-inclusive approach and have modified applicable legislation. It was done in order to make administrative apparatus more accessible for vulnerable groups of the population and to enable them to have easier access to state services. One of the results achieved is the reduction of persons without legal status, especially members of the RAE (Roma-Ashkali-Egyptian) population. There are legislative initiatives for the adoption of overall and codified legal text - the law that would cover the rights and needs of IDPs.

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<sup>65</sup> *National strategy for issues of refugees and IDPs* (Official Gazette no. 62 from July 15, 2015), *The strategy of long term economic development of Serbian community on Kosovo and Metohija* (Official Gazette no 21 from February 21, 2007), *Strategy of sustainable survival and return on Kosovo and Metohija* (Official Gazette no. 32 from May 14, 2010), *Strategy for social inclusion of Roma population in the Republic of Serbia* (Official Gazette March 10, 2016), *National Employment Strategy until 2020* (Official Gazette May 11, 2016), *National strategy for gender equality 2016-2020* (Official Gazette no. 4 from January 22, 2016) - all adopted by Government of Republic of Serbia.

In Kosovo\* the main overall legislative text is *Constitution of Kosovo\** from 2008. Like all similar legal documents, this constitution reflects and articulates specific legal and social developments and needs. Articles 19 and 22 foresee that ratified international legal treaties and binding norms of international law are an integral part of Kosovo's legal system, and they are directly applied and have superiority over domestic legislation. The UN's Universal Declaration, CoE's Convention on Human Rights and Basic Freedoms, UN's Convention of Civic and Political Rights with protocols, CoE's Basic Convention on Protection of Minorities, UN's Convention of Elimination of All Forms of Racial Discrimination, UN's Convention of Elimination of All Forms of Discrimination Against Women, UN's Convention on Rights of Children, UN's Convention Against All Forms of Torture, and Cruel, Inhumane and Degrading Actions or Punishments are mentioned explicitly as directly applicable and prevailing over local legislation. Article 155 is guarantying access to citizenship to all those individuals (and their descendants) that have had legal residence in Kosovo\* on January 1, 1998, and citizenship of Federal Republic of Yugoslavia. Such provisions reflect the situation where large portions of non-Albanian community were displaced and not able to return and enjoy safety and property rights.

Due to the non-possibility to adhere to international treaties, Kosovo\* authorities unilaterally proclaimed application of main United Nation's, Council of Europe's treaties/legal standards. Such legal provisions impose significant obligations on public, authorities, and should consequently result favourably in practice for IDPs and members of minority communities. In practice, it seems these standards have not been fully achieved. For the past 12 years' various laws or bylaws have been adopted regulating various social issues, including property and documentation. In practice, it seems these standards have not been fully achieved. For the past 12 years, many laws or bylaws have been adopted regulating various social issues, including property and documentation. In order to overcome and resolve these challenges, UNMIK administration resorted to specific legislative solutions. UNMIK made an effort to enable all those interested in having access to documents.<sup>66</sup> Legislation applicable during UNMIK's period of the rule made it possible for all those that were born, or whose parents were born, or have lived in Kosovo\* in for at least five years, or their descendants, to have the possibility to obtain UNMIK issued personal and other status relevant documents. After 2008 UNMIK civil registries have been taken over by institutions of Kosovo\*. These institutions issue documents that are being used for access to rights within Kosovo's legal system. On the other side, as of 1999 members of the Serb community, as well as members of other ethnic groups in Kosovo\* continue accessing civil registries administrated by public authorities of the Republic of Serbia. It enables them to obtain documents issued by Serbia's institutions and enjoy a wide spectrum of rights provided by these institutions (health, pensions, social protection, education, etc.) in Serbia proper and Kosovo\*. Members of the Serbian community, as well as many members of other communities including Albanians, use these services, especially health, education and social protection services.

### *3.3 Role of state and local governments in promotion and protection of status right in the process of sustainable return and reintegration*

Persons that were displaced from Kosovo\*, and reside in Serbia proper, have the possibility to be registered as internally displaced persons /IDPs/. Local trustee office of SCRM is issuing IDP card on bases of temporary residence certificate issued by the Ministry of Interior and proof of current accommodation (temporary residence). This IDP card enables them to access various services on the local and state level. IDP card remains as identification and status document for an IDP in Serbia until he/she does not return or integrate (registers permanent residence in Serbia proper). With a personal ID card, IDP card is being used by IDPs to enjoy rights in accessing documentation, employment, health protection, social protection and other types of assistance available within Serbia's legal system.

One of the main problems IDPs face by unresolved documentation issues, mentioned by IDP attendants of the focus group organized during this research, is lack of documentation regarding working period on the territory of Kosovo\*.

Due to war events and partial inaccessibility of pension fund archives, IDP pensioners are not able to provide proof of their working status before 1999. Consequently, they are not able to enjoy this right in full capacity.

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<sup>66</sup> UNMIK Regulation 2000/13, retrieved from <http://www.unmikonline.org/regulations/2000/reg13-00.htm>



The Protector of citizens of Serbia has issued its advisory opinion<sup>67</sup> supporting their complaints and asked competent institutions to find a solution to this problem. In Kosovo\* returnees are entitled to obtain status by submitting their application for issuance of Kosovo\* personal documents issued by Kosovo\* institutions. Although this process should be facilitated and user-friendly, members of minority communities, especially IDPs, face numerous problems. It is a particular situation when IDPs-returnees have concluded matrimony or registered new-born children during displacement within Serbia's civil registries.<sup>68</sup> As of UNMIK's Regulation 2000/13 all persons born in Kosovo\* or whose at least one parent was born in Kosovo\*, all persons who have been residing continuously at least 5 years in Kosovo\*, other persons that could prove that due to forced displacement had to leave Kosovo\* and have not been present 5 years were entitled to be registered as legal residents.

Constitution of Kosovo\* (article 155) guarantees access to citizenship to all those individuals (and their descendants) that have had legal residence in Kosovo\* on January 1, 1998, and have had citizenship of the Federal Republic of Yugoslavia.

For many Serbs, especially IDPs, the problem of registering in Kosovo\* civil registries remains, especially if they possess documents issued by institutions of the Republic of Serbia. Facts of the birth, wedding, or any other status mater registered by civil registries administrated by dislocated civil registries in Serbia proper are being scrutinized or refused by Kosovo\* institutions.

Some of Serbs faced problems – arrests, sequester of documents, monetary fines – when they were detected by Kosovo police to possess ID cards, driving licenses or other documents issued by Serbian authorities for municipalities located within Kosovo\*.<sup>69</sup> One of the issues covered by *the Brussels Agreement on freedom of movement* was the possibility of registration of vehicles on KS or RKS plates. This process is on-going. According to statistics provided by Civil Registrations Agency in period March 2018 – March 2019 some 368 vehicles have been registered on KS or RKS plates.

Recognition of university diplomas remains an obstacle for university-educated members of the Serb community, especially those that have finished university education on the University of Pristina based in Kosovska Mitrovica.<sup>70</sup>

In some municipalities, access to a public registry of immovable property (cadaster) was limited by request of prior payment of property taxes, even for the period that property was illegally occupied.<sup>71</sup> Great advocacy campaign of the international community, NGOs and OKiM<sup>72</sup> resulted that by 2019 such practices have been abandoned.

### *3.4 Role of the international community and civil society in promotion and protection of status right in the process of sustainable return and reintegration*

During the last 20 years there were attempts of the international community to protect the rights of IDPs and support them in their attempt to restore their status and property rights. Issues of access to status and therefore personal documents were one of the targeted areas. Unsolved political status affected in many aspects IDPs. One of the main issues that were dealt with during dialogue in Brussels was documentation. This dialogue between institutions of the Republic of Serbia and those based in Pristina (Kosovo\*) is on-going and under auspices of the European Union. Since 2011 agreements on exchange of civil registries, cadaster, diplomas and personal documents were reached. Later 2013 Agreement dealt with more

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<sup>67</sup> Protector of citizens of Republic of Serbia – Opinion 38100 from November 30, 2018

<sup>68</sup> NGO ECMI publication (2018): *The people in between – Future of citizenship and freedom of movement of Kosovo Serbs and other non-majority communities*.

<sup>69</sup> NGO ECMI publication (2018): *The people in between – Future of citizenship and freedom of movement of Kosovo Serbs and other non-majority communities*.

<sup>70</sup> Office for Kosovo and Metohija – *Progress report December 2018*, retrieved from: <http://kim.gov.rs/doc/pregovaracki-proces/Sestomesečni%20izvestaj%20o%20dijalogu%20dec%202018%20%2011%2002%202019%20en.pdf>

<sup>71</sup> OSCE Report *Access to civil registration in Kosovo* (2012), retrieved from: <https://www.osce.org/kosovo/92331?download=true>

<sup>72</sup> Author Mrs Milica V. Matijević, (2012): *On Certain Aspects of the System of Taxation of Immovable Property in Kosovo\* and Property Rights of Internally Displaced Persons*, retrieved from:

[https://www.researchgate.net/publication/316828177\\_On\\_Certain\\_Aspects\\_of\\_the\\_System\\_of\\_Taxation\\_of\\_Immovable\\_Property\\_in\\_Kosovo\\_and\\_Property\\_Rights\\_of\\_Internally\\_Displaced\\_Persons](https://www.researchgate.net/publication/316828177_On_Certain_Aspects_of_the_System_of_Taxation_of_Immovable_Property_in_Kosovo_and_Property_Rights_of_Internally_Displaced_Persons)

sustainable topics of self-government, integration of judiciary and security structures, etc. CSOs were active in their advocacy activities regarding a more flexible approach by state actors that should result in facilitated access to status and documents for IDPs. CSOs continue to follow up with problems that IDPs face in terms of documentation. Their activities are focused on direct assistance in individual cases and continuous advocacy activities in order to make strategic changes. As part of the civil registry process exchange agreed during *Brussels dialogue*, some CSOs actively participated in this process. The delicate relationship between two actors was facilitated by the involvement of EU and CSOs that provided advisory, financial and logistical support to endeavour.<sup>73</sup>

### 3.5 General access to status rights and documents

In order to protect and enjoy their rights, and in terms of the return process, the most important are property rights and that IDPs must have legal status. The situation in Kosovo\* is complicated, although not unique, by the fact that two systems are claiming jurisdiction over individuals and territory. IDPs in practice have to obtain documents and have legal status in both systems in order to be able to return and reconstruct their pre-war homes. It is also needed for access to other rights. War events from 1999 beside forcible displacement caused problems for IDPs regarding their access to public registries and documentation. Some registries were destroyed during the war and post-war events, some dislocated by institutions of the Republic of Serbia to Serbia proper. Public registries dislocated to Serbia proper were sometimes not fully transferred, and IDPs had to undertake quite demanding subsequent administrative registration proceedings. IDPs that have valid IDP status are exempted from the obligation to pay 70% of the value of administrative tax for issuance of documents from civil registries. Process of civil registries digitalization that should be finalized soon will enable them to obtain documents from all dislocated civil registries in their current place of temporary residence.

On the other hand, institutions in Kosovo\* have had arbitrary approach regarding the legalization of documents issued by state institutions of Serbia. This issue seemed to be resolved during *the Brussels dialogue*, but in practice, this problem kept re-emerging. During 2017, 2018 and 2019 Kosovo\* institutions seemed to have made their approach stricter. Kosovo\* institutions considered documents issued by dislocated institutions from Kosovo\* belonging to Serbia's state system as a symbolic challenge to their authority. For example, in July 2017, the Kosovo Police confiscated 918 new Serbian health cards at the border crossing near Gnjilane. The cards were confiscated from the local public official of Serbia's institutions that were supposed to distribute them to local Serbs in enclaves in Gnjilane region. As reported by media, the reason for the confiscation was the inscriptions written on the cards, referring to the “*municipality of Gnjilane, Republic of Serbia*”. Kosovo police officers explained that the cards were illegal, as the “*municipality of Gnjilane is not located in the Republic of Serbia but in Republic of Kosovo\**”.

Institutions of Kosovo – Civil Registry Agency /CRA/ within their scope of duties are issuing documents for IDPs and other members of minority communities. Some applicants lack documents or can provide pre-war documents of their personal status (birth, marriage, employment, etc.). Because of such non-harmonized and arbitrary treatment by Kosovo\*'s institutions, IDPs find themselves in legal limbo, not being able to regulate their status.<sup>74</sup> Returnees from the EU based on *Readmission agreement* return to Kosovo within formalised return channels. In order to be registered, and have access to personal documents their primary steps are supposed to be addressed to Reintegration Department of Ministry of Internal Affairs.

### 3.6 Situation, needs and reasons to return of IDPs – (subjective assessment of the analysis of the results of the interviews with IDPs and returnees)

All interviewed persons – returnees to Kosovo\* - during research have been able to obtain Kosovo\* personal documents, and they continue to possess documents issued by the Republic of Serbia.

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<sup>73</sup> Description of DRC Kosovo Project - *Digitalisation of the Certified Copies of Civil Registry Books*, DRC, retrieved from: <http://drc-kosovo.org/digitalization-of-the-certified-copies-of-civil-registry-book/>

<sup>74</sup> NGO AKTIV's policy document (2017): *Access to documents in Kosovo: the main obstacle to the integration of non-majority communities*, retrieved from: <http://ngoaktiv.org/publication/access-to-documents-in-kosovo-the-main-obstacle-to-the-integration-of-non-majority-communities>

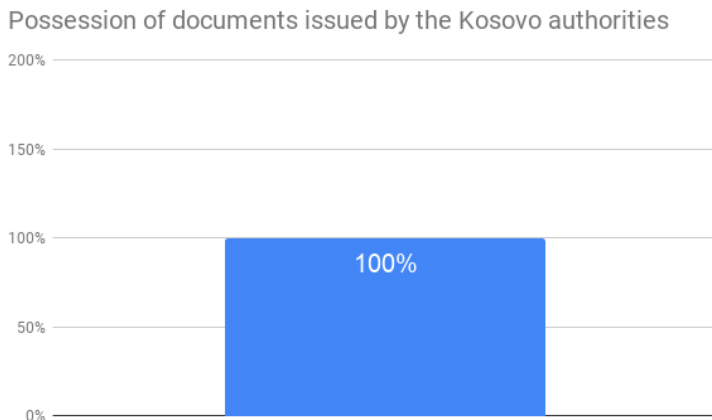


Chart No. 11 Possession of documents issued by Kosovo\* authorities among interviewed returnees to Kosovo\*

As already described in the focus group conversation of IDPs currently living in Serbia<sup>75</sup> some IDPs described their problems related to access to certain rights due to IDP status (tax on immovable property, employment opportunities, and similar).

Both returnees in Kosovo\* and IDPs currently residing in Serbia proper are expressing a high level of attachment and connection to services provided by public institutions of Republic of Serbia (health, social protection, education, documentation). Among potential returnees – IDPs currently residing in Serbia proper – interviewed during this research almost 83 % have IDP status. Some 54.3% of IDPs currently residing in Serbia proper would not contemplate return in KiM without the possibility to have Serbian citizenship. It seems that besides obvious and reasonable interest for an adequate level of these services, there is also an identity component in their desire to maintain strong links with institutions of the Republic of Serbia.

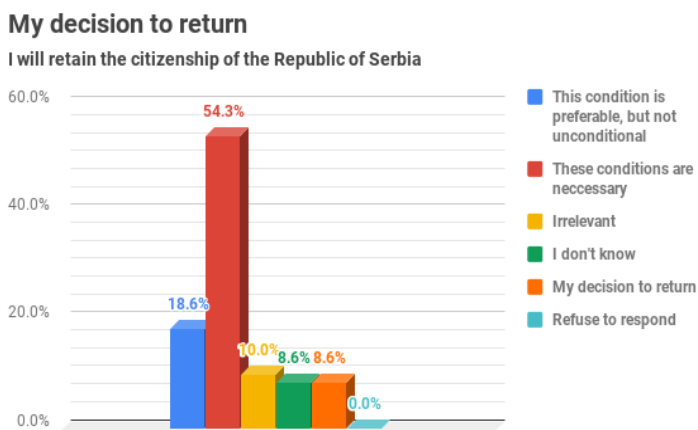


Chart No. 12 My decision to return – citizenship of Serbia

### 3.7 Available service

Institutions of Serbia in the strategic and practical sense promote and support the return process. For any durable solution status and access to documentation remains crucial in individual cases. It is mentioned in

<sup>75</sup> Held in Vrnjacka Banja on February 21, 2019

all legislative or strategic legal documents of the Republic of Serbia. Except in the limited number of situations, IDPs seem to be able to obtain documents issued by Serbia's state system.

In order to unify rules and enable more expedite return process the Government of Kosovo\* has adopted *Regulation on return* in 2018. It is not clear why such systemic legal document was not adopted in the form of law. In the legislative process for law-drafting valuable inputs could be obtained from public discussion, as well as from parliamentary discussion. Also, legal strength, time duration and applicability are supporting the regulation of one of the leading social issues in Kosovo\* by the adoption of *lex specialis* in the form of law rather than by law. Currently, the relevant text of the regulation is setting up rules of procedure, defining competent institutions/bodies, the scope of application and applicants (returnees), available assistance, and similar. Beside reconstruction of property assistance in terms of non-food items, temporary accommodation, access to public utilities (electric energy, water/sewage supplies, and public services) is guaranteed. Facilitated documentation issuance process for IDPs is one of the components of the return process. For this reason, provisions of *Instruction for the implementation of the Regulation on return* address issues related to access to civil registries and other types of documentation.<sup>76</sup> It is a preliminary step for the successful return process. Access to documentation remains a problem for minority communities, especially Serbs (including IDPs). Ministry of Internal Affairs of Kosovo\* has issued its Decision/Instruction to civil registries to accept documents issued by Serbian institutions in order to enable them to be registered in Kosovo\* civil registries.<sup>77</sup> This possibility is valid until July 5, 2019. It would be recommendable that the period of validity of such instruction is prolonged. It is expected that such possibility will enable Serbs, but also members of other minorities to be able to access Kosovo\*'s civil registry.

As already described IDPs generally have positive prospects to obtain documents issued by institutions belonging to the Republic of Serbia. They face problem accessing documents issued by Kosovo\* institutions there are problems, and this affects their status and possibilities. It refers to driving licenses, education certificates, vehicle registration plates, and similar problems already mentioned in this text.

A positive step is already mentioned recent step made by the Ministry of Internal Affairs of Kosovo\*. This institution has issued its Decision/Instruction to civil registries to accept documents issued by Serbian institutions which would enable all interested in being registered in Kosovo\* civil registries. Such time limited possibility will not benefit for just Serbs, but also members of all communities, including Albanians. Recently promulgated applicable legislation addressing the return process – the *Regulation on return* and *Instruction for its implementation* need to be tested in practice in order to be evaluated.

## 4. Property repossession and access to housing

### 4.1 Background and Justification

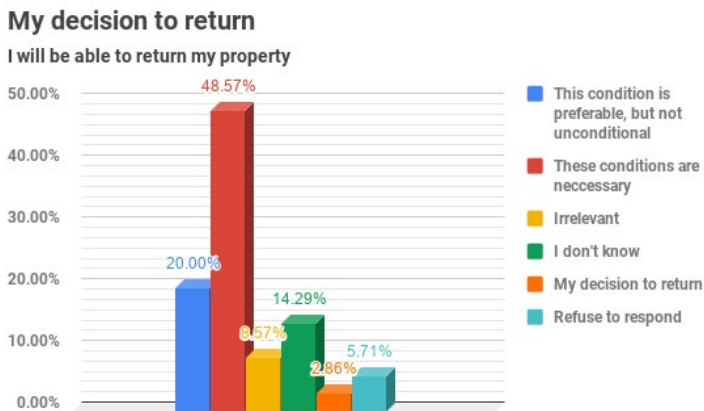
In the territory of former SFR of Yugoslavia because of tragic war events from 90s hundreds of thousands of persons had suffered due to forced displacement. According to official statistics from SCRM in 2018, there were 201.047 internally displaced persons in Serbia.<sup>78</sup> IDPs are a vulnerable category, and in a protracted period, they continue to face the problem of materializing their property rights and finding adequate housing solution (permanent or temporary). Domestic and international actors have recognized this problem. Need to enable a large number of socially deprived persons to return their property and enjoy the possibility to regain their dignity was recognized as a tool to establish social cohesion. This problem was addressed by the international community – through various housing and reconstruction projects that were supported. Also, support to strategic approach (institutional and legislative) was supported. Local actors also have supported the return process, and its crucial component – the return of property. However, IDPs still face problems in their attempt to return property and create appropriate living conditions for their families. During this research selected number of IDPs once again reiterated the significance of property for their self-esteem and dignity. Property remains for them crucial issue in return process, and part of their personal and collective identity (“*This is where I was born, and where I belong*”).

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<sup>76</sup> Article 3.1 of *Instruction for Implementation of Regulation on the return of the Government of Kosovo* (02/2018)

<sup>77</sup> Decision/Instruction 296/18 from July 5, 2018

<sup>78</sup> *Situation and needs of IDPs in the Republic of Serbia*, Serbian Commissariat for Refugees and Migration, 2018



*Chart No. 13 Importance of property repossession for the return decision*

IDPs remain disabled to return property due to numerous shortcomings in property repossession/reconstruction process in Kosovo\*. It leaves them in constant limbo – waiting for the moment when they will finally be able to return their property, and able to make a crucial decision – to return or integrate.

#### *4.2. Legal and Policy Framework*

As it was described in the paragraph describing the legal framework for status matters in terms of the applicable legislation related to property primary legal source is the Constitution of Kosovo\*. Main provisions dealing directly with property rights are article 24 (equality before the law), 46 (protection of property and 156 (rights of refugees and displaced persons). These articles are stipulating equality in front of law and non-discrimination, right on the protection of property and support to the safe and dignified return of all displaced persons, and repossession of their property. Such provisions are reflecting situation where large portions of non-Albanian community were displaced, and not able to return and enjoy safety and property rights. Majority of legal problems related to property arose after the 1999 conflict. Thousands of individuals were forced to leave their pre-war homes which were subsequently illegally occupied or destroyed. Some 22.000 immovable properties were abandoned by lawful owners belonging to Serbs or other minority communities' members.<sup>79</sup> Other systemic problems present in Kosovo\*s legal life were informal or unlawful (fraudulent) transactions of property and non-harmonized public immovable property registry (cadastre). As a consequence of post 1999 displacement and loss of property rights mass-claims mechanisms were set up – Housing Property Directorate (HPD)<sup>80</sup> with its Housing Property Claims Commission (HPCC) as quasi-judicial decision making body with jurisdiction over all residential property disputes. The non-residential property was not included in the mandate of this institution. By 2006 mandate and name of this institution were changed: new Kosovo Property Agency (KPA) was established, covering disputes over non-residential property.<sup>81</sup> In its last stage, KPA changed its mandate into Kosovo Property Comparison and Verification Agency (KPCVA)<sup>82</sup>. Beside inheriting KPA's caseload and related tasks, KPCVA should resolve discrepancies between the original pre-June 1999 cadastral documents on the immovable property that were taken from Kosovo\* by the Serbian authorities and the current cadastral documents data collected by Kosovo\* institutions after June 1999.

<sup>79</sup> *Situation and needs of IDPs in the Republic of Serbia*, Serbian Commissariat for Refugees and Migration, 2018

<sup>80</sup> UNMIK Regulations 1999/23 On the establishment of the Housing and Property Directorate and the Housing and Property Claims Commission, and 2006/10 On the Resolution of Claims Relating to Private Immovable Property, including Agricultural and Commercial Property

<sup>81</sup> UNMIK Regulation 2006/50. On the Resolution of Claims Relating to Private Immovable Property, including Agricultural and Commercial Property

<sup>82</sup> Law on Kosovo Property Comparison and Verification Agency 05/L-10 from 2016

Also, UNMIK had launched privatization process of publicly/socially owned property and established Kosovo Trust Agency (KTA)<sup>83</sup> as a competent institution for such matters.

For IDPs, and other members of minority communities, these legal documents were regulating issues related to their most important legal problem: deprivation and illegal occupation of their property. Although the legislative framework was formally based and aimed at protection of one the essential human rights – property right – in practice, it was not that much effective for IDPs and generally for members of minority communities. For many of them, it took great effort in terms of time and personal involvement to obtain lawful and fair decisions in proceedings based on this legislation. Obvious shortcomings in return process and other obstacles in Kosovo\*'s legal system influenced the international community to try to modify approach. *National Strategy on Property Rights* was adopted in 2017. Purpose of this document was to create a systemic approach and improve the legal framework and institutional practices and procedures governing property rights, and improve possibilities to acquire, register, and transfer property in Kosovo. In 2018 *Regulation on return* was adopted by Government of Kosovo\*. Purpose of this bylaw was to codify rules and create facilitated procedure for IDPs and other returnees regarding access to documentation and repossession/reconstruction of their property. Among the most important legal documents related to property following can be mentioned: Law on ownership and other ownership rights, Law on the treatment of illegally built objects, etc. In 2011 Privatization Agency of Kosovo (PAK)<sup>84</sup> was established as the successor of UNMIK's Kosovo Trust Agency (KTA). This institution has taken over KTA's caseload and continued to implement the privatization process.

#### *4.3 Role of state and local governments in the promotion and protection of the right to the property and right to housing in the process of sustainable return and reintegration of IDPs*

In Serbia, main institutions covering needs of IDPs are Serbian Commissariat for Refugees and Migrations (SCRM) and Office for Kosovo and Metohija of Government of Serbia (OKiM). Other institutions – Ministry of health, Ministry of state administration and local self-government, Ministry of labour, employment, veterans and social affairs, Ministry of the interior, etc. also have part of their duties/authorities focused on refugee/IDP population. SCRM and OKiM - both of these institutions have their share of responsibilities in terms of return and protection of property rights.

SCRM is focused on the protection of rights of IDPs in Serbia proper, while OKiM is competent over the same issue in Kosovo\*. Support in terms of social and health protection, accommodation, employment, free legal aid, access to documentation is provided to IDPs. Beside assistance directed to urgent needs these institutions are making assessments of needs, and long-term planning for durable solutions. SCRM is supporting local authorities to create Local Action Plans /LAPs/ that would strategically on local level define aims, and adequate steps and instruments to achieve them in terms of migration, including issues related to IDPs. In cooperation with international actors, as well as CSOs activities regarding housing needs are being designed: social housing, purchase of village households, adaption of currently inadequate housing units, construction of housing units, and donation of construction material.

As described in a paragraph devoted to legislative framework Government of Serbia is focused on problems of IDPs and refugees as one crucial issue. It is because Serbia is among the few European states with protracted refugee/IDP situation. Displaced population: refugees from Bosnia and Hercegovina and Croatia, and IDPs from Kosovo\* are recognized as persons in need by state actors. On bases of that, and in order to create conditions for durable solutions state actors in Serbia have adopted numerous program documents usually in the form of strategies. These are overall program documents that are formulating broader policy lines. Each of these documents is envisaging and promoting inclusive measures for refugee/IDP population. Also, they are actively promoting and supporting right on return and repossession of property rights. Some of them are directly focused on refugee/IDP population: *National strategy for issues of refugees and IDPs*, *Strategy of long term economic development of Serbian community on Kosovo and Metohija*, *Strategy of sustainable survival and return on Kosovo and Metohija*, *Strategy for improvement of position of Roma population in the Republic of Serbia* are primary such documents dealing directly with refugee-displaced

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<sup>83</sup> UNMIK Regulations 2002/12 On the Establishment of the Kosovo Trust Agency and 2005/18 Amending UNMIK Regulation No. 2002/12 on the Establishment of the Kosovo Trust Agency

<sup>84</sup> Law on Privatization Agency of Kosovo (PAK) 04/L-034



population. Other strategies (already mentioned in the text above) are in an indirect way dealing with vulnerable groups of the population including refugee/IDP population. One of the directions these documents are pointing is multi-lateral and multi-sector approach and cooperation with other relevant stakeholders in the region. This attitude is accepted and implemented in Serbia's diplomatic activity and has led to initiation and participation in multilateral cooperation in the region.

OKiM has designed and started to implement a new idea for housing accommodation of IDPs. It is a residential settlement with its accompanying functions that should be located Zvečan. Beside 200-300 housing units, some additional economic capacities will be provided to IDP-returnees. This possibility – housing solution with potential socio-economic activities for returnees - should create conditions for sustainable return.

As of 1999 public authorities (UNMIK, Provisional Institutions of Self-Government) and all other actors pledged to support the return of all displaced persons, and repossession/reconstruction of their property. In practice, this pledge remained to be formal, substantially lacking real political will and commitment. Return of occupied housing property was the exclusive jurisdiction of HPD. Although envisaged as independent, efficient and impartial mass claim mechanism in practice its jurisprudence and proceedings in many cases proved to be non-transparent and lacking effective enforcement. Until 2003 HPD received 29.610 claims<sup>85</sup> divided into three categories of claimants:

- I. A category claimant (persons who lost their residential property rights on bases of discrimination in period 1989-99), a total of 1212 claimants;
- II. B category claimants (persons who had entered into informal transactions of residential real property in period 1989-99), a total of 767 claimants;
- III. C category claimants (persons who lost their residential property after June 1999), a total of 27.182 claimants (93.2% of all cases).

Claimants were not able to directly participate in proceedings, and sometimes only one paragraph would be devoted to the particular individual case within group decision. Each case was adjudicated in two instance proceedings, and final decisions could not be challenged in front of any other institution. Some of the cases were forwarded to local courts without the knowledge of the claimant, where they remained stuck among a backlog of other judicial cases. Implementation of decisions in favour of claimants was particularly challenging. Here are a few examples:

- Successful C category claimant could opt to repossess his/her residential property, risking the return of demolished housing unit. HPD was not guarantying or undertaking any obligation related to potential damage on the property.
- After 72 hours of eviction of illegal occupant performed by HPD in case of re-occupation lawful owner had to address to local police. Another option was to put the property under HPD's administration scheme where the property would be rented.
- HPD was not undertaking any guarantees regarding potential damage on property or rent payments.

Although HPD claimed to have closed 100% of these cases, from their statistics, it is difficult to understand how many properties were returned to the owners.

The successor of HPD was KPA. This institution modified its *modus operandi* for what concerns the decision-making process: decisions could be challenged in front of court; non-residential property was covered by mandate; in some limited cases, parties involved could personally represent their cases and available evidence.

Regarding the implementation of decisions KPA (KPA has the mandate to implement its decisions which includes HPD inherited cases). Also failed to support claimants in cases where it was needed to perform forcible demolition of an illegally constructed object over lawful owner's land parcel. Some of the successful applicants-lawful owners addressed to Constitutional court of Kosovo\* which approved their appeals, ordering demolition and repossession of property. So far these cases have not been enforced. According to

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<sup>85</sup> HPD web statistics retrieved from [http://www.kpaonline.org/hpd/statistics\\_m.asp](http://www.kpaonline.org/hpd/statistics_m.asp)

KPA<sup>86</sup> 79 cases of such cases remain pending. In 2019 Government of Kosovo\* has allocated 30.000€ for the demolition of illegally constructed objects falling under the mandate of KPA. One hundred eighty-six (186) appeals are pending in front of Appellate panel of Supreme court of Kosovo\* for KPA matters against final KPA decisions. As of 2018 property put under the administration of KPA remains without protection since the mandate of KPA over this issue is not prolonged. There is no official information on the status of property that was under KPA's administration.

In cases where C category claimants were granted with the right for compensation (limited number of cases – 143 in total<sup>87</sup>) after more than ten (10) years procedure and criteria for compensation have not been designed. As of 2016 KPCVA has taken over competencies and duties of KPA. To date, despite large donations from the international community, it remains unclear how many persons repossessed their properties.

For what concerns property as proceedings from the privatization process, the Privatization Agency of Kosovo /PAK/ continues to launch public calls for participation in privatization of socially owned enterprises (SOEs). Any persons that fulfil criteria regarding his employment in the company, age, current employment status is eligible to apply for distribution of 20% of company's market sale value. Applicants are supposed to follow up public notifications (Kosovo\* and Serbia/Montenegro daily newspapers, PAK's web site) for each SoE. If they are not on the preliminary list of employees published by PAK they can submit their appeal. PAK is making then final list accepting or refusing/rejecting individual appeals. Each applicant can lodge an appeal to Supreme Court of Kosovo\*'s Special Chamber for privatization matters if PAK did not approve his/her application. In practice, IDPs are forced to go into lengthy judicial proceedings to prove and protect their rights in the privatization process. So far PAK was usually not accepting their applications during administrative proceedings. In most cases, these appeals were approved later in judicial proceedings in front of Supreme Court of Kosovo\*'s Special Chamber for privatization matters. This court was composed of mixed local-EULEX judges. On the other hand, even this court refused claims for unpaid salaries and social insurance benefits submitted by IDPs and Serbs/non-Albanians regarding their deprivation from employment due to discrimination. It is important to note that in its jurisprudence Supreme Court of Kosovo\*'s Special Chamber for privatization matters had acknowledged that Serbs and other minority community members were discriminated due to security-political situation in Kosovo\* after June 1999 when they were by organized force and violence disabled to access their jobs and employment in many areas/locations in Kosovo\*. It also supports attitudes of IDPs and minority communities' members regarding the need for safety as a precondition for the successful return process.

#### *4.4. Role of the international community and civil society in the promotion and protection of IDPs right to property repossessions and housing in the process of sustainable return and reintegration*

In Western Balkans due to specific political development as of the 90s role of the international community is perceived by the local population as crucial for any substantial change. In Kosovo\*, such role was even more present since 1999 when the province was put under the administration of UN by UN Security Council's Resolution 1244/1999. All public institutions/bodies in charge for return and repossession of property (for example HPD later KPA) were founded by UNMIK, dominantly composed of international management staff, financed by the international community. Beside reconstruction supported by the Government of Serbia and rare individual returns, the return process was dominantly organized and supported by international actors. Return process – go-and-see visits, reconstruction of homes, logistic support, free legal aid, sustainability efforts – was facilitated by the effort of UN/EU agencies, as well as domestic and international CSOs. According to the EU Office in Kosovo\* interview conducted in this research in the period 2001 up to now, only EU has invested 53 million euros in the return process. In future period EU plans to support actions of the closure of collective centres in populated Serb municipalities (Strpce, Leposavic and Gracanica). EU Delegation in Serbia has invested 274 million euros in support to refugee/IDP population since 2001. The delicate relationship between institutions of the Republic of Serbia and local institutions in Kosovo\* additionally created a need for mediation by international actors. Such a

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<sup>86</sup> Kosovo property agency (KPA), Interview on the sustainable return of displaced persons in Kosovo\* conducted and submitted by Mrs Edona Lekaj, April 2019

<sup>87</sup> KPA/KPCVA annual report for 2016

situation is also perceived by interviewed IDPs and returned members of the minority community (former IDPs). *National Strategy for Resolution of Issue of Refugees and IDPs for period 2015-2020* adopted by Government of the Republic of Serbia in 2015<sup>88</sup> promotes strong cooperation/coordination with international actors in issues related to return and reconstruction of property, and access to rights for IDPs in Kosovo\*.



Chart No. 14 Return decision – support by International Community to return process relevance

#### 4.5 General access to property and housing

According to applicable legislation and practice, IDPs in Serbia do not have restrictions or impediments to acquire and enjoy property rights. They can acquire and register property by themselves (through purchase or any other way). Authorities are trying to promote and support property return for IDPs in Kosovo\*, as well as to support them in attempt to improve their living conditions during their displacement, especially for those currently living in dire housing conditions<sup>89</sup>. In practice, this means that social housing or other sorts of support in terms of housing are available (village housing units donation, donation of construction material for self-construction/adaptation, etc.). Social vulnerability is limiting IDPs in their attempts to find housing accommodation, and additional support is therefore needed which was identified by state actors.

In Kosovo\* IDPs need stronger support related to property rights. They need support for repossession and reconstruction of their property that is usually illegally occupied, destroyed or inadequate for housing accommodation. Return and repossession of property fall within of already described specialized institutions (KPCVA, PAK) or regular courts.

Shortcomings in terms of length of proceedings, and especially in implementation/enforcement of decisions obtained in these proceedings have been detected and reported by various sources. In future period authorities in Kosovo\* plan to improve and accelerate the return process.

Legislative and institutional steps have been undertaken for this purpose. It remains to be seen how much these measures will be effective in practice. Besides reconstructing of IDP's demolished or destroyed pre-war homes, they should be enabled to have access to social housing scheme. Such possibility is promoted by public institutions (central and local) but seems not to be exercised in practice.

<sup>88</sup> Government of Republic of Serbia: *National Strategy for the solution of refugees and internally displaced persons in period 2015-2020* (2015), pages 47 and 48.

<sup>89</sup> Ibid

#### *4.6 Situation, needs and reasons to return of IDPs – (subjective assessment of the analysis of the results of the interviews with IDPs and returnees)*

According to information obtained from interviewed individuals, various conclusions can be summarized. Most of them consider their current living conditions to be average, very few list them as reasonable. All interviewed IDP-returnees to Kosovo\*:

- Have lived during displacement in a rented property, collective centre or with relatives;
- They have had low income during displacement.
- Their property in Kosovo\* was either destroyed or unlawfully occupied before their return. Out of 31 persons interviewed 30 have had their property destroyed, only 1 had his/her property demolished and reconstructed in a minor degree.
- At the moment they have housing unit available, financial support through some social assistance.
- Among them 40% considers life in Serbia proper as their permanent solution, 50% does not know, 10% stated they would remain.

Statements obtained from IDP-returnees on their plans show that durable and sustainable solution in terms of return to Kosovo\* has not been still achieved.

Among interviewed IDPs:

- 45,7% expressed intention to remain in Serbia proper as their desired permanent solution, 25% would like to return to pre-war home, and 11,4% would be ready to live in another location in Kosovo\*.
- Lack of security, as well as lower social possibilities in terms of employment, social interaction, are main negative factors that IDPs list regarding a potential return to Kosovo\*.
- Return of property is one of the critical factors for return decision – 50% of interviewed stated that this is for them crucial.
- Among IDPs currently living in Serbia proper highest number of them, 44,3% would not consider a return if there were no guarantees by EU/UN for protection for Serbs/minorities.

Both groups of interviewed individuals (IDPs and IDP-returnees to Kosovo\*) are expressing a high level of attachment and connection to services provided by public institutions of Republic of Serbia (health, social protection, education, documentation). Interviewed IDPs stated (57% of them) they would not return if children would not be able to attend education in conformity with education curricula of Serbia's Ministry for education; 67,14% would not return if they would not consequently be able to access services of the Serbian health system.

As, it was already mentioned such attitude reflects not just reasonable interest, but also part of personal and group identity.

#### *4.7 Available services*

After a prolonged period of stay in Serbia majority of 201.047 IDPs are contemplating their options. Competent institutions in Serbia have taken into consideration the needs and vulnerabilities of this category of population, and in strategic planning, this issue remains one of the main focuses. On the list of their vulnerabilities and needs to be covered is the issue of the housing solution. Serbia's institution's primary support return process; another direction is support for IDPs during their displacement period. Since IDPs dominantly have not been able still to achieve repossession of their property, it means they are not able to make an appropriate decision regarding their permanent solution. Until such conditions are reached state actors in Serbia are trying to support IDPs to improve their current living conditions. International and local actors are supporting this process through a housing solution.<sup>90</sup> IDPs currently residing in Serbia proper can access programs focused on various types of housing accommodation. As options for temporary solution IDPs are offered with support through social housing scheme, or donation of construction material or village

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<sup>90</sup> EU support to the improvement of life of Internally Displaced Persons and returnees, EUD Serbia website, retrieved from: <https://europa.rs/eu-support-to-improvement-of-life-of-internally-displaced-persons-and-returnees/?lang=en>

households. According to SCRM's statistics at the moment, some 334 persons – IDPs are living in 9 collective centres on the territory of Serbia (including the territory of Kosovo\*).

As it is stated above, UNHCR estimates the number of IDPs within Kosovo\* to be around 16.200.<sup>91</sup> IDPs in Kosovo\* are members of vulnerable groups of the population, and their main aspects of vulnerability are related to deprivation of property, lack of access to public services and employment. Ombudsperson Institution in Kosovo\* in 2018 has received 13% of complaints from members of minority communities (8% Serbs, 2% Bosniaks, 1% Roma, 1% Askhali, 1% others), and opened 3 ex-officio cases of interethnic nature. Dominant problems reported by these complaints were the illegal occupation of the property, lengthy court proceedings, impossibility to obtain access to civil registries, etc.<sup>92</sup>. Since June 1999 reconstruction of the demolished property was usually undertaken under donor based projects. Due to the hostile environment among the majority population, culminating in 2004 riots, return process figures in Kosovo\*<sup>93</sup> were very low. Government of Serbia also has supported the construction of demolished homes or any other form of housing solutions. In 2017-2018 around 700 housing units (houses, apartments) were built, or adapted/reconstructed to be suitable for use.<sup>94</sup> In some case brand new housing units were built, in some cases existing housing units were adapted in order to be suitable for use, or demolished housing units were reconstructed.

In order to unify rules and enable more expedite return process Government of Kosovo\* has adopted *Regulation on return* in 2018. This text is creating rules of procedure, defining competent institutions/bodies, the scope of application and applicants (returnees), available assistance, and similar. Beside reconstruction of property assistance in terms of non-food items, temporary accommodation, access to public utilities (electric energy, water/sewage supplies, and public services) is guaranteed. Individual applicants will have the right to seek assistance for their return. Municipal return commission (MRC), and the Ministry for return and communities will have a decisive role in the process of adjudication of individual applications. MRC will preliminarily examine each application; on bases of MRC's recommendation, and Central review commission will make merit decision. Second instance body is Appeals Commission. The decision of the Appeals Commission can be changed in administrative litigation. This novelty in return process has just started to be implemented, and careful evaluation will be possible within some period. During research conducted for drafting this publication, several local offices for return gave their assessment of the role of local authorities (municipalities) in the return process. It is evident from these first-hand impressions that municipalities lack institutional and other capacities, financial tools and political will to get involved more in the return process. Local authorities without financial support are not able to cover their budgets significant return activities. Also, they need more sensitised and trained staff that would be permanently engaged (not on *ad hoc* bases). Municipalities also lack property resources (land parcels) that in some situation could be a contribution of local authorities allocated/donated for return process activities.

The recent trend of the arrest of returnees or individuals that were active in return process and visiting Kosovo\* during a long period and then arrested based on accusations for war crimes caused huge resentment and disapproval from IDPs. So far in several of these case after almost a year or more accusation proved to be false. Such practice left huge negative impact among potential returnees. For returnees from EU countries to Kosovo\* on bases of *Readmission agreement*, limited duration housing accommodation may be provided by public authority actors. Public authorities can provide accommodation in Asylum reception centre or within a social scheme housing unit. An additional possibility is limited time duration rent of an apartment. Due to budget limitation/restrictions, this sort of housing accommodation for returnees cannot last more than one year.

It is already mentioned that one of the recent developments in the so-called *Skopje process* facilitated by OSCE and UNHCR. This initiative is bringing together high-level public officials from Serbia, Montenegro,

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<sup>91</sup> Office of Head of UNHCR Mission in Kosovo\*, Interview on the sustainable return of displaced persons in Kosovo\*, conducted and submitted by Mrs Edona Lekaj, March 2019

<sup>92</sup> Ombudsperson Institution, Interview on the sustainable return of displaced persons in Kosovo\*, conducted and submitted by Mrs Edona Lekaj, February 2019

<sup>93</sup> According to Internal Displacement Mentoring Center up to 2017 only around 6.000 persons returned to Kosovo\*. Retrieved from: <http://www.internal-displacement.org/sites/default/files/2018-05/GRID%202018%20-%20Figure%20Analysis%20-20KOSOVO.pdf>

<sup>94</sup> Office for KiM, questionnaire submitted to IDC (March 2019)

North Macedonia and Kosovo\*.<sup>95</sup> The main aim of this initiative is to this formulate joint policy and promote right on return and integration for displaced persons. Among agreed Action Points are: Property Rights; Security, Dialogue and Reintegration; Personal Documentation; Data Management; Solutions Planning.

EU/UNHCR funded activities are currently present regarding the return process in Kosovo\*. Return and Reintegration in Kosovo\* /RRK/ project phase V is being implemented, as well as Support to the closure of Strpce collective centres.<sup>96</sup> The Government of Serbia is providing additional support to return and reconstruction.

OSCE has also supported social housing strategic planning process in Kosovo\*.<sup>97</sup> The direct focus was on local authorities that are strategy supposed strategically to target members of the returnee population in their three-year social housing plans. By 2017 17 out of 22 Kosovo\*'s municipalities have drafted these social housing plans.

Returnees can apply for financial support through a social assistance scheme financed by Kosovo\* institutions, as well as social protection system of the Republic of Serbia. Health protection and education are being provided by institutions from Serbia's state system and widely used by returnees.

In Kosovo\* at the moment protection of property rights can be achieved in front of specialized institutions – Kosovo Property Comparison and Verification Agency(KPCVA)/ and Privatization Agency of Kosovo (PAK) -, and regular courts. Proceedings in front specialized institutions/bodies – KPCVA and PAK and regular courts are lengthy and frequently non-effective.<sup>98</sup> For IDPs and other members of vulnerable groups of the population it such legal proceedings represent one of push back factors for their return decision.

When they manage, after an extended period, to obtain final lawful and fair decision acknowledging their property rights enforcement of such decision represents a new challenge. Enforcement/execution of judicial or other legal decisions is frequently not possible.<sup>99</sup> These cases remain dead-locked in ineffective enforcement proceedings in front of judicial authorities-courts, public enforcers/bailiffs, or KPCVA. It is frequently present in cases where unlawfully constructed housing objects exist on the immovable property whose lawful owners are members of non-majority communities. At the moment there is no effective legal remedy enabling lawful owners to enforce legal decisions in their favour and demolish such object. Public authorities in Kosovo\* are justifying their ineffectiveness with lack of financial and logistical instruments to implement demolition of unlawfully constructed objects.

## 5. Access to employment and social welfare service

### 5.1 Background and Justification

Despite different affirmative measures that are set up by Serbian authorities, including international aid by the EU, the UN, the internally displaced persons are still facing a large number of difficulties and constraints in the field of employment and social welfare service no matter they decide to stay in Serbia or to return to Kosovo\*.

According to *the Report Situation and Needs of Internally Displaced Persons* prepared by the Commissariat for Refugees and Migration of the Republic of Serbia, IDPs are recognised as a vulnerable group, and one of the reasons is the very high unemployment rate 32.10%<sup>100</sup>. In addition, in the Report states that the IDPs

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<sup>95</sup> Skopje Process Leaflet, retrieved from <http://mzp-rks.org/en/images/dokumenta/ENG-Leaflet-SopjeProcess.pdf>

<sup>96</sup> RRK implemented by IOM (budget 8 million €) until 2021, Support to the closure of Strpce collective centres implemented by DRC (budget 3 million €) until end of 2019 funded by EU

<sup>97</sup> Social housing strategic planning process in Kosovo, OSCE website, retrieved from <https://www.osce.org/mission-in-kosovo/310501>

<sup>98</sup> OSCE report (2012): *Independence of Judiciary in Kosovo\**, retrieved from (<https://www.osce.org/kosovo/87138>)

<sup>99</sup> OSCE report (2012): *Execution of judgments*, retrieved from (<https://www.osce.org/kosovo/87004?download=true>)

<sup>100</sup> Report on Situation and Needs of Internally Displaced Persons – Commissariat for Refugees and Migration, 2018, Retrieved from: <http://www.kirs.gov.rs/docs/izvestaji/Stanje%20i%20potrebe%20IRL%202018%20-%20EN.pdf>



in the Republic of Serbia, a total of 29.10%<sup>101</sup> Surveyed IPDs do not have any income, followed by 22.50% salary, 11.56% pensions and 11.34% "Kosovo allowance"<sup>102</sup>.

Overall, there are a robust legal framework and public policies in the field of employment and social protection at all levels of Serbian and Kosovo\* societies, but with limited resources for their implementation and services.

Although IDPs are recognized as particularly vulnerable categories in Serbia with a whole series of defined affirmative measures and activities, they continue to face a large number of challenges and obstacles, and their standard of living is worse than the general population. Also, it is important to emphasize that internally displaced persons as citizens of the Republic of Serbia have access to all constitutionally guaranteed rights, as well as all other citizens of Serbia, but also despite this fact, the IDPs, and especially the Roma, are exposed to a large number of problems and a very bad living standard.

On the other hand, in Kosovo\* with the exception of the Regulation (GRC) - No. 01/2018 for the return of displaced persons and durable solutions in which the areas of returnees can be supported in general terms, while in other documents of importance as in the institutions of the system, they are not recognized as particularly vulnerable categories. IDPs and returnees to Kosovo\* if they possess Kosovo documents to have access to all rights as other Kosovo citizens\*, under applicable laws. As in Serbia, returnees in Kosovo\*, and especially the Roma face a significant number of challenges and problems.

The outcomes of this research and analyses of different documents show the key obstacle to the social inclusion of displaced persons and returnees is their difficult access to the employment and social welfare rights, both in the Republic of Serbia and Kosovo\*.

Under this research conducted the face-to-face survey in the Republic of Serbia and in Kosovo\* between January and March 2019. The research showed that one of the leading indicators of the poor living conditions of internally displaced persons is demanding access to the labour market, in particular, Roma IDPs. Analysed results showed the unemployment rate among interviewed IDPs is 55.71% and compared to the general working age population of the Republic Serbia, 12.90%<sup>103</sup> in Q4 of 2018, the IDPs are recognised as a very vulnerable group. The similar situation in Kosovo\*, where reported the unemployment rate is 54.81% versus 31.40% among general Kosovo\* population.

Furthermore, interviewed IRL listed many reasons, therefore, but some of them are such as the administrative reasons, lower level of education especially among Roma IDPs, loss of "Kosovo allowance" and finally the discrimination. In the case of having a job, the majority of the respondents have a job in the informal sector or seasonal and temporary jobs, and they are often paid below the minimum wage. Significantly marginalized groups on the labour market are women and youth IDPs, and as previously mentioned Roma IDPs and returnees. (For more information on the research, please see Chapter No. 5.6)

In addition, different types of social assistance in many cases, represent the only income for many families of displaced and returnees. In general, the economic status of these households is at a deficient level.

Elderly IDPs encounter difficulties in exercising their right to a pension. The main problem is the collection of the necessary documentation, which is very often inaccurate or destroyed in the conflicts of 1999. As a result, many of them receive only a temporary decision on retirement, and therefore the amount of pensions is meagre, which also places them in a vulnerable category.

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<sup>101</sup> Ibid. p. 28.

<sup>102</sup> According to the Serbian Government's Conclusion of July 2003 on the acceptance of status information certain bodies, organizations and services from the area of Autonomous Province Kosovo and Metohija (05 number: 02-4586 / 2003-001), all displaced persons who were employed in the territory of Kosovo and Metohija until 9 June 1999 in any of the state institutions or companies, are entitled to receive a temporary allowance. This type of allowance is realized in the case of unemployment i.e. IDP does not establish new employment status, does not fulfil the conditions for retirement, or does not realize income based on work and property. Also, a close family member (such as a child, wife or any other person according to which the person was legally obligated to care) of person who was missing or die and who was employed in KiM has right on the allowance. The monthly amount of the allowance is 8,500 RSD for IDPs in Serbia, while for IDPs in Kosovo, this amount is 11,500 RSD.

<sup>103</sup> Labour Force Survey – Q4/2018, Statistical Office of the Republic of Serbia, Retrieved from <http://www.stat.gov.rs/en-US/oblasti/trziste-rada/anketa-o-radnoj-snazi>



## 5.2 Legal and Policy Framework

Overall, both governments Serbia and Kosovo\* have developed a broader set of policies and laws on employment and social issues, including the applicable legal frameworks at all levels, that is relevant for the broader population.

The Republic of Serbia have adopted the *National Strategy for Resolving the Issues of Refugees and Internally Displaced Persons for the period from 2015 to 2020*<sup>104</sup> which is strategic document providing solution for status and protection of internally displaced persons.

In addition, the Serbian authorities have adopted other key documents such as the *Law on Migration Management of the Republic of Serbia*<sup>105</sup>, the *Social Protection Development Strategy*<sup>106</sup>, the *Poverty Reduction Strategy*<sup>107</sup>, the *Strategy for the Social Inclusion of Roma Men and Women in the Republic of Serbia from 2016 to 2025*<sup>108</sup>, the *National Employment Strategy for the period 2011-2020*<sup>109</sup>, and the *Strategy on Sustainable Subsistence and Return to Kosovo and Metohija*<sup>110</sup>.

Over past years, local self-government has been taking more responsibilities to solve livelihoods conditions of the IDP and support their integration in the local society through different actions. In order to achieve these goals, the local self-government has begun to develop Local Action Plans for Migration (settling the situation of refugees, asylum seekers, returnees, and IDPs) as the strategic documents. All proposed actions in the LAPs are financed by the local self-government budgets and international donations.

The Kosovo\* government have also adopted several strategic documents and laws in this field. The key document in the field of economic development is the *National Development Strategy 2016-2021 (NDS)*<sup>111</sup>, which entered into force in February 2016.

Furthermore, the *Law No. 03/L-047 on the Protection and Promotion of Rights of Communities and their Members in Kosovo*\*<sup>112</sup> has adopted as well as the *Regulation No. 02/2010 on Municipal Offices for Communities and Returns*<sup>113</sup> as well as *Regulation (GRK) – No. 01/2018 on the Return of Displaced Persons and Durable Solutions*<sup>114</sup> as the key document for the sustainable return and reintegration of IDPs and the returnees.

Since unemployment is one of the biggest problems in Kosovo\*, the Kosovo\* government has adopted the *Sectoral Employment Strategy and Action Plan 2018 – 2022*<sup>115</sup>. The strategic objective is to increase employment, skills development, and better functioning of the labour market. Moreover, this strategy provides a balanced approach through active employment measures as well as vocational training, self-

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<sup>104</sup> National Strategy for Resolving the Issues of Refugees and Internally Displaced Persons for the period from 2015 to 2020, Retrieved from Government of Serbia Strategies website: <http://www.gs.gov.rs/english/strategije-vs.html>

<sup>105</sup> Law on Migration Management Official Gazette no. 107/2012, Retrieved from <http://bit.ly/1Oo7kPK>

<sup>106</sup> Social Protection Development Strategy, Retrieved from Government of Serbia Strategies website: <http://www.gs.gov.rs/english/strategije-vs.html>

<sup>107</sup> Poverty Reduction Strategy, Retrieved from Government of Serbia Strategies website: <http://www.gs.gov.rs/english/strategije-vs.html>

<sup>108</sup> Strategy for the Social Inclusion of Roma Men and Women in the Republic of Serbia from 2016 to 2025, Retrieved from Regional Cooperation Council website: <https://www.rcc.int/romaintegration2020/docs/5/strategy-of-social-inclusion-of-roma-for-the-period-from-2016-to-2025--serbia-rn>

<sup>109</sup> National Employment Strategy for the period 2011-2020, Retrieved from Government of Serbia Strategies website: <http://www.gs.gov.rs/english/strategije-vs.html>

<sup>110</sup> Strategy on Sustainable Subsistence and Return to Kosovo and Metohija, Retrieved from Government of Serbia Strategies website: <http://www.gs.gov.rs/english/strategije-vs.html>

<sup>111</sup> National Development Strategy 2016-2021 (NDS), Retrieved from the Office of the Prime Minister Kosovo\* website: [http://www.kryeministri-ks.net/repository/docs/National\\_Development\\_Strategy\\_2016-2021\\_ENG.pdf](http://www.kryeministri-ks.net/repository/docs/National_Development_Strategy_2016-2021_ENG.pdf)

<sup>112</sup> Law No. 03/L-047 on the Protection and Promotion of Rights of Communities and their Members in Kosovo, Retrieved from the Assembly of Kosovo\* website: [https://www.kuvendikosoves.org/common/docs/ligjet/2008\\_03-L047\\_en.pdf](https://www.kuvendikosoves.org/common/docs/ligjet/2008_03-L047_en.pdf)

<sup>113</sup> Regulation No. 02/2010 on Municipal Offices for Communities and Returns, Retrieved from the Office of the Prime Minister of Kosovo\* website: <http://kryeministri-ks.net/en/documents/regulation-no-02-2010-for-the-municipal-offices-for-communities-and-return/>

<sup>114</sup> Regulation (GRK) – No. 01/2018 on the Return of Displaced Persons and Durable Solutions, Retrieved from Refworld website: <https://www.refworld.org/docid/5c04f43b4.html>

<sup>115</sup> Sectoral Employment Strategy and Action Plan 2018 – 2022, Retrieved from the MLSW website: <https://mpms.rks.gov.net/en/mpms-lanson-strategije-sektoriale-2018-2022-dhe-planin-e-veprimit-per-punesimin-e-te-rinjve/uncategorized-sq/>

employment, and employment of at least one employee in each family. This document does not explicitly treat the employment situation of IDPs, returnees as well as Roma, Ashkali and Egyptian communities or other minorities.

In addition, the *Law 03/L-149 on Civil Service*<sup>116</sup> regulates the employment of non-majority communities in the public sector in Kosovo\*. This law specifies a minimum quota of 10% for the employment of non-majority communities at the intermediate level, and representation proportional to the demographic structure at the local level.

The Kosovo\* authorities have adopted a *Strategy for the inclusion of Roma, Ashkali and Egyptian communities in the Kosovo\* society (2017-2021)*<sup>117</sup> in April 2017, as a result of the insufficient measures of inclusion of RAE communities into Kosovo\* society. This Strategy addresses four priority fields: education, employment and social welfare, health, and housing. In addition, for each of the four areas of the strategy, one strategic goal, as well as the results and activities related to that goal, is defined. The field of employment and social welfare is focused on reducing poverty within RAE communities through the promotion of various types of employment and increased use of social services.

Finally, the Kosovo\* authorities have determined clear roles and responsibilities for institutions involved in management and provision of economic and social rights at all levels, and define the rights of specific groups to employment and social welfare services.

Thus, Ministry of Labour and Social Welfare (MLSW) as a main competent and responsible institution for employment and social welfare in Kosovo\* is relevant and responsible for the development of various policies and legislation in the field of employment and social welfare. Also, MLSW support and monitor all activities and propose active and appropriate measures, set standards for occupational safety and protection at work, manage and supervise all institutions involved in this area within the scope of responsibilities of this Ministry. Furthermore, encourage dialogue and relations with trade unions, employers' associations and other actors. Finally, administer and support the development of a social insurance system, including pensions and unemployment benefits. However, IDPs and the returnees are not recognised as a specific vulnerable group<sup>118</sup>.

The MLSW has set up several reforms to modernize Public Employment Services (PES) in Kosovo\* so that their services would be more accessible to beneficiaries and customized to each case individually.

At the end of 2018, the MLSW proposed a substantial reform of the existing 3-pillar pension system. According to the European Social Policy Network (ESPN) analysis of this reform, and ESPN reported "the objectives of the reform include ending the layering of the general tax-financed pensions benefiting powerful interest groups by establishing universal rules and increasing the income of ("average") pensioners"<sup>119</sup>.

### *5.3 Role of state and local governments in the promotion and protection of IDPs' rights and their sustainable return and reintegration*

The Republic of Serbia has established the mechanisms at the central and local level for the implementation of all types of support programs for internally displaced persons. The local self-government through the support of the SCRMM and the designated ministries have been developing the local action plans and actively joined in determining and in addressing the needs of IDPs since 2008. The Serbian Government also provides specific budget's funds as well as the international donations for the improvement of the status of IDPs and returnees to Kosovo\* and all activities follow the goals and measures defined in the strategic government documents.

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<sup>116</sup> Law 2010/03-L-149 on the Civil Service of Kosovo\*, Retrieved from the Assembly of Kosovo\* website: <http://www.kuvendikosoves.org/?cid=2.191.499>

<sup>117</sup> Strategy for the inclusion of Roma, Ashkali and Egyptian communities in the Kosovo\* society (2017-2021), Retrieved from the Office of Good Governance of Kosovo\* website: [http://kryeministri-ks.net/wp-content/uploads/docs/ANG-STRATEGJIA\\_P%C3%8BR\\_P%C3%8BRFSHIRJEN\\_E\\_KOMUNITETEVE\\_ROM\\_DHE\\_ASHKALI\\_N%C3%8B\\_SHOQ%C3%8BRIN%C3%8B\\_KOSOVARE\\_2017-2021.pdf](http://kryeministri-ks.net/wp-content/uploads/docs/ANG-STRATEGJIA_P%C3%8BR_P%C3%8BRFSHIRJEN_E_KOMUNITETEVE_ROM_DHE_ASHKALI_N%C3%8B_SHOQ%C3%8BRIN%C3%8B_KOSOVARE_2017-2021.pdf)

<sup>118</sup> Ministry of Labour and Social Welfare, interview conducted by Edona Lekaj in February 2019, in Pristina

<sup>119</sup> Kosovo\* plans significant pension policy shift – Artan, Mustava, ESPN Flash Report 2018, Retrieved from [https://www.researchgate.net/publication/329841049\\_Kosovo\\_plans\\_significant\\_pension\\_policy\\_shift](https://www.researchgate.net/publication/329841049_Kosovo_plans_significant_pension_policy_shift)

According to the conducted interview with the representatives of the Office for Kosovo and Metohija Government of the Republic of Serbia<sup>120</sup>, the OKiM provides various arrangements<sup>121</sup> of support to IDPs in finding a sustainable and durable solution, including IDPs who decide to return to Kosovo\*. Among many of those arrangements, one of the primaries is the improvement of living standards and higher economic independence in their place of return through small grants for starting business or start-up loans mainly in the agriculture area. In addition, the OKiM tries to encourage the returnees to organize themselves through the companies/cooperatives due to the more suitable access to the market. In terms of this, 23 companies are currently running under the IPA projects implemented by ASB and IDC and about 300 different projects are planned to be developed in the field of employment and self-employment during 2019. Also, the company Metohija has established with a primary goal to buy and sell the products from the small producers/farmers, and there is a plan to support industrial production in the North of Kosovo\*.

It is essential to point out that OKiM takes into account the whole situation in Kosovo\* and equally support all Serbs remaining in the enclaves in order to avoid a sense of neglect or favouring of IDPs compared to the population that remained. Finally, the Republic of Serbia authorities try to provide the best solutions for the integration of internally displaced persons and to encourage return and reintegration to Kosovo\* through different measures as well as activities.

Based on the adopted Regulation No. 01/2018 on the Return of Displaced Persons and Durable Solutions, the Kosovo\* authorities establish necessary conditions for achieving durable solutions for persons displaced within Kosovo\* and in the region, between 28th March 1998 and 31st March 2004 and define responsibilities of competent decision making and implementing bodies, assistance procedures and criteria. This Regulation provides support through vocational training, employment and self-employment support.

#### *5.4 Role of the international community and civil society in the promotion and protection of IDPs rights and their sustainable return and reintegration*

Since 2001, the Delegation of the European Union to the Republic of Serbia has donated more than EUR 74<sup>122</sup> millions to support economic independence, decent housing, and legal rights of refugees, IDPs and returnees in Serbia through various projects. Facilitation of return to Kosovo\* for IDPs willing to return has been supported, as well as housing solutions and complementary social measures for the reintegration.

In the same period, the EU in Kosovo\* has funded a considerable number of minority communities return related projects amounting to around EUR 52<sup>123</sup> million. Through these projects, around 2,000 minority-displaced families have been facilitated to return and reintegration and/or found durable housing solution in Kosovo\*.

UNHCR in the Republic of Serbia<sup>124</sup> actively works on a durable solution for IDPs through areas of housing, income generation, access to education, access to employment, capacity building directed at facilitating cooperation between the local communities and the IDP beneficiaries focusing on Roma IDPs.

According to the UNHCR in Kosovo\*<sup>125</sup> the socio-economic reintegration remains a challenge for returnees due to the unequal treatment on assistance opportunities for specific groups as well as limited income generation opportunities and lack or limited interaction with the receiving communities, which requires inter-ethnic dialogue. UNHCR will continue to advocate for durable solutions for IDPs and interim solutions for the most vulnerable IDPs with the focus on collective centres

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<sup>120</sup> Rajčević, Jelena, Popović, Igor, Seniors Advisors, March 2019. Interview on the Sustainable Return of IDPs to Kosovo\*, Office for Kosovo and Metohija Government of the Republic of Serbia

<sup>121</sup> Almost 500 families receive financial support so-called returnees' assistance amounting to about 6,000 RSD per month. Moreover, there is one-time assistance for the most vulnerable individuals/families

<sup>122</sup> Support to Refugees and IDPs – EU Delegation in Serbia, Retrieved from <https://europa.rs/eu-assistance-to-serbia/eu-and-serbia-15-years-of-partnership/support-to-refugees-and-idps/?lang=en>

<sup>123</sup> European Union in Kosovo, Samir Selimi, Project Manager, Interview conducted by Edona Lekaj in March 2019 in Pristina

<sup>124</sup> Internally Displaced Persons in Serbia, UNHCR website, Retrieved from <http://reporting.unhcr.org/node/15811>

<sup>125</sup> UNHCR Office of the Chief of Mission in Kosovo, Interview conducted by Edona Lekaj in March, 2019 in Pristina

IOM Mission in Kosovo\* implements the EU - Return and Reintegration in Kosovo\* (RRK<sup>126</sup> – Phase V) Programme. The programme is part of a long-term partnership between IOM Kosovo\*, the EU Office in Kosovo\*, and the Ministry for Communities and Returns to support the process of returns and help returnees to integrate into Kosovo\* society. One of the specific objectives is the sustainability of reintegration of returnee families improved through the provision of tailor-made socioeconomic support, and enhanced access to civil status documents and government services.

International non-governmental organizations in the Republic of Serbia such as Danish Refugee Council, Care Balkan, ASB SEE and others, as well as Serbian civil society organizations actively work to encourage measures to integrate internally displaced persons in Serbia and for those who want to return to Kosovo\* find an effective and appropriate long-term solution.

### *5.5 General access to employment and social welfare*

Despite the efforts of Serbian and Kosovo\* authorities to set up different affirmative measures and a large number of different implemented programmes, the IDPs and the returnees are still facing with many challenges and obstacles in their re-integration into the Serbian and Kosovo\* societies.

One of the main obstacles is the high unemployment rates of IDPs and returnees in both societies. Both governments have created several measures to reduce unemployment through active employment measures as well as various vocational training programmes. Also, the procedures for access to social protection services for displaced persons and returnees who opt for local integration are simplified. The simplified procedure is necessary for enabling exercise of the right by accessing the various forms of social assistance.

In Serbia, internally displaced persons as citizens of Serbia have the same rights as the domicile population under legally defined criteria, and the required documents entitle them to all types of available assistance. On the other side, in Kosovo\*, the returnees exercise various rights if they have Kosovo\* documents and meet defined criteria too.

In both Serbia and Kosovo\*, access to labour markets is possible through the employment agencies, career fairs, direct advertisement of employers and informal employment channels such as the recommendations of relatives, friends or former colleagues.

According to the collected data<sup>127</sup>, in Kosovo\*, public institutions are one of the main employers. Over 91,000 persons are estimated to be employed in this sector, which represents about 36% of all employees in Kosovo\*. Also, more than 45,000 jobs are considered to be in the informal sector, most of them in the sector of agriculture (24,000), construction (9,778), and in the trade sector. Young people less educated and those from rural areas are more inclined to engage in the informal economy. Employees in the informal sector earn 18% less than persons employed in the formal sector, while employees with contract earn 28% more than they earn those without contracts.

Gender ration has shown that 55.7% of men are unemployed, and 44.3% are women are unemployed. Regarding the qualification, 37.3% of job seekers are without any qualification, while about 8% of job seekers have university diplomas, as, for the age group, the most significant number of job seekers, about 48.3% belongs to the age group 25-39, and 27.9% belongs to the age group 40-54.

Most of the employees (36%) are employed in micro-enterprises, which make up 91% of the active enterprises in Kosovo\*, while large firms, employing over 100 employees, although few (0.5% of all enterprises in Kosovo\*) employ 35% of employees. About 35% of enterprises are located in Pristina region. Also, more than half of all Kosovo\*'s employees (54%) are employed in Pristina as well.

The fifteen (15) most sought occupations<sup>128</sup> in Kosovo\* are: accountant, market researcher, sales agent, supplier of goods, welder, interior designer, food technologist, production operator, car repairer, cook, electric / hydro / thermal installer, metal structural jobs, woodworking industry, textile designer. For five of

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<sup>126</sup> EU – Return and Reintegration in Kosovo – IOM, Retrieved from <https://kosovo.iom.int/eu-return-reintegration-kosovo>

<sup>127</sup> Kosovo\* Employment Agency, Interview conducted by Edona Lekaj, in February 2019 in Pristina

<sup>128</sup> Kosovo\* Employment Agency, Interview conducted by Edona Lekaj, in February 2019 in Pristina

these required occupations, training is provided by Vocational Training Centres (VTCs) within Kosovo\* Employment Agency.

### **Regulation on the Return of Displaced Persons and Durable Solutions - Displaced person's right and application procedure for assistance**<sup>129</sup>

Based on the Regulation, aiming at socio-economic integration of returnees, the two types of support are possible to accomplish:

1. Vocational training (VTCs or other services providers organise vocational, occupational trainings);
2. Direct facilitation in the process of employment or support to self-employment.

According to the Guidelines for Implementation of Regulation (GRK) – No. 02/2018 on the Return of Displaced Persons and Durable Solutions main actors are “Ministry of Communities and Return (MCR), Municipal Office for Communities and Return (MOCR), as well as other relevant partners supporting the process of return and reintegration (representatives of DPs and IDPs, international and non-governmental organizations)”<sup>130</sup>.

In the Regulation defines that "all returnees and internally displaced persons, displaced within Kosovo\* and in the region as a result of the conflict between February 28, 1998, and March 31, 2004, have the right to direct access to assistance"<sup>131</sup>.

Application procedure for assistance is as follow: the MCR provides access to the application form and information regarding the assistance for all interested persons. The IDPs and returnees can apply personally or through relevant organizations as well as through an online application. MOCR receives the submitted application and verifies it, and all applications are archived in the Ministry. Each applicant will receive Confirmation of Application Certificate that he/she has applied.

“The person who is applying online is obliged to submit the signed application via relevant institutions or personally. In addition, persons who have submitted a request in person do not need to apply online. Central Review Committee (CRC) will not be able to review the application without archiving. MOCR and other authorities to which the application is submitted shall be obliged to notify the Applicant to submit signed hard copy of the application for archiving by the MOCR and the MCR within 15 working days in order to enable review and decision making in the CRC”<sup>132</sup>.

Each application consists of the application form and the supporting documents. The supporting documents are divided into two categories - required and additional.

#### Required documents for application are:

1. “Application form that is clearly filled in one of the official languages in Kosovo\*;
2. filled application form held by displaced persons and all members of the family who are 18 years and over 18 years old;
3. Photocopy of ID card of applicant and all members of the family who are 18 years and over 18 years old;
4. Copies of birth certificates or birth extracts for members of the family under the age of 18;
5. Evidence issued by the competent authorities in the place of displacement that the person is displaced, except internally displaced persons;
6. Certificate of ownership of immovable property or immovable property for use, issued by the - municipal Directorate for geodesy and cadastre, for the applicant and members of his family, including minors in the family”<sup>133</sup>.

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<sup>129</sup> Guidelines for Implementation of Regulation (GRK) – No. 02/2018 on the Return of Displaced Persons and Durable Solutions, Retrieved from <http://mzp-rks.org/en/images/dokumenta/uputstvoen.pdf>

<sup>130</sup> Ibid. p. 5

<sup>131</sup> Ibid. p. 5

<sup>132</sup> Ibid. p. 7

<sup>133</sup> Ibid. p. 7

### Additional supporting documents to support the degree of vulnerability are:

1. "Evidence of income: a) a certificate by the competent authorities in the country of displacement, proving the unemployment; b) confirmation regarding the amount of income for the previous month from the date of application submission for employed family members or a statement that the applicant or other family members receive temporary income only; and c) evidence regarding the amount of pension or social assistance for the month preceding the month of submission of the application, or a statement by the competent authority confirming that the person is not a beneficiary of a pension or social assistance scheme;
2. for one-parent family, a certificate of the death of a spouse; a copy of the birth certificate of a child without a parent or a divorce decision is required;
3. the decision of the commission on the categorization of physical or mental disability;
4. confirmation by health care facilities regarding serious health conditions;
5. the decision of the commission responsible for categorization of mental disabilities or limited abilities.
6. evidence from competent authorities that the applicant and members of his family do not possess any other residential property in Kosovo\* or do not possess property in the place of relocation or elsewhere"<sup>134</sup>.

Required documents for application are necessary, while additional supporting documents supporting the degree of vulnerability are optional and do not prevent a person from applying for assistance, and as well for Central Review Commission to make a recommendation.

The next step is the assessment process, and it consists of the reviewer of the application and field assessment as well as the final decision.

Returnees whose application has been rejected may file a complaint with the Central Commission for Review.

It is also essential to add that "the Municipal Employment Office (MOC) assesses the skills of returnees and identifies their professional profile under the list compiled by the Ministry of Labour and Social Welfare. MOR advises returnees to find a job."<sup>135</sup> According to the professional profile of the returnees, the returnee is informed about all the possibilities, ways and types of support in his case. In case that the returnee is positively profiled for employment, the MOC identifies the potential employer and takes all necessary steps to implement all the activities that will lead to the employment of returnees.

"MOCR, inform returnees about the possibilities of support for self-employment or job development. In the case that the person is interested in this type of support, the MOCR provides him/her with a way to establish a business and advise him for possible assistance and support by Municipal Employment Office."<sup>136</sup>

Also, in case of return of a group of IDPs, a project for community development is granted to returned IDPs.

### Access to labour market<sup>137</sup>

Due to the recent reorganization of Kosovo\* employment agency, there are two categories of job seekers:

1. Registered job seekers: Job seekers registered on the online platform (<https://apr.k.rks-gov.net/>) and are only users of online employment services; therefore, they are only kept on the list of "registered jobseekers".

The services offered through the Internet are reviewing vacancies, obtaining information on advertisements, direct application to vacancies, review, and application for training provided by VTC, etc. In cases where registered job seekers visit the employment office to seek services, they can be offered such services:

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<sup>134</sup> Ibid. p.7, 8

<sup>135</sup> Instructions for implementation of the Regulation (GRK) - no. 02/2018 on return displaced persons and durable solution, p. 13, Retrieved from <http://mzp-rks.org/en/images/dokumenta/uputstvoen.pdf>

<sup>136</sup> Ibid. p.13

<sup>137</sup> Employment Agency of Kosovo\*, Retrieved from <https://apr.k.rks-gov.net/en-US/JobSeeker/Index/52>



providing information on the labour market situation, job search assistance, employment mediation, and career orientation.

2. Registered unemployed: Unemployed people are registered in the Employment office database.

Potential employees will go through a certain procedure and will be treated differently from registered jobseekers. During the interview process, the unemployed are enrolled in the database, and profiled in one of the following three sub-groups:

- Low-risk group to become long-term unemployed

Characteristics: Unemployed less than 6 months; qualified with work experience, with technical skills accumulated in the sector and with skills in specific professions, with computer skills to use self-service instruments, 35 - 49 years old, ready to work, active in the labour market, sufficiently motivated, capable of looking for work independently, healthy physically and without any other restriction.

Evidence: newly unemployed, employed job seekers etc.

- Medium-risk group to become long-term unemployed

Characteristics: Unemployed less than 12 months, qualified with low work experience or experience for just a graduate, with few technical skills in the sector and with little skill in specific professions, with computer skills to use self-service instruments, 25 - 34 years old, ready to work, semi-active in the labour market, not sufficiently motivated, semi-capable to look for work independently, without other obstacles or with light employment hindrances.

Evidence: A graduate who has just graduated from school, the worker who was cut short of work and could not find a quick job, a woman returning to work after maternity leave etc.

- High-risk group to become long-term unemployed

Characteristics: Unemployed more than 12 months, unqualified or with low educational qualifications, qualified but with outdated skills, unrealistic aspiration for work and salary, no computer skills to use self-service instruments, above 50 years of age or under 25 years of age, not ready for work, not active in the labour market, unmotivated for work, reduced ability to search for work independently, health problems or other problems (mobility, language) that affect the individual's employment.

Evidence: Long-term unemployed, a young person with no educational background, no training, and no job, disabled person, formerly convicted, the beneficiary of social assistance category II, a person who has been addicted to alcohol or suffers from other trauma (for example, domestic violence, etc.)

All profiled persons will be counselled based on their profiled risk, and the counsellor will offer them different kind of services and provided intensive support.

Furthermore, as KEA is recognized IDPs and returnees as a particularly vulnerable group. The KEA with international donors' supports designs exclusively for this category different employment/income generating activities programmes especially self-employment, wage subsidies, and other measures<sup>138</sup>.

Requested documents: ID cards, diplomas and certificates.

Some of the major websites for job seekers include [www.appk.org](http://www.appk.org); [www.ofertapune.com](http://www.ofertapune.com); [www.portalpune.com](http://www.portalpune.com); [www.shkabaj.net](http://www.shkabaj.net); [www.gjirafa.com](http://www.gjirafa.com); [www.kosovajob.com](http://www.kosovajob.com).

The Kosovo\* Employment Agency manages eight **Vocational Training Centers**<sup>139</sup> (VTCs) which are concentrated in the seven towns: Pristina, Prizren, Pec, Djakovica, Urosevac, Gjilane, and Doljane (northern part of Mitrovica) with 69 workshops and 30 different professions.

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<sup>138</sup> Kosovo\* Employment Agency, Interview conducted by Edona Lekaj in February 2019, in Pristina

<sup>139</sup> Kosovo\* Employment Agency, Info about Vocational Training Centers (VTCs), Retrieved from <https://apr.kosov.gov.net/en-US/TrainingCenters/Index/50>



Vocational training includes two sub-classes of training, as follows:

1. Institutional training is conducted in the eight centres, as mentioned above. Training is provided to unemployed persons and who seeking a job for a specific profession, focusing on the applying skills and practical knowledge by using teaching in various cabinets. The purpose of this training is to enable the increase or adaptation of professional knowledge, skills and attitudes necessary for the adequate performance of the profession. The trainings themselves aim to increase the appearance of participation or job maintenance.
2. Combined training involves cooperation with companies to include unemployed and job seekers in vocational training, where the purpose of organizing this component is to provide quality vocational training services through training in the business environment.

The system of training in VTCs is very flexible, modular and based on each participant's abilities. The duration of the training is 3 - 6 months. The participant passes the test after each module being developed as well as the final test, and after the training, the participant receives a certificate of acquired competence. The trainings are 30% of the theory and 70% of the practice.

Occupations in VTCs<sup>140</sup>:

1. Pristina: 1. Occupations in the field of Water and Central Heating Installation; 2. Business Administration / Self-Employment; 3. Administrative / Accounting Assistant; 4. Baker; 5. Pastry Chief; 6. Occupations in the field of ICT and Industrial Electronics; 7. Occupations in the field of Construction; 8. Office Equipment Servicing 9. Car Electrician; 10. Tailoring; 11. ICT - Podujevo;
2. Prizren: 1. Chef; 2. Waiter/Waitress; 3. Car Electrician; 4. Occupation in the field of Hydraulic and Pneumatic service 5. Welding (metal); 6. Business administration / self-employment; 7. Occupation in the field of Industrial Electronics; 8. Occupation in the field of White Technical Service; 9. ICT; 10. Tailoring; 11. Milk Processing; 12. Hairdresser; 13. Baker;
3. Pec: 1. Administrative assistant/accounting. 2. Business Administration. 3. Occupation in the field of Electro Installation; 4. Construction; 5. Waterworks; 6. Agriculture; 7. Computer Braille; 8. Occupations in the field of cuisine; 9. Welding (metal); 10. Carpentry; 11. Entrepreneurship / Self-Employment;
4. Urosevac: 1. Carpentry; 2. Occupations in the field Electrical Installation; 3. Construction; 4. Welding/plumbing; 5. ICT; 6. Business administration / self-employment; 7. Maintenance of facilities; 8. Use of computers – Kacanik; 9. Occupations in the field of Culinary; 10. Hotel management;
5. Gnjilane: 1. Woodwork; 2. Welding; 3. Computer use; 4. Business administration / Self-employment; 5. Graphic design; 6. Occupations in the field of Culinary;
6. Djakovica: 1. Administrative Assistant / Accounting; 2. Occupation in the field of Electro-installation 3. Self-employment; 4. Welding; 5. Business administration – Decani; 6. Hairdresser; 7. Tailoring;
7. Mitrovica: 1. Woodwork; 2. ICT; 3. Textile; 4. Construction; 5. Welding; 6. Business Administration / Self-Employment; 7. Occupations in the field of Culinary; 8. ICT - Srbica;
8. Doljane: 1. Woodwork; 2. Occupations in the field of Culinary; 3. Textile; 4. Welding; 5. Business administration.

### **Access to social service**

The social assistance system is decentralized and administered through the 40 Centres for Social Work (CSWs), one in each of the 38 municipalities with two additional branches in Pristina. The main characteristic of Kosovo\* social system is lack of funds for social services and work of CSWs.

The CSWs must provide social services to “persons in need” and “family in need” which are defined by the *Law on Social and Family Services – Law No. 02/L-17*<sup>141</sup> equally children, adults and vulnerable adults.

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<sup>140</sup> Kosovo\* Employment Agency, Info about Vocational Training Centers (VTCs), Retrieved from <https://apr.kks-gov.net/en-US/TrainingCenters/Index/50>

<sup>141</sup> Law on Social and Family Services – Law No. 02/L-17, Retrieved from [https://www.kuvendikosoves.org/common/docs/ligjet/2005\\_02-L17\\_en.pdf](https://www.kuvendikosoves.org/common/docs/ligjet/2005_02-L17_en.pdf)

The receipt of social assistance is subjected to strict eligibility criteria which include, among other things, an assessment of the status and needs of social assistance beneficiaries, as well as appropriate supporting documentation (such as Identification card, birth certificate etc.).

CSWs provide social service to almost 50 categories.

The most commonly provided social assistance is of general purpose and can be utilized for any need and it is paid out in cash. The maximum amount is 90 Euro, and even if the person/family needs additional support, it cannot be provided.

Eligibility and requirements for social assistance of general purpose<sup>142</sup>:

I category:

I.I a) persons over 18 years old with permanent disabilities; b) permanent caregivers for persons with disabilities and c) persons over 65 years old.

I.II a) persons up to 14 years old; b) persons between 14 and 18 years old and who are attending regular education; and single parents with at least one child under the age of 15.

II category:

II. I a) Families with one person capable of working and at least one child under the age of 5 years or a person taking permanent care of a parentless child under the age of 15 years.

Requested documents that need to be submitted to the competent authorities are following: ID card, Statement of nonprofessional engagement issued by competent Employment office under the place of residence.

### **Access to Pension systems**

The Kosovo\* pension system is comprised of three pillars but with an additional number of special laws for specific categories of pensioners.

According to the *Law on Pension Schemes Financed by the State – Law No. 04/L-131*<sup>143</sup>, the first pillar is fully financed by the states and covers all the pension categories in Kosovo\*, including basic age pensions, age contribution-payer pensions, disability pensions, early pensions, family pensions and work disability pensions, and early pensions of former miners (Trepca Pension). Also, the special pension schemes are managed as pensions from the first pillar; these are regulated with special laws and are fully funded by the state budget.

The second pillar is a mandatory contribution based. The employee and employer contributions with each five per cent (5%) of the salary. All those who receive pensions from the second pillar can receive any pension from the first pillar or special schemes if they fulfil their conditions.

The third pillar remains with voluntary schemes, supplemented either by the employer or the employee, or both at the same time.

Conditions and criteria for the recognition of the right pension:

a) **Basic Age Pension**: all persons who are permanent citizens of Kosovo\*, who possess identification documents and who have reached the age of sixty-five (65). The amount of pension is 75 euro.

Valid documents necessary for the recognition of the right to basic age pension: Identity Card, Certificate of permanent residence in Kosovo\*, application sheet for pension and bank account issued by one the banks operating in Kosovo\*.

b) **Age contribution-payer pension**: all persons who have citizenship of Kosovo\* and who: have reached the age of sixty-five (65); should have pension contribution-payer work experience, according to the *Law on*

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<sup>142</sup> Country Fact Sheet Kosovo\* 2018, International Organization for Migration, Retrieved from [http://files.returningfromgermany.de/files/CFS\\_2018\\_Kosovo\\_EN.pdf](http://files.returningfromgermany.de/files/CFS_2018_Kosovo_EN.pdf)

<sup>143</sup> Law on Pension Schemes Financed by the State – Law No. 04/L-131, Retrieved from <https://www.kuvendikosoves.org/common/docs/ligjet/04-L-131%20a.pdf>

*pension and disability insurance, No. 011-24/83*<sup>144</sup> Moreover, reliable evidence on payment of contributions under provisions of the same Law. The amount of pension is from 158 to 240 euro.

c) Permanent disability pension: all persons who are citizens of Kosovo\*, who possess identification documents, who are at the age of eighteen (18) to sixty-five (65) and solid evidence on the permanent disability. The amount of pension is 75 euro.

d) Early pension: all employees of the ‘‘Trepca’’ complex and other mines of Kosovo\*, who have lost their employment until the end of the year 2004.

"Early pensions shall be paid to all miners of the complex ‘‘Trepca’’ and other miners employed in the mines of Kosovo\*, and of other employees in mines if they: 2.1. are citizens of Kosovo\*; 2.2 possess identity documents from the respective body of Kosovo\*; 2.3. are at the age of fifty (50) – sixty-five (65); 2.4. have at least ten (10) or more years work experience in mines; 2.5. have not concluded employment relationship or self-employed; 2.6. if they prove that their employment relationship has been terminated without their fault; 2.7. are unable to work due to deterioration of their health condition, provided that the invalidity level be above fifty per cent (50%)<sup>145</sup>.

Furthermore, under this pensions sub-group are the involuntarily unemployed and disabled people (50%). The amount is 105 euro.

e) Work disability pension: ‘‘all former users of disability pension, under the age of sixty-five (65) who prove the realization of this right by the Decision or check (receipts) of the pension showing that they have been users of the work disability pension, under the provisions of the *Law on Pension and Disability Insurance No. 011-24/83*’’<sup>146</sup>. In addition, ‘‘the right to work disability pension shall be recognized even to all current employees to whom there is present the full disability to work, due to work injury or occupational illness’’<sup>147</sup>. The amount for this pension is the same as a basic pension, 75 euro.

f) Family Pension: Family pension started to be implemented in 2018. Main criteria to receive family pension are a) ‘‘by former users of a family pension who are under the age of sixty-five (65)’’<sup>148</sup>; b) ‘‘by close family members of the former insured person, who has died after the date of 01.01.1999, who prove that the insured person has paid for fifteen (15) years the contributions for pension experience’’<sup>149</sup>; c) ‘‘by family members of the employee, who has died after 01.01.1999, as a result of injury or occupational disease, regardless of the period of work experience’’<sup>150</sup>.

The criteria for family members: a) ‘‘spouse up to the age of sixty-five (65), who provide evidence for marriage relation and who does not work or is self-employed’’<sup>151</sup>; b) ‘‘spouse under the age of sixty-five (65), announced permanent invalid and disabled for work’’<sup>152</sup>; c) ‘‘children till the age of eighteen (18), respectively twenty-six (26), if they provide relevant evidence for attending the regular university education’’<sup>153</sup>.

The amount for this pension is the same as a basic pension, 75 euro but the amount for each child will be increased by twenty per cent (20%) of the age base pension.

According to the Pension Schemes Financed by the State No.04/L-131 Law, beneficiaries of any of the above-mentioned pension could not receive any other pension regulated by this law or any other pension from special pension schemes that are managed and administrated by Ministry of Labour and Social Welfare.

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<sup>144</sup> Law on pension and disability insurance, No. 011-24/83 (Official Gazette of SAPK No.26/83) before the date 1.01.1999, Assemble of Republic of Kosovo,(2014), Law No. 04/L-131 on pension scheme financed by state, Article 8 Paragraph 1

<sup>145</sup> Ibid, p 6

<sup>146</sup> Ibid. p. 7

<sup>147</sup> Ibid. p. 7

<sup>148</sup> Ibid. p. 7

<sup>149</sup> Ibid. p. 7

<sup>150</sup> Ibid. p. 7

<sup>151</sup> Ibid. p. 7

<sup>152</sup> Ibid. p. 7

<sup>153</sup> Ibid. p. 7

The administrative procedure for obtaining the right to a pension consists of submitting a request with the necessary supporting documentation to the Ministry of Labour and Social Welfare. According to the legal provision, the competent authority should issue a decision within maximum 60 days from the date of submission of the request, and the decision on the right to a pension should be submitted to the applicant in written form. If the applicant is dissatisfied with the first instance decision, he has the right to appeal to the second-instance body of MLSW. In case he is dissatisfied with second instance decision, he has the right to initiate an administrative dispute before Administrative court.

### *5.6 Situation, needs and reasons to return of IDPs – (subjective assessment of the analysis of the results of the questionnaire for returnees)*

The main findings of the research related the employment and social welfare are the following:

1. Access to employment in the local labour market both in Serbia and in Kosovo\* is difficult and in some cases is almost impossible, as a consequence of high unemployment rate and low standard of living.
2. Significantly the number of IDPs and returnees reported that the only household income is social assistance and "Kosovo allowance".
3. Majority of interviewed IDPs in Serbia stated that work in the informal sector, below its educational background, seasonal and temporary jobs and they are often paid below the minimum wage. Roma IDPs and returnees mainly state this.
4. Internally displaced Roma and Roma returnees have been identified as the most vulnerable group among all displaced persons and returnees due to lack of access to employment opportunities and social welfare rights.
5. Majority of interviewed returnees to Kosovo\* stated that they would re-leave Kosovo\* if they cannot find a job with a decent income.
6. IDPs, in particular, pointed out the barriers to employment in Serbia due to favouritism and discrimination based on their Kosovo\* origin.

### **Households' characteristics**

The average household size of interviewed IDPs in the Republic of Serbia is 2.5 persons. On the other hand, the average size of the household of returnees' families in Kosovo\* is 4.74 persons. Compared to the general population of the Republic Serbia, 2.9 persons per household and the general population in Kosovo\*, 5.7 persons per household, the number of IDPs and IDP returnees' household's members are slightly lower.

According to the survey results, in Serbia, 24.06 % have at least one minor under 12 years old, 17.29 % at least one teenager, and 12.86 % have an older adult of age 65+ years. More than 44% of IDPs live in urban areas (Nis, Kraljevo, Cacak, Kragujevac, Svilajnac and Smederevska Palanka), 16.7% in the capital city of Belgrade, and 33.33 % in the Collective Centre "Salvatore" in Bujanovac and only 6.97% in rural areas.

In Kosovo\*, all interviewed IDPs live in Serbian enclaves, 80.65% have at least one minor under 18 years or an average number of minors per family is 2.74, and 6.25% have elderly persons of age 65+ years.

Finally, the average age of the interviewed IDP is 45.99 years, which is somewhat different from the data stated in the SCRM Report *Situation and Needs of Internally Displaced Persons* 39.14 years, the difference could be explained by the sample, and this is one of limitation of this survey. The average age of the returnees to Kosovo\* is 49.13 years.

### **Employment**

The unemployment rate among interviewed IDPs in Serbia is 55.7%. Compared to the general working-age population of the Republic Serbia, 12.9%<sup>154</sup> in Q4 of 2018, the IDPs are recognised as a very vulnerable group. In Kosovo\*, the situation is similar, the unemployment rate is 57.60% among the interviewed

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<sup>154</sup> Labour Force Survey – Q4/2018, Statistical Office of the Republic of Serbia, Retrieved from <http://www.stat.gov.rs/en-US/oblasti/trziste-rada/anketa-o-radnoj-snazi>

returnees and compared to the general population in Kosovo\* 31.40%, indicating that this is a very vulnerable category of the population.

Majority of interviewed IDPs in Serbia stated that work in the informal sector, seasonal and temporary jobs and they are often paid below the minimum wage, and particularly Roma IDPs reported it. Roma IDPs and returnees both in Serbia and in Kosovo\* face with the higher unemployment rate and social vulnerability compared with non – Roma IDPs and returnees.

In general, Roma IDPs and Roma returnees in Serbia and Kosovo \* stated that they face discrimination. The unemployment rate among these population is far higher than among other IDPs. It could be underlined several reasons for this state of affairs, but the main reason is lower educational level, then other population, following less work experience, and administrative-bureaucratic obstacles when registering in places of residence. Consequently, the process of registration with employment services is more difficult or even impossible for this population, which leads to the inability to start a job. Also, the IDPs and returnees interviewed by the Roma pointed out that they were often rejected more than other IDPs in the project aiming at the support of self-employment, but also in the case where this support is anticipated for the Roma population itself.

Based on the survey results, 51% of all interviewed IDPs had a job placement in Kosovo and Metohija before displacement, where 72.2% of them were official employed (for more details, please see Chart No.15), 97.2% were full-time employees (Chart No.16) and 22.2% of them were employed in the public administration sector (Chart No.17). Regarding the working experience in KiM, they reported as following: from 6 to 10 years – 33.3%, 11 – 10 years – 16.7%, 16 – 20 years – 5.6%, 21 – 25 years – 11.1% and more than 30 years 8.8% of all interviewed IDPs.

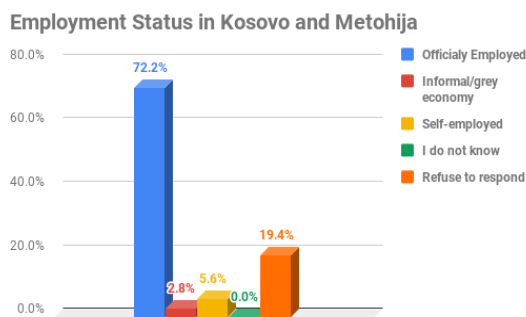


Chart No.15 Employment Status in KiM before 1999

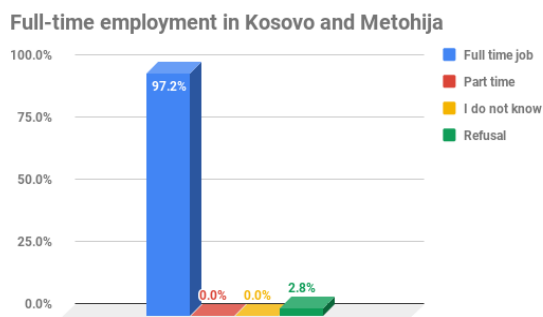


Chart No.16 Full-time job in KiM before 1999

### Sector of Employment in Kosovo and Metohija before displacement

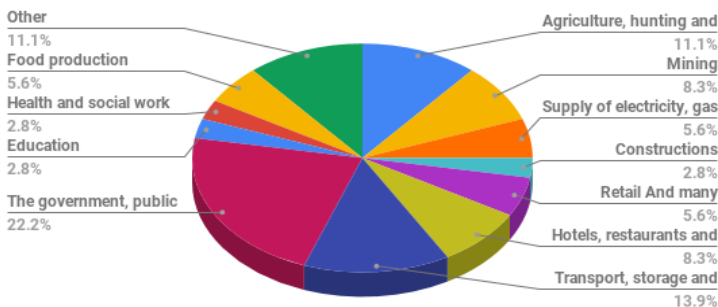


Chart No.17 Sector of Employment in KIM before 1999

Furthermore, they asked several questions regarding current employment status<sup>155</sup> in Serbia. Based on their answers, 55.7% of all interviewed IDPs reported themselves as unemployed people (Chart No.18), and 41.7% of them have between 0 and 5 years and 33.3% have between 16 and 20 years of working experience in Serbia (Chart No. 19). The working experiences included work in the formal and informal sector. 24.2% are employed in the public sector. (Chart No.20)

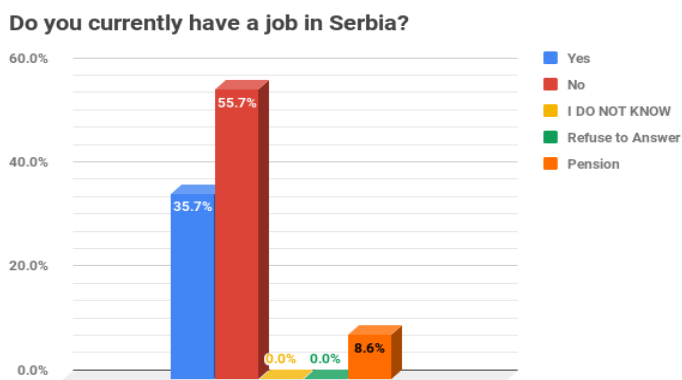


Chart No. 18 Do you currently have a job in Serbia?

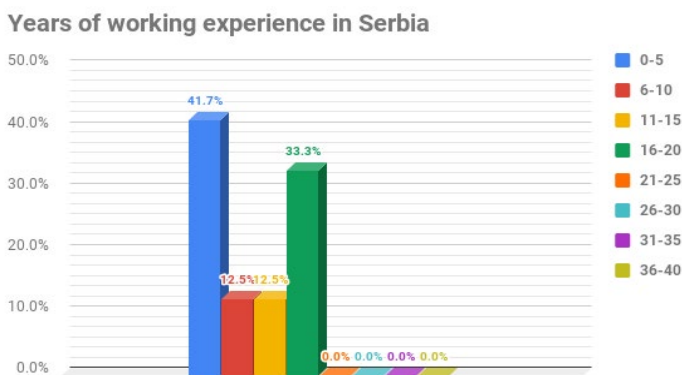


Chart No. 19 Years of working experience in Serbia

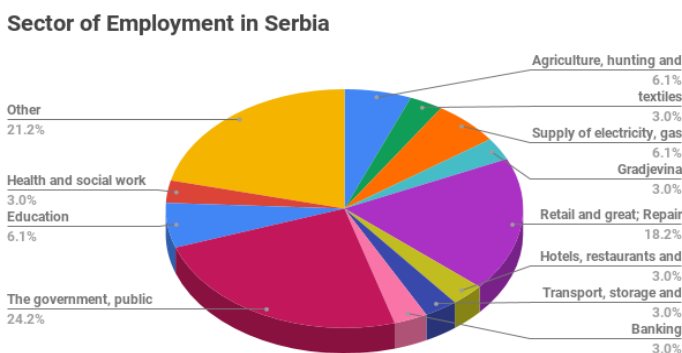


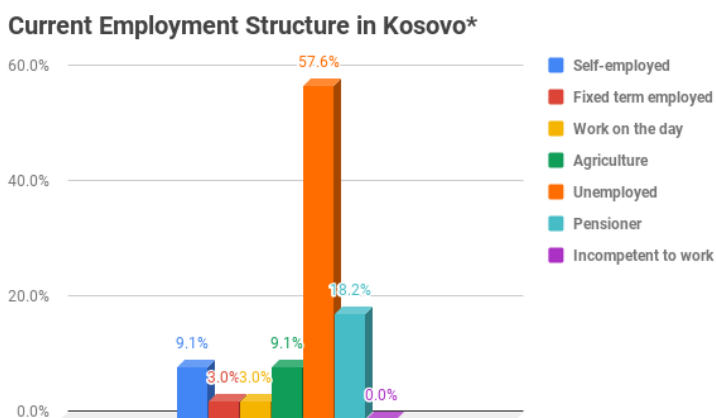
Chart No. 20 Sector of Employment in Serbia

<sup>155</sup> In Serbia, and employed persons are individuals with a minimum required age who work during a specific time for business

The survey particularly points out at the situation of Roma IDPs in the Collective Centre “Salvatore” in Bujanovac, most of them noticed, “live below decent living conditions” and “are frequently victims of discrimination”. 95% of interviewed Roma IDPs said that they do not have a regular job and the only income comes of collecting secondary raw materials.

An important fact is that all female IDPs and returnees have declared that they are unemployed that indicates the particularly unfavourable situation of women and their high vulnerability.

The returnees to Kosovo\* were asked about their employability, 57.60% reported that they are unemployed, followed by 9.1 self-employed in the agriculture sector and 9.1 self-employed mainly in building construction. (Chart No. 21)



*Chart No. 21 Current Employment Structure in Kosovo\**

Finally, the returnees to Kosovo\* were asked about the biggest challenges their daily living conditions. According to the analysed answers, the three main challenges that returnees in Kosovo\* face: a) unemployment, b) financial situation, and c) poor living conditions. In addition, 67.74% of interviewed returnees stated that the reason for the re-leaving of Kosovo\* would be the impossibility of employment.

During the focus group discussions, the IDPs, in particular, pointed out the barriers to employment in Serbia due to favouritism and discrimination because of their Kosovo\* origin. The IDPs reported that although they fulfilled the conditions stipulated by the vacancy notice, in terms of the level of education and work experience, however, they have not been employed. Furthermore, they were reported, "that getting a job requires a strong personal connection or 5,000-10,000 Euros per working place."

As many of them receive the “Kosovo allowance” for nearly 20 years as a result of a job loss in Kosovo\*, the facilitator asked if they would accept any available job or opportunity of self-employment if they were offered, the answer was “yes, but only in the area in which they worked in Kosovo\*”. In addition, they reported that are not interested in self-employment, stated the concern that they would not have “enough money” to start the business as well as “the lack of a market where they could deliver their products and services”. Some of them mentioned that start-up of business would be possible only in case if they have full support during the start of business as well as during “at least of three first years through permanent counselling and realistic start-up budget”.

Finally, they also reported that as one of the reasons they would not accept a job offer is the loss of the “Kosovo allowance” as “the only safe source of income in these difficult times”.

IDPs living in Vrnjacka Banja and Nis said that ideally, they would like to be able to work in the place of displacement but they would be ready to return to Kosovo\* if they get the opportunity for employment.

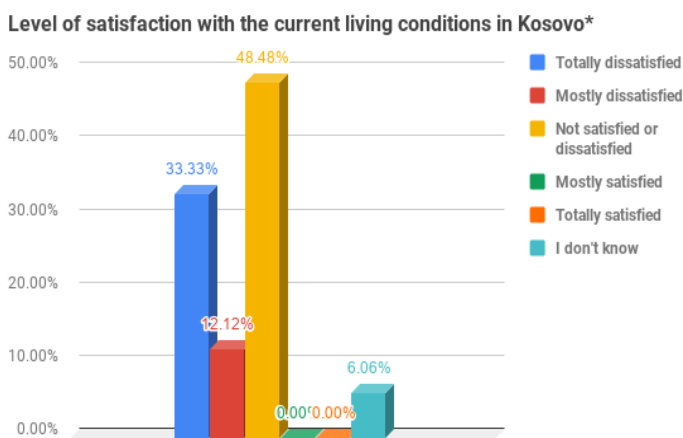
The facilitator also asked IDPs under which conditions they would decide to return to Kosovo\*. They stated that there are a few necessary conditions under which would be decided to return: a) security reasons, b) opportunities for employment and c) living and employment without discrimination based on their



nationality. In the end, the facilitator asked about their biggest concerns in case of their return in Kosovo\*, participants answered with a variety of worries from the security reasons to the high unemployment rate.

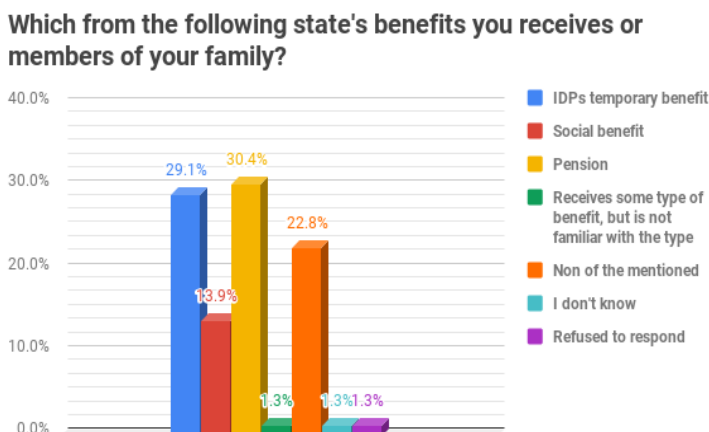
## Income

Interviewed internally displaced persons were asked to assess the economic situation of their households and the source of their monthly income in Serbia. As a result, they estimated that the economic status of their households was at a deficient level, and almost a third of them said they were completely unsatisfied with the current living conditions. The same question was posed to returnees in Kosovo\*, and almost half of all interviewed returnees (48.48%) assessed their current living conditions as 'in the middle of satisfied and dissatisfied'. Furthermore, 33.33% of returnees reported that very unsatisfied. (Chart No.22)



*Chart No. 22 Level of satisfaction with the current living condition in Kosovo\**

Furthermore, 29.1% of interviewed IDPs in Serbia stated that the only income is the "Kosovo allowance" and on the other side, 30.4% have at least one family member who receives a pension. Furthermore, 22.8% of them do not receive any social support. (Chart No.23)



*Chart No. 23 Type of Social Assistance*

During the interviews, IDPs in Serbia asked if they had enough monthly income for their life, and 67.1% of IDPs answered that they do not have enough. Some families also said that they borrowed money from their relatives or friends, or some of them received remittance from abroad. Only 10% of them have enough income to cover monthly living needs. (Chart No. 24).

## Do you have enough monthly income for your life?

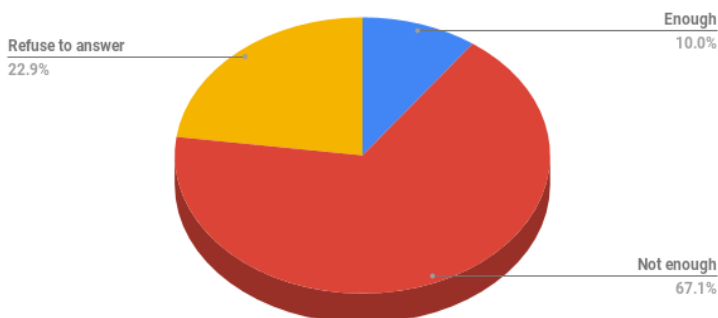


Chart No. 24 Do you have enough monthly income for your life?

All interviewed pensioners reported that they have a temporary decision on retirement, and the average monthly amount is between 15,000 and 24,000 RSD.

74.29% of interviewed IDPs reported that they would be ready to return in Kosovo\* if they get an employment opportunity as well as earn enough for decent living conditions.

53.13 % of the total number of returnees interviewed in Kosovo\* live exclusively from state aid due to the lack of employment opportunities and 90.32% of total interview returnees in Kosovo\* have up to 100 euro per month.

Both IDPs in Serbia and returnees in Kosovo\* are showed a high level of concern for their children and their future perspective, especially lack of employment opportunities and decent living conditions in both societies.

### **Social Care**

During the interviews, IDPs and returnees reported that exercise their right to various types of social benefits under the criteria and availability in the municipalities where they have a residence. In the time of interviews, only 13.9% of interviewed IDPs stated that they receive some of the social benefits, particularly child allowance. (Chart No. 23). On the other hand, more than half of interviewed returnees in Kosovo\* receive social assistance.

### *5.7 Available services*

Various civil society organizations implement different projects in the field of employment and social protection in Kosovo\* and their services depend on the available funds. Information on active projects can be obtained through social networks, press, but also through local centres for social work and employment service in the municipality of residence.

The following main projects are on-going:

**CARE Balkan:** *Economic Strengthening for a Sustainable Return to Kosovo\** implemented by CARE Balkan and Association of Citizens Nexus from Vranje, and the supporting project partner is the City of Vranje. EU Delegation in the Republic of Serbia funds the project.

The goal of the project is to contribute to better chances for a sustainable return to Kosovo\* as well as to increase employment and self-employment of beneficiaries.

Services: a) trainings for business development planning for 160 participants, b) providing in-kind grants for business start-ups to 80 most successful candidates, c) organizing vocational trainings for 240 beneficiaries – owners and potential employees of the business start-ups (approximately 3 per supported

business), and d) obtaining information around their particular prospect of return to Kosovo\* by organizing advisory service on legal and administrative issues in the premises of the co-applicant Nexus in Vranje.

Location: South Serbia, Peinja District, the City of Vranje, and municipalities Vladicin Han, Surdulica, Bosilegrad, Trgoviste, Bujanovac, Presevo. Duration: until June 2020

**Danish Refugee Council:** *Strengthening and Supporting Sustainable Return Project*, EU-funded project managed by the EU Delegation to the Republic of Serbia and implemented by Danish Refugee Council with the City of Kragujevac, Bozur and Sveti Spas.

The overall objective is to support the sustainable return of internally displaced persons (IDPs) wishing to return to Kosovo\*, promoting social and economic stabilization and to facilitate the internally displaced persons pursuing and achieving a sustainable return to Kosovo\* by strengthening their employment opportunities.

Services: Design and deliver vocational training/professional courses for 90 IDPs in service related fields, craftsmanship, agricultural incentives, etc.; provision of 60 income generation grants to IDP families (approx. 216 individuals) for starting up small business/agriculture-oriented activities.

Location: Local municipalities in Serbia. Duration: Until June 2020

**ASB:** *Support to sustainable return of IDPs to Kosovo\* Project*, EU-funded project managed by the EU Delegation to the Republic of Serbia and implemented by ASB, City of Krusevac and CenTriR.

The objectives of the project are:

- a) to improve employment of young IDP returnees in the information and communication technologies (ICT) sector, and
- b) to support active inclusion of IDP returnees in the available entrepreneurship and self-employment development programs.

Services: a) Improve the employment potential of young IDPs in the ICT sector. (20 ICT trainings, ten professional practices in the ITC companies); b) two-day seminar on youth entrepreneurship and self-employment conducted for 20 young IDPs; c) three-day start-up trainings for 90 IDPs; d) 10 applications for the regular annual program Start-Up for Your Business; e) Develop 30 start-up business plans for returnees' economic support; and f) At least 30 small start-up business grants provide.

Location: Local municipalities in Serbia. Duration: Until June 2020

**Association for Development of Creativity:** *Return to the Roots Project*, EU – funded project manager by the EU Delegation to the Republic of Serbia and implemented by Association for Development of Creativity and the Municipality of Aleksinac.

The overall objective of the project is to contribute to the rule of law in Serbia by encouraging and facilitating a sustainable return to Kosovo IDPs from the Municipality of Aleksinac.

Services: a) Organization “Go and see” visit to Kosovo\* for 100 IDPs; b) Vocational training courses for 40 IDPs; c) Business empowerment packages (business equipment) for 10 IDPs) and d) Administrative and legal support for 70 IDPs.

Location: Municipality of Aleksinac. Duration: Until June 2020

**IDC:** *Return as a Step Forward Project*, EU – funded project managed by the EU Delegation to the Republic of Serbia and implemented by IDC, NGO ProAktiv and the Municipality of Vrnjacka Banja.

The overall objective of the project is to identify the priority needs of internally displaced persons and provide assistance in addressing these needs by providing information related to return and assistance in return through an individual and participatory approach.

The specific objective is to promote and implement returns to Kosovo \* as one of the two main strategic directions for addressing IDPs.

Services: a) Info days and an informative - educational campaign aims to direct the attention of potential beneficiaries and the broader public to a set of topics related to the sustainable return. The accent in the

information and education campaign is on the placement of accurate, precise and practical information about the project and modalities of support offered to it within the framework of the IDP community; b) Free telephone line 0800 for all IDPs interested in return, as well as displaced persons who need legal advice regarding displacement issues; c) Organization "Go and see" visit to Kosovo\* for interested IDPs; d) At least 50 IDP families to be assisted in the process of returning to Kosovo\* through the provision of a Return and Transport Support Package; e) At least 50 IRL families will receive grants and expert support for their income activities, and the grant is € 2,500; f) At least 90 internally displaced persons who will receive training and support for self-employment and/or development and improvement of personal skills for crafts or agricultural production and business start-up skills and the value of training of professional education - retraining or additional qualification is € 500; g) Distribution of support packages to selected IDP families. The contents of the support package will be agreed with families by expressed wishes and individual needs in a total value of up to 1600 EUR per family.

Location: Municipalities in Serbia. Duration: Until April 2020

## 6. Access to the right to education

### 6.1 Background and justification

The education system in Kosovo\* comprises two parallel, and separate systems ran by two separate institutions. On the one side, the Kosovo\* Ministry of Education, Science and Technology (MEST) ran the Kosovo\* Albanian schools where lessons are held in Albanian, Bosnian, Romani and Turkish languages and attended by members of Albanian and other non-Serbian communities. On the other side, Serbian Ministry of Education, Science and Technological Development (SMES) that finances and organises the parallel Serbian schools and educational institutions attended by the members of the Serbian, Bosnian, Roma and Gorani community, in the Serbian language.

These two systems continue to operate separately and with limited official cooperation. It is essential to acknowledge that the dual provision of education in Kosovo\* has not been included under the framework of the European Union-facilitated dialogue process on the normalization of the relation between Pristina and Belgrade, with the exclusion of the mutual recognition of diplomas.<sup>156</sup> As it is argued above, the entitlement to claim the particular right is directly linked to the possession of the personal document that for non-majority communities in Kosovo\* still represents one of the main challenges. It results in the jeopardizing the access to the fundamental rights and freedoms, such as education, health care, social assistance and freedom of movement. It should be acknowledged that various studies confirmed the role of the education system in post-conflict and divided societies in fostering collective identities. UNICEF conducted a comprehensive study on education in post-conflict settings and analysed the ability of education systems to have different types of impact on students in conflict-affected areas. The study also focuses on the politicization of the educational structure in such a way as to promote singular ethnic and/or national identities.<sup>157</sup>

Therefore, the general purpose of this chapter will be to examine the challenges when it comes to exercise of this right and how it affects the decision of IDPs to return and/or returnees to claim their right to education in the given context of Kosovo\* society.

### 6.2 Legal and policy framework

As it is stated above, the peculiarity of the Constitution of Kosovo\* is that it prescribes direct applicability of human rights and fundamental freedoms guaranteed by the international agreements and instruments such as Universal Declaration on Human Rights, European Convention on Human rights and Fundamental Freedoms in Kosovo\*, including the case law of the European Court of Human Rights (ECtHR). Moreover,

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<sup>156</sup> Progress Report on the Dialogue between Belgrade and Pristina, Covering the period from May 1 to December 15, 2018), Office for Kosovo\* and Metohija and Office for the Coordination Affairs in the Process of Negotiation with the provisional institutions of self-government in Pristina, Retrieved from <http://kim.gov.rs/doc/pregovarackiproc/Sestomesecni%20izvestaj%20o%20dijalogu%20dec%202018%20%2011%2002%202019%20en.pdf>

<sup>157</sup> Bush, Kenneth D. and Diana Saltarelli. The Two Faces of Education in Ethnic Conflict: Towards a Peacebuilding Education for Children. UNICEF, 2000. Retrieved from: <http://www.unicef-irc.org/publications/pdf/insight4.pdf>

in case of conflict, international law prevails over national law.<sup>158</sup> Thus, the right to education and related rights are recognized in a number of international human rights instruments which are directly applicable in Kosovo\* including Universal Declaration of Human Rights, Convention on the Rights of the Child, European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, Council of Europe Framework Convention for the Protection of National Minorities and Convention on the Elimination of all Forms of Discrimination against Women. Besides, a set of standards and guidelines for access to the right to education of minority communities are developed by High Commissioner for National Minorities (HCNM) of OSCE and the Council of Europe (CoE).

Under international law, particularly International Covenant on Economic, Social and Cultural Rights (CESCR) the primary education has to be compulsory, free and accessible to all without discriminations. It represents a core obligation, while for the other levels of education, the State shall ensure the right of equal access to secondary education, and to make it generally available and accessible to all. A similar obligation exists in terms of higher education. The European Court on Human Rights has ruled repeatedly on cases concerning the right to education, in particular finding several states in violation of the European Convention on Human rights in cases concerning segregated educational arrangements or exclusion from schooling.<sup>159</sup>

The national legal framework incorporates the international standard, and it consists of a set of laws. The relevant laws regulating the sphere of education among others are following; a) Law on Pre-University Education in Kosovo; b) Law on Protection and Promotion of Rights and Interests of Communities and Their Members; c) Law on Education in the Municipalities of Kosovo\*; d) Law on the Use of Language in Kosovo\*; e) Law on Pre-School Education in Kosovo\*; Law on Local Self-Government; Law on Adults Education and Training in Kosovo\*; Law for Vocational Education and Training. Also, the Constitution within its provision guarantees the right to education, and it stipulates that Albanian and Serbian are official languages of Kosovo\*.<sup>160</sup> Persons belonging to the national minorities/communities whose mother tongue is neither of the official languages has the right to attend the schooling in their mother tongue language.<sup>161</sup> Similarly, the right to education in Serbia is a constitutional right. According to Article 71 of the Constitution of Serbia, everyone has the right to education. That means that regardless of their nationality, religion, legal status in the country, all children in the territory of the Republic of Serbia have the right to education. Primary education is compulsory and free, whereas secondary education is free but not compulsory. The relevant normative consists of various laws among other the Law on Foundations of Educational System, Law on Pre-School Education, Law on High School Education, and Law on Higher Education.

Regarding the applicable policies in the field of education, the main one is the following:

- a) *Kosovo\* Education Strategic Plan 2017 -2021* that focuses on the inclusion, quality and accountability.<sup>162</sup>
- b) *Strategy for Education Development in Serbia by 2020* that focuses on increasing the quality, coverage, efficiency and maintaining the relevance of education. *Strategy for Adult Education Development*.<sup>163</sup>

### *6.3 Role of state and local governments in the promotion and protection of the right to the education in the process of sustainable return and reintegration of IDPs*

The Ministry of Education, Science and Technology of Kosovo\* (MEST) has an essential role in the monitoring of the implementation of legal and policies framework in regards of inclusion of minority

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<sup>158</sup> Article 19 and 22 of the Constitution of Kosovo\*

<sup>159</sup> For instance, case of *D.H and Others v the Czech Republic* concerns 18 Roma children, all Czech nationals, who were placed in schools for children with special needs, including those with mental or social invalidity, from 1996 to 1999. Case *Sampanis and others v Greece* This case concerned the authorities' failure to provide schooling for the applicants' children during the 2004-2005 school year and their subsequent placement in special classes. Retrieved from <http://hudoc.echr.coe.int/eng?i=001-83256> and <http://hudoc.echr.coe.int/eng?i=001-86797>

<sup>160</sup> Article 47 and Article 5 of the Constitution of Kosovo\*

<sup>161</sup> Article 33 of the Constitution of Kosovo\*

<sup>162</sup> Kosovo Education Strategic Plan 2017-2021 of Kosovo\*, Pristina, July 2016, Retrieved from <https://masht.rks.gov.net/uploads/2017/02/20161006-kesp-2017-2021-1.pdf>

<sup>163</sup> Strategy for Education Development in Serbia by 2020, Government of Republic of Serbia and Strategy for Adult Education Development Both retrieved from <http://www.mpn.gov.rs/strategije-2020/>

communities and to undertake various measures to combat any form of discrimination. The specific objective of Education strategy is the inclusion of RAE children as well as disabled children. RAE communities continue to be the most marginalized and vulnerable communities in all aspects of life in Kosovo\* society. With regards to the education of RAE communities, MEST activities related to the improvement of education for members of these communities have continued. MEST has, in cooperation with local and international NGO, awarded 500 scholarships for high-school pupils in order to encourage them in continuing their education. The particular develop been made by adoption of the administrative instruction (MEST) on the Establishment and Functioning of Learning Centres. The administrative instruction (instruction) establishes the criteria and procedures for the establishment of education centres, which provide additional education support, as well as other educational activities for pupils belonging to these communities. However, the implementation of this administrative instruction has been delayed, due to the various factors such as the implementation of licensing procedures by MEST and municipalities have to foresee the funding of planned centres within their budgets.<sup>164</sup>

Due to the duality of the education, additional promotion and protection of a specific category of returned IDPs are not recognizes as such. Whereas, the provision of the Law on Education in the municipalities, establishes full and exclusive powers of municipalities, concerning the provisions of public preschool, primary and secondary education, including registration and licensing of educational institutions, recruitment, payment of salaries and training of education instructors and administrators.<sup>165</sup> In addition, the Law on Local Self Government stipulates that municipalities shall be entitled to cooperate, within the areas of their competencies in the field of education, with other municipalities and other authorities. This entitlement includes cooperation with municipalities and institutions, including government agencies, in the Republic of Serbia.

In general, the education system in Kosovo\* is faced with various challenges, which are mainly related to the lack of funding. Consequently, schools in Kosovo\* lack foreseen financial sources that would be used to pay the personal income for teachers of community's languages, transportation costs and school infrastructure, among others. The Serbian community expresses its concerns regarding resolving the issue of displaced persons inside and outside Kosovo\*, underlining the lack of the educational infrastructure.<sup>166</sup>

Related to the process of diploma verification, the European Centre for Minority Issues (ECMI) has supported the Commission that has been working on the diploma verification process in Kosovo\*. According to the data gained from ECMI, until May 2018, out of the 1418 applications for verification, 1075 diplomas have been positively verified. As of 8 May 2018, the Government of Kosovo\* extended the mandate of the Commission for the Verification of diplomas for another year. These numbers indicate the importance and success of the verification process in reaching graduates of the University of North Mitrovica. However, not only did the verification process reach many graduates within a short period, but it has also significantly improved access to employment and education of the applicants. According to two surveys among graduates with verified diplomas, conducted by ECMI Kosovo\* during December 2016 and April 2017, out of the 269 applicants, 43% (115 applicants) used the diploma to apply for employment. 15% of them (40 applicants) stated that they used their verified diploma to take further professional examinations in Kosovo\*, 25% (68 applicants) stated that they were already in employment and used the verified diploma to regulate their status at their current employment positions, while 17% (46 applicants) confirmed that they had successfully secured employment after their diploma was verified.<sup>167</sup>

However, there is an obstacle on the verification of diplomas obtained in 1999 and 2000 at the University of North Mitrovica, since the agreement regulating the issue of verification did not cover the stated period, which puts in a disadvantage all those who obtained diplomas during that period.<sup>168</sup>

MEST Kosovo\* claims that human rights education is an integral part of the education system/curricula by age groups/levels of education. Moreover, the policies also include standards for friendly schools, security

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<sup>164</sup> Ombudsperson Institution of Kosovo\* Annual Report 2017, published 2018

<sup>165</sup> Article 4 of the Law on Education in the Municipalities of the Republic of Kosovo 2008/03-L-068

<sup>166</sup> Ombudsperson Institution of Kosovo\* Annual Report 2017, published 2018

<sup>167</sup> European Center for Minority Issues Kosovo\* (ECMI), interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, January 2019

<sup>168</sup> Ombudsperson Institution of Kosovo\*, interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, February 2019



aspects, promotion of health, prevention and regeneration of violence and elements other negative aspects that affect the development of children in the physical, intellectual, emotional and social aspects. Nevertheless, the implementation of the standards requires additional investment and particular conditions that need to be fulfilled. Consequently, there is still a need for advancing the friendly approach to learning and implementation of human rights. Children learn about equality and being equal.<sup>169</sup> On the other hand, ECMI claims that the human rights education is not included in school curricula, nor there is a monitoring body controlling whether minimum standards are met and whether education conforms with human rights standards in minority schools.<sup>170</sup>

Besides, the stronger support by the government to mainstream language policies is still needed. Implementation of the Law on Languages is still inadequate despite the efforts made by the Office of the Language Commissioner. The government has not yet approved the strategy to promote and protect language rights. A more integrated and inclusive education system with opportunities to attend classes both in the Albanian and Serbian languages as well as minority languages, where relevant, could contribute to a better understanding between communities.<sup>171</sup>

#### *6.4 Role of the international community and civil society in the promotion and protection of the right to education in the process of sustainable return and reintegration of IDPs*

The local and international organizations support promotion and protection of the right to education on the different levels and pathways. In some cases, education represents an integral part of programming allocation of the funds through the implementation of various project activities. Monitoring of the implementation of the legislation related to education with recommendation represents a significant role of the local and international civil society organization. For instance, NGO ECMI continues to:

- a) support education in the Serbian language in Kosovo\* by the implementation of the project of Diploma Verification Process, Research on the Current Situation, Development of a MEST roadmap and Direct Training to UMN and Its Teaching Staff;
- b) to foster youth development by the implementation of the project Fostering youth development and employment through a cross-border digital entrepreneurship academy (Y.D.E.A.) in Lezha and Prizren;
- c) support education of vulnerable and disadvantaged children by the implementation of the project Capacity Development for Scaling up the Results in Enhancing Access to and Retention in Education for Vulnerable and Disadvantaged Children – Phase III;
- d) Support equality by the implementation of project *Equal Rights For All Coalition*.<sup>172</sup>

It is worth mentioning that Ombudsperson Institution of Kosovo\* has signed Agreement with CSOs *Advancing Together*, which is referred to the cooperation in the process of implementing projects aimed at informing and promoting the rights of minority communities.<sup>173</sup>

According to the UNHCR, several donors are focusing on the specific projects, as the right to education. It mainly targets RAE communities. It also targets other communities in remote areas having difficulties in accessing education. UNHCR's advocacy interventions ensure that returnees and IDPs have access to these projects. Donor support is still needed to ensure inclusion and the quality of the education process.<sup>174</sup>

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<sup>169</sup> Ministry of Education Science and Technology, interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, March 2019

<sup>170</sup> European Center for Minority Issues Kosovo\* (ECMI), interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, January 2019

<sup>171</sup> EU Progress Report Kosovo, 2018, European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and Committee of the Regions, 2018 Communication on EU Enlargement Policy

<sup>172</sup> European Center for Minority Issues Kosovo\* (ECMI), interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, January 2019

<sup>173</sup> Ombudsperson Institution of Kosovo\*, interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, February 2019

<sup>174</sup> UNHCR Office of the Chief of Mission in Kosovo, Interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, March 2019

European Union Office in Kosovo\* through its projects have specific activities to ensure access to education for project beneficiaries. Currently, the two projects are in the implementation phase:

- a) Return and Reintegration in Kosovo\* phase V (RRK V – implemented by International Organisation for Migration-IOM) – budget EUR 8.0 Million; start date 10/11/2017 – end date 09/05/2021. As for the applicable procedures and beneficiary criteria, those are applied based on the current MCR regulation on returns;
- b) Support for the closure of Collective Centres in Strpce municipality – implemented by the Danish Refugee Council (DRC) – budget 3.6 Million; start date 18/05/2016 – end date 17/09/2019.<sup>175</sup>

### *6.5 General access to the right to education of non-Albanian communities*

In general, the education system in Kosovo\* should be improved at the various levels in order to include more minorities in the Kosovo\* education system and to increase the overall representation of diverse personnel and teachers in the education institutions. The government does not invest additional funds in the education sector, so the overall quality is not at a satisfactory level. Thus, the fulfilment of these preconditions is the basis for the development of equity in the education system with full recognition of minority's right and respect for diversity. Currently, the education system is not adjusted to the needs of minorities. For instance, the minority schools are not established, state schools and universities do not envisage teaching in minority languages, except in some regions where the number of Bosniak and Turkish communities are represented, only high schools in Prizren and Pec.<sup>176</sup> According to the ECMI, several studies have shown that the education material and methods used in Kosovo\* schools are racist and sexist.<sup>177</sup> Many examples used in the textbooks show religious affection and promote one ethnic group over another. Moreover, there are plenty of stereotypical definitions of different races. The textbooks also portray women based on their gender.<sup>178</sup> Besides that, the education system is divided into two parallel structures,<sup>179</sup> that correspond to the current needs and given context.

Although MEST in 2016 adopted Administrative Instruction 09/2016 on the application of affirmative measures and reserved number of places for enrolment of students from minority communities in public higher education institutions, it is only partially applied. Members of minority communities who are studying at the State University in Pristina, made special remarks on the non-existence of tests for exams for enrolment in faculties in minority languages, although the above mentioned Administrative Instruction provides this. Also, public announcements on accommodation in student dormitories did not initially include information that 12% of student accommodation is reserved for students of minority communities. Regarding the issue of education, a positive assessment refers to the award of accreditation for University to hold teachings in Bosnian and Turkish language. The main challenge for members of communities who follow education in the Bosnian and Turkish languages remains the provision of textbooks in these languages.<sup>179</sup>

Serbian curriculum schools are primarily attended by pupils from Serb, Gorani, Croat, Montenegrin and Roma (living in predominantly Kosovo Serb-inhabited areas) communities. Also, members of the Kosovo Bosniak community in Leposavic, Mitrovica North and Obilic also opt for the Serbian curriculum education. Serbian curriculum schools face challenges regarding adequate space and conditions. Congestion is a serious problem, particularly in cases where a school was dislocated from its former premises in order to share space with another school. Such cases are noted in Pristina secondary schools which are now housed within school premises in Gračanica. In addition, there has been the case of physical prevention to access the school building. Kosovo\* school director in Krusevo village, Dragas municipality in which Gorani and Serbian pupils use the school premises, the director locked the school premises during the holidays, thus, preventing the pupils who learn in the Serbian language to attend classes. The disputes are settled by the arrangement

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<sup>175</sup> The Mission of European Union to Kosovo, Interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, March 2019

<sup>176</sup> Ombudsperson Institution of Kosovo\*, Annual Report 2017, published 2018

<sup>177</sup> European Center for Minority Issues Kosovo\* (ECMI), interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, January 2019

<sup>178</sup> European Center for Minority Issues Kosovo\* (ECMI), interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, January 2019

<sup>179</sup> Ombudsperson Institution of Kosovo\*, Annual Report 2017, published 2018

of different technical agreements regarding the functioning of shared school premises. Another case is linked with the poor condition of the school building in Rapca village. Namely, in this village two primary school buildings exist, one was renovated by the Dragas municipality, in which children learn in Bosnian language, while the another one in which children attend classes in Serbian language hasn't been renovated and still is in awful condition (the roof leaks and has not been used for a long time).<sup>180</sup>

Regarding school drop-out, MEST continues to support the implementation of the existing legislation, including Kosovo\* Education Strategic Plan and especially in addressing the issue of out of school and drop-out children. A. I 08/2018, manuals for identification, case reporting and referral tools as well as the Early Warning System for Abandonment within the Education Information Management System are the basis upon which school dropout and non-registration are to be addressed appropriately fulfilling the legal obligation of all education institutions towards realizing the right to education for all children. UNICEF in coordination with MEST and NGO ECMI in Kosovo\* supported creation of the mechanism of Prevention and Response to Abandonment and Non-Enrolment in Compulsory Education (PRTAN) at both school and municipal levels in order to prevent and respond to the abandonment and non-registration of the children in school based on *Action Plan for Prevention and Response to Abandonment and non-registration of children in school for the years 2016-2017*, and as per the *Administrative Instruction 19/2012 on Creating and Strengthening the Teams for Prevention and Response to Abandonment and Non-Enrolment in Compulsory Education*.<sup>181</sup>

In order to strengthen the functionality of created mechanisms of PRTANs and in order to improve the data collection, monitoring of the cases identified and its referral MEST has started to report and to follow up strictly the identified cases from 2016. However, the level of reporting is still not at the desired level and has reported only a few cases (in 2016-2017 only 49 cases reported, 2017-2018 there are 41 cases reported to continue with 2018-2019 with 30 cases reported).<sup>182</sup> Although schools and municipalities have been passed several pieces of training and provided with instruments to facilitate the process of identification of children at risk to drop-out from school and prevent the possible drop-out, there is still a need for strengthening of the capacities of created PRTANs and make them functional especially at the municipal level.<sup>183</sup>

Regarding peer violence, it is sanctioned by the laws of education and various by-laws provision such as Regulation 21/2013 on the protocol on prevention and referral of violence in pre-university education institutions, followed by the drafting of the guidelines for its implementation. Along with the Protocol and other accompanying modules (Protocol Implementation Guide, Incident Module in EMIS), the didactic Manual for Preventing Violence in Pre-University Education Institutions and the Preventing Negative Phenomenon in Upper Secondary Schools have been drafted, including the guidebook on child protection on the internet. Therefore, so that the topic of violence is adequately addressed in the regular educational process (with cross-curricular and extra-curricular approaches).

The implementation of the school incident module within the SMIA system (from the middle of 2014) as well as the information sessions conducted with the responsible actors within the municipalities, has started to improve the treatment of violence, as well as consolidating the system of reporting and referral to violence in schools. Although reporting is still weak, the number of reported cases significantly increased in comparison to the previous years. For instance, for the year 2016, a total of 43 cases of violence were reported within the SMIA, whereas in the previous years there were reported 3-4 cases per year. Up to now, in the school years in the module of cases of violence in SMIA, a total of 130 cases have been reported. Nevertheless, the cases of peer violence on an ethnic basis have not been recorded.<sup>184</sup>

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<sup>180</sup> Ombudsperson Institution of Kosovo\*, Annual Report 2017, published 2018

<sup>181</sup> Ministry of Education Science and Technology Kosovo\*, interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, March 2019

<sup>182</sup> Ibid.

<sup>183</sup> Ibid

<sup>184</sup> Ministry of Education Science and Technology, Kosovo\*, interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, March 2019

| 2014/15 | 2015/16 | 2016/17 | 2017/18 | 2018/19 | Overall |
|---------|---------|---------|---------|---------|---------|
| 16      | 43      | 42      | 18      | 11      | 130     |

Table 4: The school years in the module of cases of violence in SMIA

### 6.6 Situation, needs and reasons to return of IDPs – (subjective assessment of the analysis of the results of the interviews with IDPs and returnees)

The analysis of the gathered data has shown that education, as a factor, significantly influences the return decision. For instance, the majority of the respondents (57,14%) consider the possibility to attend the school in Serbian language and by the curriculum of the Republic of Serbia vital in deciding to return to Kosovo\* (Chart No. 26). These findings are in line with the results of focus groups discussions. Thus, it could be argued that education plays a crucial role in the consolidation of group identity in a post-conflict society. It serves to proliferate particular values that are presented as being innately embedded within the group's culture. In a society that has been affected by conflict, the main characteristic prevalent in each of the educational curricula, where the core of ethnic identity is centred on concepts on incompatibility with other groups.

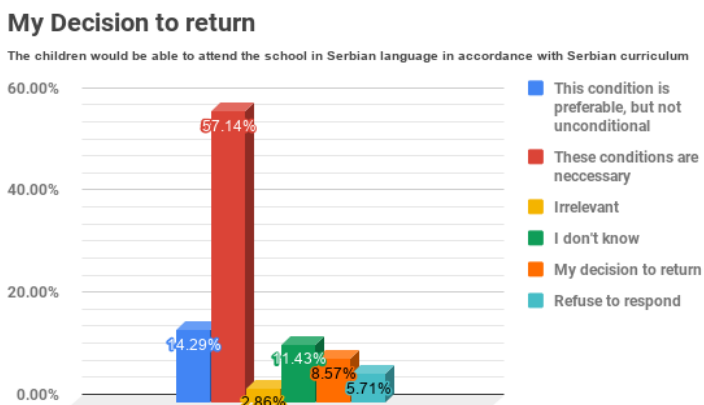


Chart No.26 Factor on return decision (access to education in Serbian language and Serbian curriculum in Kosovo\*) IDPs respondents

Gender ratio has shown that 30% of male respondents consider these conditions necessary, while 27% of female. Regarding the ethnicity, 35% of Serbian IDPs respondents consider these conditions crucial, while 21% of IDPs RAE for the return decision.

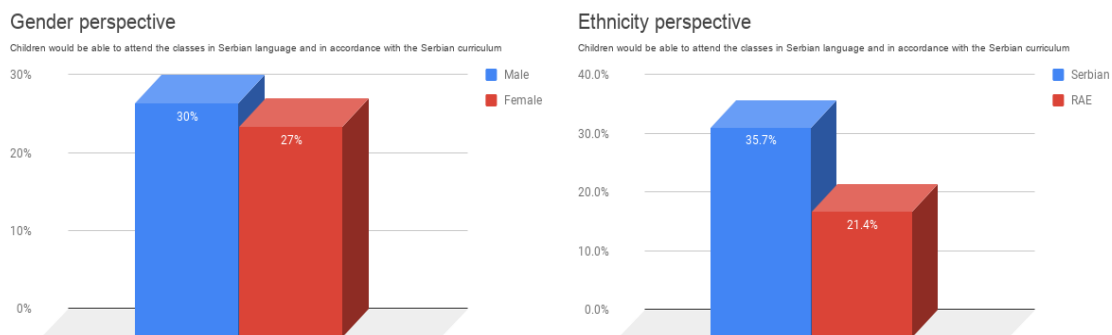


Chart No. 27 and 28 Factors on return decision (access to education in Serbian language and Serbian curriculum) IDPs respondents segregated by gender and ethnicity

Furthermore, the respondents highly ranked (58,57%) the possibility to have access to the Serbian school system, including state universities. Moreover, the possibility to opt between Serbian parallel education systems in Kosovo\* and the education system in central Serbia is highly ranked. (Chart No. 29). The findings are in line with the results of focus groups discussions.

### My decision to return

Children will be able to use the school system of Serbia and state universities under the same conditions as citizens of Serbia

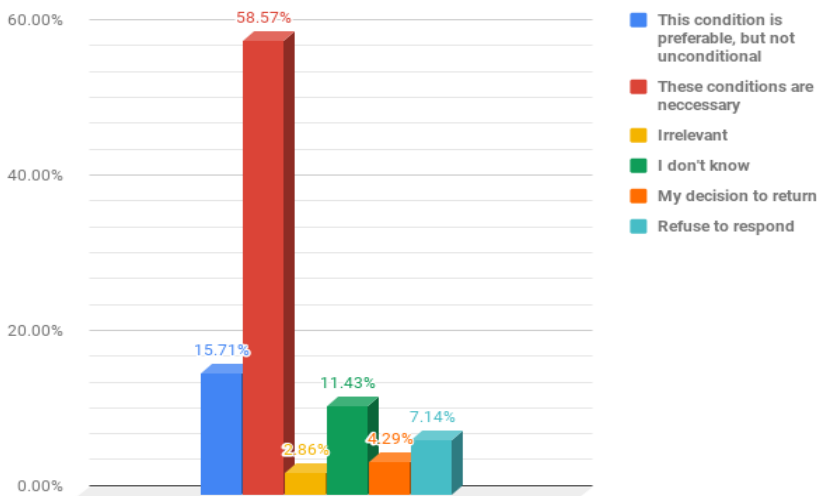
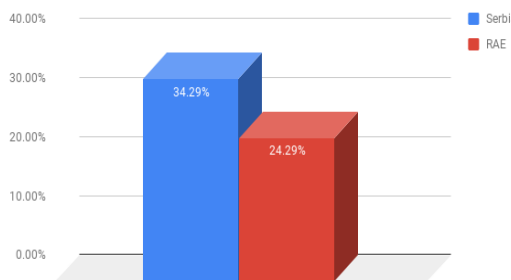


Chart No.29 Factor on return decision (access to Serbian education, after the return) IDPs respondent

### Ethnicity perspective

Children will be able to use the school system of Serbia and state universities under the same conditions as citizens of



### Gender perspective

Children will be able to use the school system of Serbia and state universities under the same conditions as citizens of

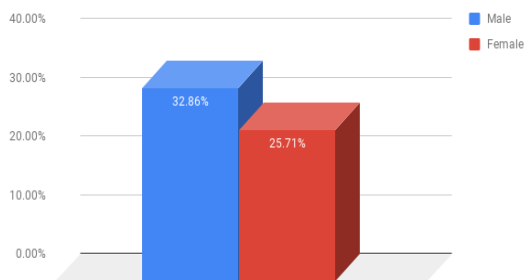


Chart no.30 and 31 Factor on return decision (access to Serbian education, after the return) IDPs respondents segregated by gender and ethnicity

Being asked about physical accessibility of elementary and high school, for the majority of the returnee's respondents, the distance of the schools does not present a significant obstacle because distance from residence to the schools is between 0-5 km, as it is visible in the Charts No. 32 and 33 below. The comparative analysis has shown that the following locations have the nearest physical access elementary school: Gorazdevac, Dobrota, Donja Gusterica, Gornja Gusterica, Klina, Vidanja, Istok, Lukavac and Crkolez. The places that have distance from 6 to 10 km are Rudica, Klina, Kos and Dubrava. The most remote elementary schools are located in Belo Polje, Klina and Srbobran. Regarding the physical accessibility of the high schools, the nearest one is located in Gorazdevac, Dobrota, Donja Gusterica, Klina and Lukavac. The medium distance from 6 to 10km of the high schools are located in Klina (Rudica), Crkolez, Kos and Dubrava. The most remote high schools are located in Klina (Rudina), Belo Polje, Vidanja and Srbobran. Thus, the municipalities Klina, Srbobran and Belo Polje have the most remote elementary and high schools.

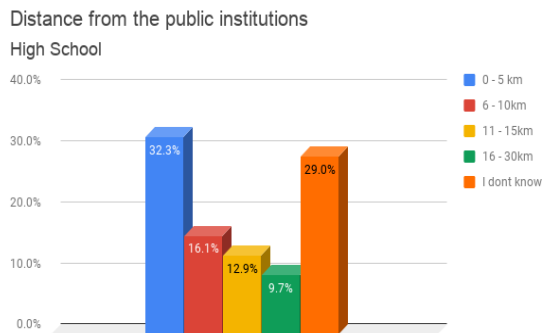


Chart No. 32 Physical Accessibility of the high schools

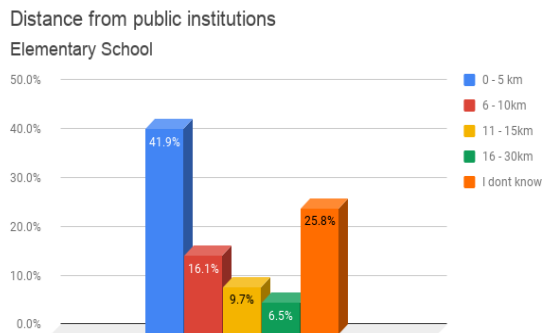


Chart No.33 Physical Accessibility of Elementary schools

The findings of the survey have shown that dual education system that has been established in Kosovo\* correlates with the needs of returnees and it has an impact on IDPs decision to return. On the one side, it is identified a lack of will of IDPs and returnees to integrate into the mainstream education system, nor it exists the possibility for inclusion on the other side. However, the lack of transportation means from the most remote location and access to elementary and high schools is still an issue of concern.

## 6.7 Available services

As it is stated above, the municipalities should enable sufficient functioning of the educational system. Namely, the administration services sufficient for the functions of preschool, primary, lower secondary, upper secondary and higher education shall be provided by municipalities under the law.<sup>185</sup> The municipality may construct public educational facilities and funded through the budget of the municipality and other donations or direct grant from MEST. Schools have their budget separated from the Municipality.<sup>186</sup> A particular curriculum or textbook from the Republic of Serbia needs to be approved by MEST.<sup>187</sup> In this regard, it is still ongoing obstruction on the Serbian textbooks introduced in 2015.

### 6.7.1 Infrastructure

According to the Evaluation report on *Kosovo\* Education Strategic Plan*, it results that schools in Kosovo\* still operate in one but also in two shifts and that the number of schools that are built and renovated is increasing. 131 Serbian curriculum pre-university schools are operating in 24 municipalities in Kosovo\*. These include 56 leading primary schools (with 30 satellite schools), 26 leading secondary schools (with 13 satellite schools), and four primary vocational education and training (VET) schools (with two satellite schools). Primary and secondary Serbian curriculum schools often share the same premises, as most of the Serbian curriculum secondary level schools were dislocated from their original seats after 1999, especially those from urban centres, and are today located in primary schools, mainly in rural areas. The Serbian curriculum system is present in following municipalities: Dragas, Kosovo Polje, Gnjilane, Glogovac, Gracanica, Elez Han, Kamenica, Klina, Klokot, Leposavic, Lipljan, North Mitrovica, Novo Brdo, Obilic, Pec, Partes, Pristina, Prizren, Orahovac, Srbica, Strpce, Vitina, Vucitrn, Zubin Potok and Zvecan.

<sup>185</sup> Article 6 of the Law on education in municipalities

<sup>186</sup> Article 8 of the Law on education in municipalities

<sup>187</sup> Article 12 of the Law on education in municipalities.

Article 12 prescribes that if, after notification, the MEST does not object within three months (to provide sufficient time for the specific curricula or text to be reviewed by the Ministry), the material may be utilized. 12.4 In the event of an objection by the MEST to the application of a particular Serbian curriculum or textbook(s), the matter shall be referred to the independent commission established in Article 13 of this law, to review the curriculum or textbook(s) to ensure conformity with the Constitution of Kosovo and applicable legislation. The specific curriculum or textbook(s) may not be placed in classroom use until the independent commission so determines. 13.1 The independent commission for review of Serbian-language teaching materials shall consist of seven (7) members: a) three (3) representatives selected by MEST; b) three (3) representatives selected by Members of the Assembly of Kosovo holding seats reserved or guaranteed for the Kosovo Serb Community, and c) one (1) international member.

Additionally, there are schools in nine municipalities where premises are shared between schools belonging to the Kosovo curriculum and Serbian curriculum systems. Such schools share premises either through shifts or physical separation (e.g., different floors for different systems). With regards to the coordination of educational activities between the two systems, formal cooperation exists. There are no systematic institutional initiatives promoting interaction, inter-cultural and language learning among pupils following the two separate curricula in those schools. Sporadic extra-curricular activities bringing pupils from the two systems together are mainly initiated and funded by civil society and international donors. Non-existent opportunities for learning a second official language within both systems have resulted in a language barrier further perpetuating the current lack of interaction and dialogue.<sup>188</sup>

### 6.7.2. Textbooks and teaching resources

Another challenge related to access to education in Serbian curriculum schools was the blocked of the provision of textbooks in the Serbian language as a result of the ban on Serbian curriculum textbooks introduced by Kosovo\* institutions in September 2015. This ban is still into force and in effect. The publication of textbooks for non-majority communities is still a challenge that remains to be addressed. The lack of adequate textbooks for non-majority communities is especially noted in upper secondary education. Even if there were some steps in providing textbooks, they tend to be translated poorly from the Albanian language. Furthermore, no concrete results were achieved in developing the modules of community languages for the majority community, e.g. Serbian language as a non-native language', 'Turkish as a non-native language'. The plan should set the objective of developing modules and textbooks that provide knowledge about the identity of non-majority communities as well as take additional steps in completing all the materials for the Serbian language curriculum.<sup>189</sup>

## 7. Access to the right to health

### 7.1 Background and justification

The health system in Kosovo\* comprises from the two parallel, and separate structures ran by two separate institutions, similarly as the education system. Health system in Kosovo\* consists of the network of health institutions organized into three levels: primary (PHC), secondary (SHC) and tertiary (THC). Health care services are organized and provided by health care providers such as hospital, outpatient, home and emergency services. Services are provided in public and private health institutions. In the Serbian health system in Kosovo\*, there are only a few secondary health care institutions and one at tertiary level. The health sector in Kosovo\* is financed mainly from income tax, taxes and co-payments, while the private payment is very high and covers about 40% of the medical costs. Apart from these, the health care public institutions are funded from Kosovo\* budget, off-budget funds by donors (direct support of projects) and contributions in the form of co-payment of patients and payment for medicines and other healthcare products.<sup>190</sup> Thus, the main challenge arises from insufficient financial resources for the health system. The government allocates less money to provide direct services to the patient.<sup>191</sup> As it is underlined in EU Progress report 2018 for Kosovo\*, the implementation of the administrative instructions and a communication strategy in support of the Law on Health remains slow.<sup>192</sup> Around 30% of Kosovo's population is unable to obtain health services due to extreme poverty. Low public spending on health remains a concern. In 2016, it was estimated that only 40% of the total annual needs for public healthcare were covered. The allocated funds are mainly used to cover fixed costs (approximately 68 %), leaving only about 32% for direct patient costs related to diagnosis, treatment, and prevention. Health financing is predominantly based on fixed expenditures. Institutional accountability is low, and there are no manifest incentives to improve productivity, efficiency and quality in the health sector. Private (out-of-pocket)

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<sup>188</sup> European Center for Minority Issues Kosovo\* (ECMI), interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, January 2019

<sup>189</sup> Armend Muja, Evaluation report Kosovo Education Strategic Plan 2011-2016, November 2017

<sup>190</sup> Health Sector Strategy 2017-2021, Ministry of Health Kosovo\*, November 2016

<sup>191</sup> Ibid.

<sup>192</sup> Kosovo\* Progress Report, 2018, European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and Committee of the Regions, 2018 Communication on EU Enlargement Policy



expenses remain high and are estimated at 40% of total medical costs. The *Health Sector Strategy 2017-2021* indicates several shortcomings in the health sector, including low levels of productivity of health institutions, and the lack of reliable data.<sup>193</sup>

## 7.2 Legal and policy framework

The right to health care guarantees everyone access to the appropriate facilities and services for the diagnosis, treatment and prevention of illnesses. Health is a fundamental human right indispensable for the exercise of other human rights; thus, the states are under the obligation to secure everyone the availability and free access to adequate and quality health care. It is guaranteed by various international human rights instruments such as Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights. Besides, the right to health is recognized, in International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination against Women, Convention on the Rights of the Child, including the regional document European Social Charter. The Serbian Constitution guarantees the right to healthcare and entitles children, pregnant women, mothers on maternity leave, single parents of children under seven and the elderly to free medical care even if they are not beneficiaries of mandatory health insurance.<sup>194</sup> Moreover, the system of health care is regulated through the set of laws such as Law on Health Care, Law on Health Insurance and bylaws that regulate the health care system applicable in parallel structures, under the Serbian Ministry of Health. Besides, a new *Strategy for Public Health 2018-2026* relies on European policy document *Health 2020: European policy framework supporting action across government and society for health and well-being*.<sup>195</sup>

Constitution of Kosovo\* prescribes a general provision that healthcare and social insurance are regulated by law.<sup>196</sup> Within the Kosovo legal framework, Law on Health 04/L-125 established the foundations of legislative and organizational reform of the health system. Based on the law, the Ministry regulates, supervises and controls the implementation of health care in public and private institutions in the three levels of health care. It regulates the referral system and prohibits patient referrals from the public to private clinics. Additionally, Law on Health Insurance regulates the establishment, organization, functioning, and financing of the public health insurance system; as well as the rights and obligations of the parties involved. In regards to available policies, Ministry of Health adopted the *National Health Sector Strategy 2017 -2021* which aims at improving the health sector through better financing plans and allowing for marginalized groups to have better access to healthcare providers.

## 7.3 Role of state and local governments in the promotion and protection of the right to health in the process of sustainable return and reintegration of IDPs

Since there are no integrative policies documents that will integrate two separate health care systems, promotion and protection of health care rights of IDPs/returnees in reintegration process in different areas within Kosovo then enclaves and North Mitrovica, does not exist as such. Namely, it is regulated within the separated policies in which IDPs-returnees within the Kosovo policies is not recognized as a vulnerable category. The municipal health care authorities have not expressed any strategy, nor action plan which would provide integration of the parallel structures into a uniform health care system and some isolated cases have failed. However, in general aspects, the challenges equality effects all population. Although Kosovo\* medical personnel is bilingual, the "language compliance is not fully respected, with some signs appearing only in Albanian at health care facilities"<sup>197</sup>

There are, however, a few exceptions at the local level that indicate some progress towards integration. Kosovo Serbs sometimes use the clinic in the village of Drajkovac (Strpce Municipality) for the medical

<sup>193</sup> Health Sector Strategy 2017-2021, Ministry of Health Kosovo\*, November 2016

<sup>194</sup> Article 68 of the Constitution of the Republic of Serbia, Official Gazette of Republic of Serbia, no.98/2006

<sup>195</sup> European policy document *Health 2020: European policy framework supporting action across government and society for health and well-being*, Retrieved from <http://www.euro.who.int/en/publications/abstracts/health-2020-a-european-policy-framework-supporting-action-across-government-and-society-for-health-and-well-being>

<sup>196</sup> Article 51 of Constitution of Kosovo\*, Official Gazette no.25, 7 and 20/2015

<sup>197</sup> Parallel structures in Kosovo\*, OSCE Report (2007), updated information by Edona Lekaj, February 2019

services of MoH paid doctors. There are even more numerous cases of Kosovo Albanians using the medical services in the Strpce health house which operates entirely under the Serbian Ministry of Health (SMoH), in which all patients are treated equally and free of charge.

Serbian health care institutions are used by the members of the Serbian, the Roma and the Gorani community. Mainly, the reasons for this are insecurity, lack of freedom of movement, mistrust, language differences, financial barriers, and quality discrepancies. Primarily due to insecurity and lack of freedom of movement, Kosovo Serbs – and thus Serbian returnees – "feel more comfortable using their own SMH ran health care system". That parallel coordination, control and accountability mechanisms are established across Kosovo through key appointments (direct appointments of Directors and Regional Coordinators from the SMoH) and frequent visits and inspections by the Health Protection Inspection from the SMoH. There is constant coordination between the primary and secondary level, which is well ensured since the SMoH directly supervises both levels. The Coordinator makes frequent field visits to parallel health care facilities in Kosovo. In addition, the SMoH is responsible for the training and the professional opportunities of the medical specialists. Serbia also grants medical supplies.

Furthermore, the Kosovo parallel health care facilities are, in many cases, obliged to submit a semi-annual or annual report to the SMoH providing information on their activities, needs and problems. Another persistent issue is that the professional medical staff in the government-ran facilities and the parallel facilities have no opportunities to exchange information and expertise on health care related matters, with the exception of the multi-ethnic clinic in Drajkovac Municipality (Strpce). In this facility, the medical staff from both systems use the same facility and thus have the opportunity to exchange professional experiences.<sup>198</sup>

#### *7.4 Role of the international community and civil society in the promotion and protection of the right to health in the process of sustainable return and reintegration of IDPs*

In general, international organizations through the various project are funding and supporting the development and health reform in Kosovo\*. The crucial role of the following donors among others is World Health Organization, European Commission, USAID, UNICEF, Suisse, Luxembourg. in order to increase the availability and accessibility of the health care system to the citizens.

Some of the projects could be listed as follows:

- IPA 2010 - Environmental pollution in Kosovo: potential gene-toxic effects and related human health risks Environment;
- IPA 2013 - Mitrovica Health Centre;
- Austria - Accessible Quality Healthcare (AQH) Health 2018: The main goal is to contribute to the development of a sustainable health care system in Kosovo that offers qualitative services to its population, including socially vulnerable communities;
- Luxembourg Sector Support Programme in Kosovo Health 2009-2015 Health Sector Support Programme in Kosovo (II) Health 2015-2018;
- USAID Partnership to improve Women's and Children's Health in Kosovo- UNICEF Part Environment 2011-2016.<sup>199</sup>

#### *7.5 General access to the right to health of non-Albanian communities*

In northern Kosovo, parallel health care facilities operate in all the municipalities and constitute the majority of health care facilities available to the population. One hospital, five health houses and 16 clinics have been identified as belonging to the parallel health structure in northern Kosovo. In the municipalities of Zubin Potok, Leposavic and Zvecan, most of the healthcare facilities are parallel except the Ministry of Health (MoH) operated facilities.

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<sup>198</sup> Parallel structures in Kosovo\*, OSCE Report (2007), updated information by Edona Lekaj, February 2019

<sup>199</sup> Donor profile 2015, Ministry of European Integration of Kosovo\*, October 2016, retrieved from [https://www.mei-ks.net/repository/docs/annualreport\\_donorprofiles\\_printready.pdf](https://www.mei-ks.net/repository/docs/annualreport_donorprofiles_printready.pdf)

In Pristina region, there is one parallel hospital with several specialized branches in different locations, two health houses and 15 clinics. In Gnjilane region there are in total 39 parallel health care facilities, mainly in the municipalities of Strpce, Gnjilane and Kamenica. The only two municipalities in Prizren region where parallel health structures operate are Orahovac (Upper Orahovac and Velika Hoca) and Prizren (Sredska and Musikovo) with health houses which are managed by the Strpce health house). In Pec region, four clinics and a private house have been identified as the only parallel health care facilities. The main issues identified are related to an insufficient number of transportation means (ambulance vehicles), lack of sufficient space in some premises, lack of proper and up-to-date equipment such as dental care and gynaecology equipment, inadequate deployment of medical professionals in remote areas, no readiness and flexibility to remedy emergency health cases, insufficient secondary health care facilities.<sup>200</sup>

Another significant reason why Serbs access their parallel institutions is that the services at a Serbian healthcare institution are free of charge. Due to the limited financial resources available, returnees are often not able to pay – even small – charges for transportation, treatment and pharmaceuticals that are required in Kosovo's health care institutions. The language is another reason to get faster and better service in Serbian parallel institutions. Serbs use Kosovo institutions only as a last resort. For surgeries and exhausting treatments, they instead tend to drive to Serbia than using Albanian institutions in their area. The main problems of the Serbian parallel institutions are:

- The small geographical network of health facilities in remote areas,
- Inadequate transportation to health facilities,
- Lack of adequate and modern medical equipment,
- Inadequate facilities to handle emergencies, and lack of secondary health care facilities.<sup>201</sup>

The members of the Roma, Ashkali and Egyptian communities are still the most vulnerable and most marginalized communities in Kosovo\* regarding access to health. Namely, often they lack financial resources to purchase the medicines and to have adequate treatment. Besides that, it is a deficient percentage of mandatory vaccination of children among the members of these three communities.<sup>202</sup>

### 7.6 Situation, needs and reasons to return of IDPs – (subjective assessment of the analysis of the results of the interviews with IDPs and returnees)

Similarly, to the previous finding regarding the education system, the analysis of the gathered data has shown that health as a factor significantly influences IDPs return decision. The majority of the respondents ranked these conditions as necessary, 65,7% (Chart No. 34).

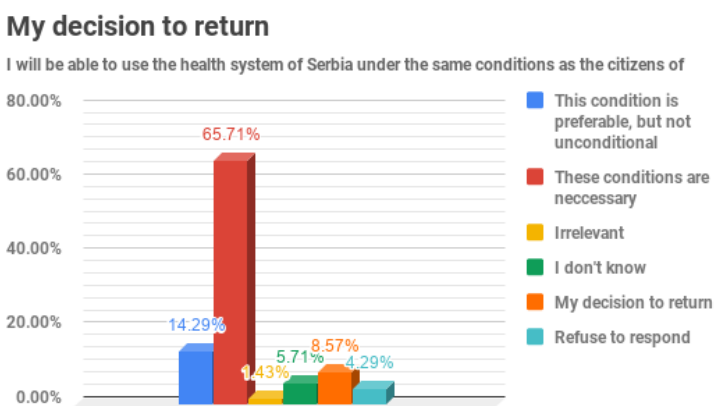


Chart No. 34 Factor on return decision (access to Health system, after the return) IDPs respondents

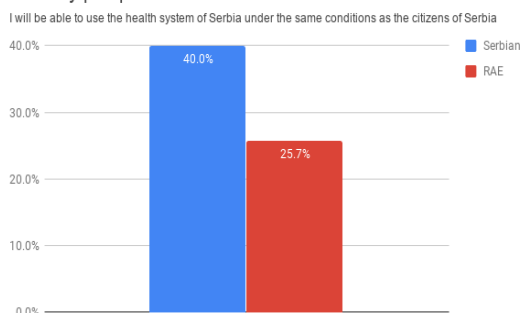
<sup>200</sup> Parallel structures in Kosovo\*, OSCE Report (2007), updated information by Edona Lekaj, February 2019

<sup>201</sup> Ibid.

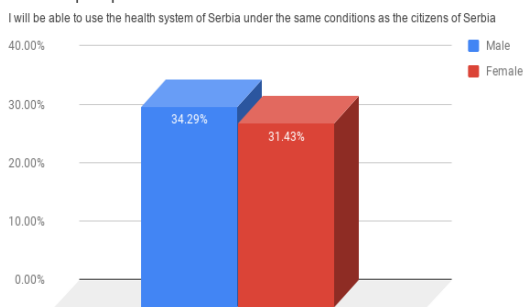
<sup>202</sup> Ombudsperson Institution of Kosovo\*, Annual Report 2017, published 2018

It shows that accessibility of the health care services under the same conditions as citizens in Serbia is also vital and very important. Nevertheless, it needs to be underlined the fact that IDPs respondents remain predetermined in preserving the access to the health institutions in Serbia in the case of return. Moreover, this point of view is in line with the results of focus groups discussions.

**Ethnicity perspective**



**Gender perspective**

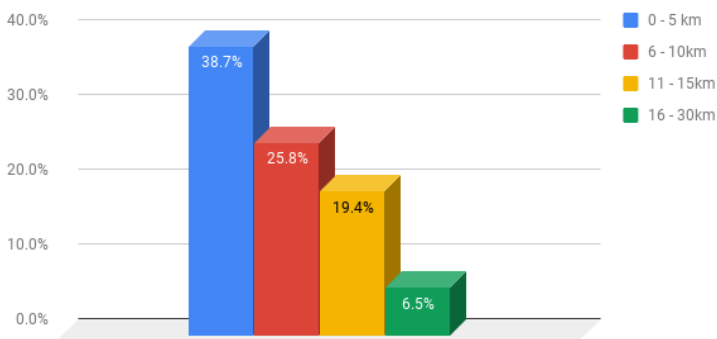


*Chart no.35 and 36 Factor on return decision (access to health centres) IDPs respondents segregated by gender and ethnicity*

Regarding the physical accessibility of health centres, for the majority of the returnee's respondents, the distance to the health centres present a significant obstacle because distance from residence to the health centres is between 0-5 km, as it is visible in the charts below. The comparative analysis has shown that the following locations have the nearest physical access to the health centres: Gorazdevac, Dobrota, Donja Gusterica, Gornja Gusterica, Klina, Vidanja, Istok and Lukavac. The places that have distance from 6 to 10 km are Klina (Rudica), Blagac, Istok, Crkolez, Kos and Dubrava. The most remote health centres are located in Belo Polje and Srbobran.

**Distance from public institutions**

**Health Center or Hospital**



*Chart No.37 Accessibility of the health centres returned IDPs respondents*

## 7.7 Available services

Health care services are organized and provided by health care providers such as hospital, outpatient, home and emergency services. Services are provided in public and private health institutions. The health services to be provided by the Health Institutions based on the Law on Health are:

- Health promotion services, including information, communication and education;
- Immunization and vaccination services and other preventative services;
- Essential curative services and minor surgical interventions;
- Acute and emergency care services;

- Health care services for chronic diseases;
- Healthcare services for children, adolescents and young people;
- Family planning services; Ante/peri and post-natal care services;
- Oral prevention services;
- Mental health services;
- Home care services, including neonatal and terminal/palliative care services.<sup>203</sup>

The parallel health care facilities are located Kosovo\*-wide but primarily in the regions of Mitrovica, Pristina and Gnjilane. Parallel health care facilities exist on a smaller scale in the regions of Prizren and Pec. In northern Kosovo, these facilities appear to be the only health care providers to members of minority communities. Most but not all of these facilities provide primary health care with a few exceptions. In northern Kosovo, parallel health care facilities operate in all the municipalities and constitute the majority of health care facilities available to the population. One hospital, five health centres and 16 clinics have been identified as belonging to the parallel health structure in northern Kosovo. In the municipalities of Zubin Potok, Leposavic and Zvečan, most of the healthcare facilities are parallel except the Serbian Ministry of Health (MoH) operated facilities. In Pristina region, there is one parallel hospital with several specialized branches in different locations, two health houses and 15 clinics. In Gnjilane region there are in total 39 parallel health care facilities, mainly in the municipalities of Strpce, Gnjilane and Kamenica. The only two municipalities in Prizren region where parallel health structures operate are Orahovac (Gornji Orahovac and Velika Hoca) and Prizren (Sredska and Musnikovo with health houses which are managed by the Strpce health house). In Pec region, four clinics and a private centre have been identified as the only parallel health care facilities. According to the Regulation on the systematization of health facilities from 2017, the Health Houses are available in 5 municipalities Strpce, Kosovska Mitrovica, Gračanica, Silovo and Gorazdrevac. Tertiary Health Care centres are located in Pristina and Kosovska Mitrovica.<sup>204</sup>

Primary health care is a priority in health system reform processes. Secondary and tertiary health care is provided through the institutions established under the Law on Health, within which are included hospital, outpatient, diagnostic, therapeutic, rehabilitation services, emergency transportation, dental care and regionalized public health services. Tertiary Health Care includes advanced health care, hospital, outpatient and public health services and counselling teams of tertiary health care level. Pristina region, tertiary level health institutions also serve as secondary level health institutions. Besides public health institutions, health care in Kosovo is provided by 1,069 licensed private medical institutions, of which 28 hospital institutions while others provide 30 outside hospital services.<sup>205</sup>

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<sup>203</sup> Ministry of Health, Kosovo\*, interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, February 2019

<sup>204</sup> Parallel structures in Kosovo\*, OSCE Report (2007), updated information by Radoš Repanović, March 2019

<sup>205</sup> Ministry of Health, Kosovo\*, interview on Sustainable Return of IDPs to Kosovo\*, conducted and submitted by Edona Lekaj, February 2019

## Conclusions remarks and recommendations

The primary goal of this study has been to understand the impact of current strategies on the durable solution for displaced persons and to provide information relevant to the development of policy and guidelines on the sustainable return of IDPs to Kosovo\*. Thus, this study examined structural and subjective conditions, individual attributes, social relations and policy interventions of the process of sustainable return of IDP to Kosovo\*. On the one side, it has examined the key factors influencing the decisions to return and sustainability of return from the IDPs and returned IDPs standpoints, that often depends on highly individual characteristics and experiences. The value of this research has been to identify and gain many insights on the decision to return and the possibilities for sustainable return. On the other side, it has examined the implementation of the general institutional and legal framework of the return process of IDPs to KIM, following, the analysis of the institutional and legal framework of the particular aspects of the access to the specific rights, the role of national and international stakeholders in this process.

Nonetheless, the lack of *Law on Voluntary Return of IDPs* that will recognize and guarantee the right to the voluntary return of IDPs implies that essential precondition for sustainable return is not fulfilled. Thus, adoption of the various policies and protocols on the return process, supported with the establishment of the competent authorities for its implementation are not sufficient conditions to enable sustainable return. Moreover, the lack of precise normative regulation leads to uncertainty of the procedure, determination of the scope of the rights, uneven practice, lack of legal protection, among others. Moreover, the category of the returned IDPs is not recognized as a particular vulnerable/ disadvantaged group of the population, as a precondition for the development of applicable policies that would adequately respond to their needs. Besides, the use of language, the local level, municipal institutions are often unable (or unwilling) to provide services in the Serbian language (i.e. forms and other documents are often only available in the Albanian language or employees are unable to communicate in Serbian) is still an issue of concern. Although a detailed summary of the survey results has been presented already, the main findings and conclusions will be outlined in the following six aspects in order to explain how the recommendations were developed at the end of this section.

### *1. Influencing the decision to return and experiences of returned IDPs*

The survey results indicate that the key factors influencing the decision to return are linked with fulfilment of various structural conditions in the place of origin and the possibilities to preserve access to rights in the current place of displacement. Furthermore, IDPs respondents consider highly important the fact that Serbian institutions have competencies and executive powers through the existing pattern of parallel institutions in Kosovo\* in the process of sustainable return.

In ranking factors influencing the decision to return, IDPs respondents consider freedom of movement as an initial condition that will influence their return decision following the possibility to preserve the access to the Serbian health institutions, the same job opportunities without discriminations among others factors. Thus, freedom of movement, access to economic, social, health, education rights, followed with stability in their exercise is the crucial motives for decision to return. The crucial role of international organizations in this process is recognized, including the safeguard of the rights by competent authorities. However, the survey results have shown the lack of the necessary information and complaints procedures of the IDPs related to the return process.

The valuable insights on the return process have been gained from the IDPs respondents that have experienced the return process to Kosovo\* and return to Serbia. Namely, the main challenges were underlined as following: a) insecurity (experiences of various types of incidents robbery, demolition of the house, impossibility to cultivate the land due to usurpation by non-owner); constant provocation by Albanians, treats from expulsion; b) inability to find a job; c) restricted freedom of movement; d) isolation; e) low level of educational possibilities for children.

### *2. Status and access to documents*

According to the research, as well as interviews with IDPs in Serbia proper, and returnees in Kosovo\*, status and access to documentation remains in some aspects problem. For IDPs in Serbia, access to documentation and status is not restricted, and they have managed to regulate their status. Such a situation is enabling them

to have access to various types of assistance and support. Majority of them remains to be registered as internally displaced persons (IDPs) which is a clear sign that they are still contemplating return, and have not made their mind whether to integrate into the local community or to return to their pre-war homes. This community lists connection to Serbia's state system (administration, education, health and social protection) as a key component of their return decision. Any future return process strategy must consider this, and create conditions for access to these institutions by members of returnee and minority communities. In Kosovo\*, legalization of documents issued by Serbia's state institutions (civil registries, school/education certificates, etc.) remains a problem for members of minority communities, especially Serbs/RAE. Legislative and practical steps need to be undertaken to facilitate the possibility for legalization. It would consequently lead to a higher level of inclusion for members of minority communities, and potentially more positive results in the return process.

### *3. Repossession of property and right to housing*

Process of repossession and reconstruction of property is still on-going in Kosovo\*. Repossession of property is under the mandate of specialized institutions, or regular courts. This process is still lengthy, lacking effective enforcement of the favourable decision in favour of lawful owners – IDPs or members of minority communities. International donors dominantly finance the reconstruction of demolished housing objects. The legislative and institutional framework was modified in 2018 in order to create conditions for a more efficient return process. It remains to be seen how it is going to be implemented in practice.

In Serbia support in housing solutions for IDPs represents for state actors one of the main aims. Different modalities of housing assistance – allocation for the use of social housing units, purchase of village households, and provision of construction material – are being implemented in practice.

### *4. Employment and social welfare*

This research has shown that both societies have developed the whole set of sectoral policies, strategic documents, and respective laws on employment and social welfare support of IDPs and returnees. However, although IDPs are identified as particularly vulnerable categories, and in particular the Roma IDP population and defined a whole range of affirmative measures and activities, they still face a host of challenges and obstacles, and their standard of living is worse than the general population. It is also important to emphasize that internally displaced persons as citizens of the Republic of Serbia have access to all constitutionally guaranteed rights as all other citizens of Serbia.

On the other hand, in Kosovo \* with the exception of the Regulation (GRC) - No. 01/2018 for the return of displaced persons and a durable solution in which they generally define the areas in which IDPs and returnees can receive support, as well as procedures for their realization, in other documents of importance are not recognized as particularly vulnerable categories, while the realization of these measures and activities largely depend on the support of international donors. IDPs and returnees to Kosovo \* if they possess Kosovo documents have access to all rights as other Kosovo citizens \*, and under applicable laws. As well as in Serbia, IDPs and returnees, and especially Roma, are facing many problems. A key obstacle to access to socio-economic rights is primarily difficult access to the labour market, both in Serbia and Kosovo \*, which is indicated by the high unemployment rate in both societies. In the case of employment, most of them work in the informal sector, below their educational level and work experience, are mainly engaged in temporary and occasional jobs, with wages below the guaranteed minimum.

For many families of displaced and returnees, social assistance is the only income (for most of them, monthly income is reported up to 100 euros), while older IDPs face difficulties in exercising their right to a pension due to the lack of necessary documentation. As a result, many of them receive only a temporary retirement decision, and therefore the amount of pensions is very low. Generally speaking, the economic status of IDPs and returnee households is at a deficient level.

Employment is considered an important step to return to Kosovo\*, as well as a means to improve their position in society. In order to encourage the return process and to improve employment opportunities of returnees, it is vital to give priority to various measures of employment support.



## 5. *Right to education*

In general, the improvement of the implementation of the legal and policy framework of the right to education of non-dominant communities, in particular, returned IDPs and their social inclusion in the specific context of Kosovo\* society represents one of the significant challenges. Although, the certain efforts have been made in order to respect and fulfil the right to education of non-Albanian communities, however, various shortcomings are identified. The major one is lack of textbooks in communities' languages and imposed a ban on Serbian textbooks, following the insufficient number of qualified staff teaching in community languages, the lack of transportation means among others. Regarding the process of mutual diploma recognition, the positive progress has been made by extension of the mandate of the Commission for the Verification of diplomas, that will significantly improve access to employment and education of the applicants.

Based on the research examined in this study, the parallel existence of the two education systems corresponds to the standpoints of the IDPs as one of the key factors influencing the decision to return to KIM. Furthermore, the possibility to preserve access to the right to education in the Serbian language, by Serbian curriculum and possibilities to choose between the education system in central Serbia and KIM inevitably reveal the importance of shaping their current values, beliefs as a part of their identity and importance of preserving their collective rights.

The type of divided education system that is maintained in KIM can provide valuable insight into the potential consequences, such as lack of inter-community dialogue and growing language barriers among pupils and youth in general.

## 6. *Right to health*

Despite the establishment of normative and policy framework of the right to health and health reform, the affordability of the health services and the quality are still the main challenges in general. However, the quality of health care for Serbs in Kosovo\* parallel structure is sufficient despite several shortcomings. The main difficulty Serbian returnees have in the area of health care are the vast transportation distances to the health care facilities that are most often located in the Serbian enclaves and the north of Kosovo\*. Recent changes of systematization of the health institution in 2017 enabled the establishment of the health centre at tertiary level in Kosovska Mitrovica. The lack of funding for the provision of health services free of charge, while Serbian health care system enables free access to the services, lack of medical staff, lack of consistent medicament/medical supplies are some of the challenges in the provision of health care services. The findings of the research analyses have shown that access to the right to healthcare represents one of the key factors influencing the decision to return. Furthermore, the parallel existence of two health systems corresponds to the standpoints of the IDPs as one of the critical factor influencing the decision to return to KIM. Thus, as with two co-existing education systems in Kosovo\*, the parallel Serbian health care system hampers an integration of Serbian returnees into Kosovo\* society and leads to further ethnic segregation.

## **Recommendations**

Based on the above finding, the following recommendations are made:

- Support and ensure the establishment of the working group for drafting the Law on Return of IDPs to Kosovo\*, following the advocacy activities for its adoption, as a safeguard of the right to voluntary return and achievement of sustainable return.
- Conduct a comprehensive analysis of the needs assessment and position of returned IDPs in Kosovo\* as a basis for the development of applicable policies at various levels (status, employment, education, health) by precarious position of returned IDPs. Following the recognition of returned IDPs as a particularly vulnerable group.

## Status

- Follow up and support of international and local actors (both from public institutions and CSOs actors) on matters related to access to civil registries and documents in Kosovo\* for IDPs and members of minority communities;
- Adoption of the legal framework – possibly Law on internally displaced persons - that would codify and regulate all issues relevant for IDPs in Serbia;

## Repossession of property and right to housing

- Support to initiatives for durable solutions such as *Skopje process* that would enable reconstruction and repossession of property and other rights on fair bases to all displaced persons that were deprived of it;
- Financial and logistical support by local and international actors to the enforcement of final legal decisions issued in favour of lawful owners - IDPs or members of minority communities - for the demolition of unlawfully constructed housing objects;

## Employment and social welfare

- Analyse the labour markets at the local level with a particular focus on: a) determining the needs of employers in terms of human resources, b) mapping potential employers, c) determining the difference between the needs of employers and the available profiles, competencies and labour supply id) recommendations for optimal measures and training based on the needs of the labour market and additional qualifications to increase the employability of internally displaced persons and returnees.
- Promote a successful and sustainable reintegration of IDPs and returnees through the implementation of an innovative approach to the reintegration – the employment cooperative model between the returnees, local communities, and different levels of government authorities, private sector, civil society, and international organizations.
- Give priority to various measures of support for self-employment through the launch of their own business to subsidized employment, not only in the public sector but in the private sector.
- Support and encourage innovative ideas of entrepreneurs for small and medium enterprises among the IDPs and returnees.
- Provide more and better information on current job opportunities and services for IDPs and returnees in a specific, visible, and accessible format through proactive outreach to targeted population focusing on women and youth and their families.

## Right to education

- Ensure a sustainable provision of the Serbian-language education in Kosovo\* by increasing financial support in regards to infrastructure and transportation means to the school premises. Also, ensure annulment of the ban on import of Serbian textbooks.
- Ensure a sustainable provision of teacher training programmes in community languages through support to and monitoring of the universities offering such programmes to meet all legally prescribed criteria for the provision of quality education in community languages;
- Promote inter-ethnic dialogue and interaction between pupils and younger generations in order to decrease the growing educational and language barriers among them.

## Right to health

- Promote and enable inter-ethnic professional dialogue and interaction between professionals, in order to establish high-quality multi-ethnic health care facilities that employ both Kosovo Albanian and Kosovo Serbian staff in a location accessible to all communities.
- Ensure a sustainable provision of health care services in Kosovo\* and establish high quality by increasing financial support to infrastructure, medical supply and human resources. Mainly, support provision of transportation means from the most remote location to the health care facilities and establishment of tertiary facilities within a parallel system.

## Appendix I

### Ethnicity

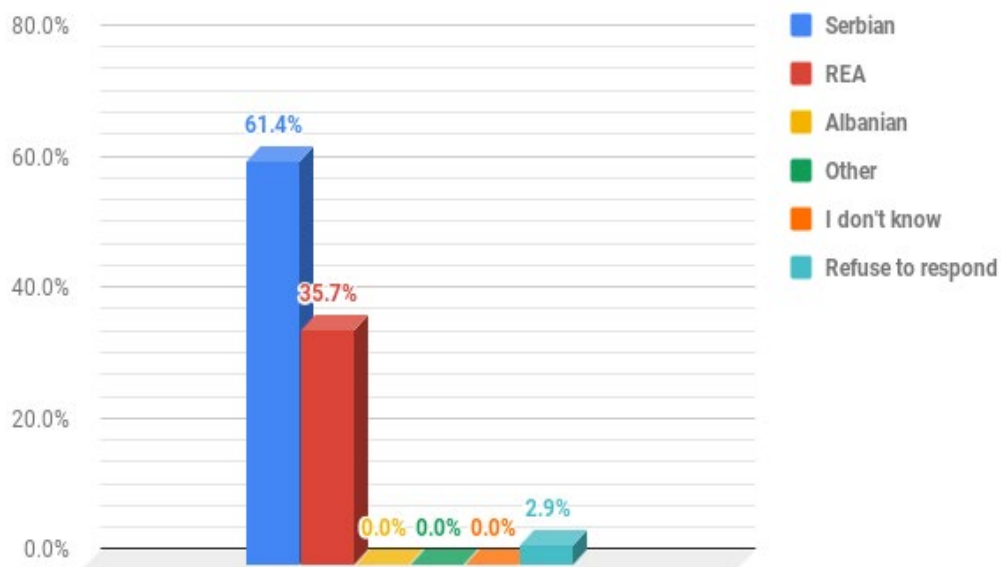


Chart no.1 Ethnicity of IDPs

### I feel like part of Serbian society

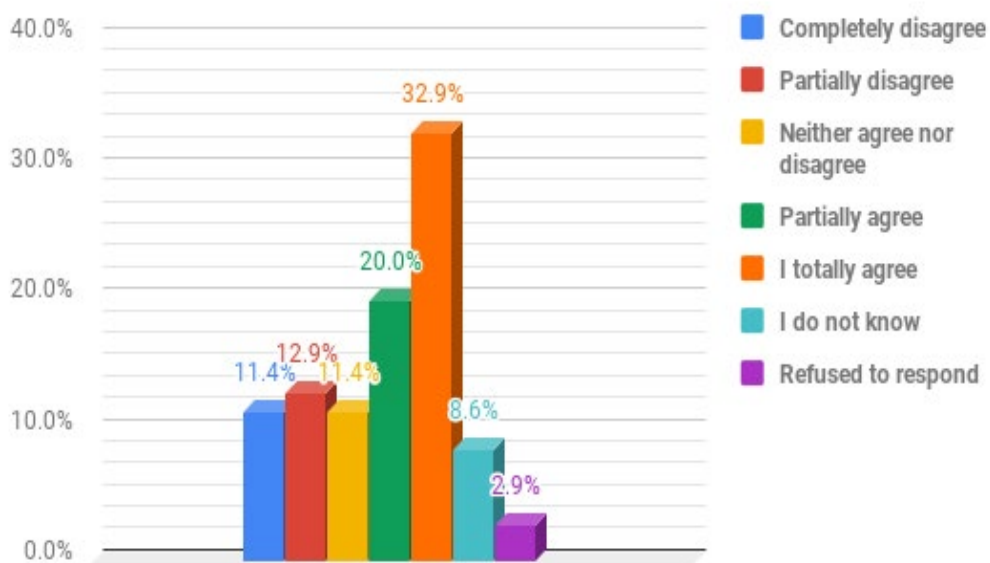


Chart no.2. IDPs affiliation of belonging to the Serbian society/ IDPs respondents

## The Serbian society supports internally displaced persons

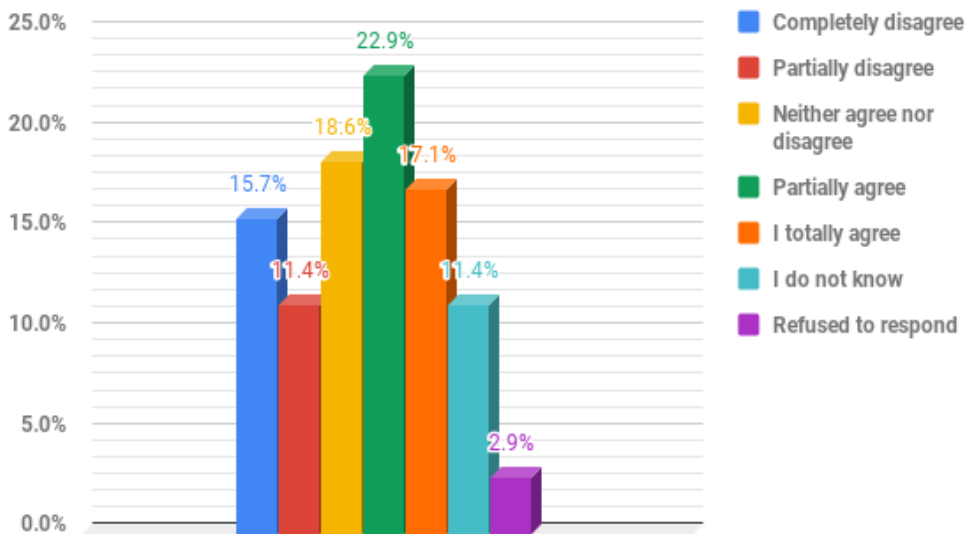


Chart no.3. IDPs opinion on received support by Serbian society IDPs respondents

### Roma IDPs perspective The Serbian society supports IDPs

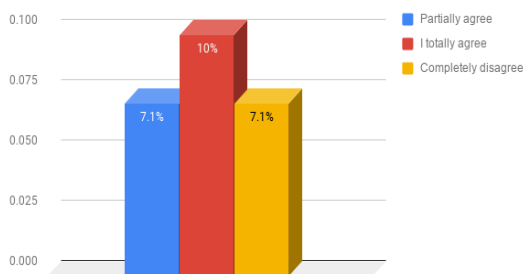


Chart no.3.1Roma IDPs opinion on received support by Serbian society

### Serbian IDPs perspective The Serbian society supports IDPs

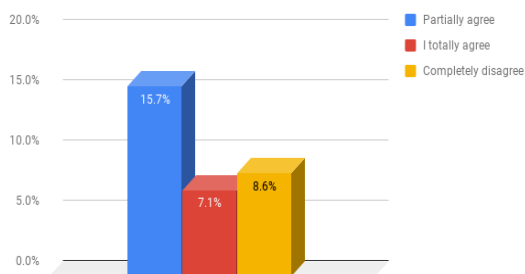


Chart no.3.2 Serbian IDPs opinion on received support by Serbian society

### IDPs female perspective The Serbian society supports IDPs

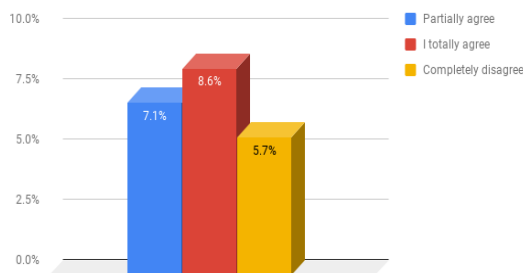


Chart no.3.4 Female IDPs assessment on received support by Serbian society

### IDPs male perspective The Serbian society supports IDPs

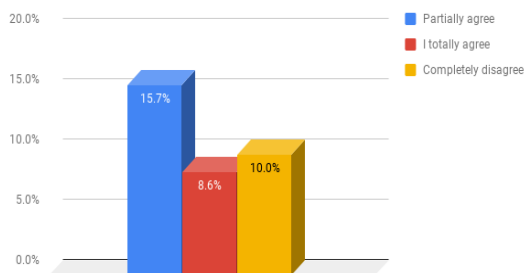


Chart no.3.5 Male IDPs assessment on received support by Serbian society

## I feel that the Government of Serbia is serious about the IDP's concerns

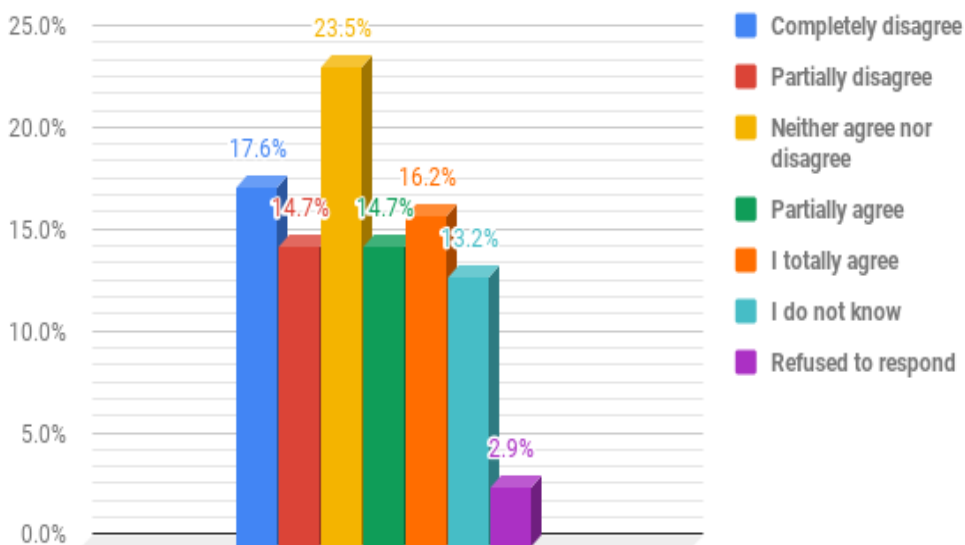


Chart no.4 IDPs opinion on how the Serbian government perceives IDPs concerns/IDPs respondents

## I feel discriminated, because I am IDP

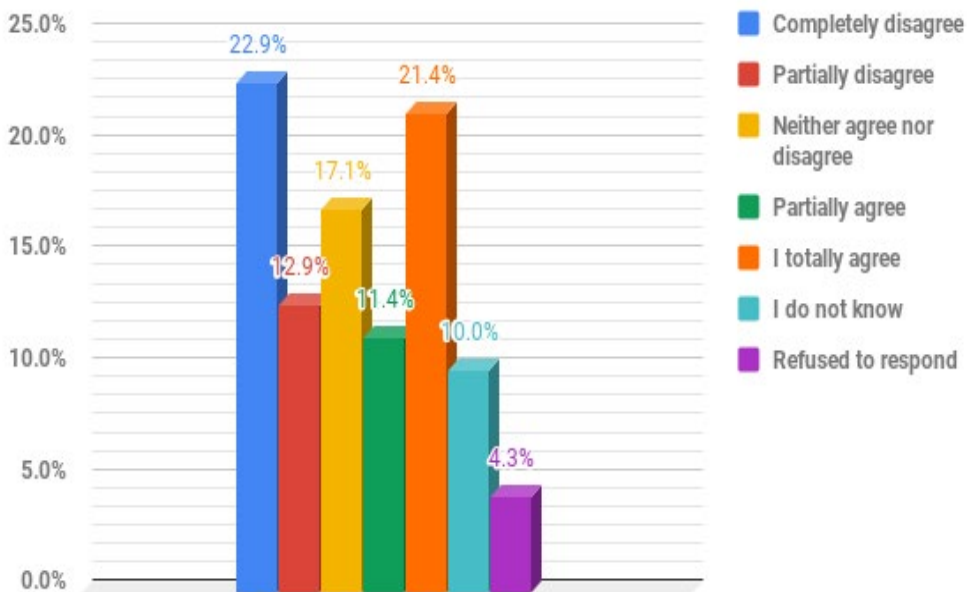
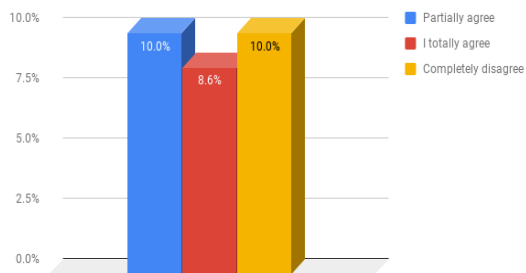


Chart no.5 IDP opinion on discrimination based on IDPs status/IDPs respondents

**IDPs female Perspective**

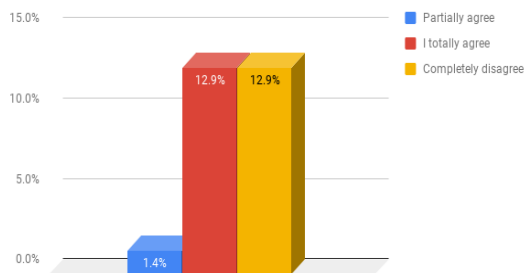
I feel discriminated, because I am IDP



*Chart no.5.1 Gender assessment on discrimination based on IDPs status*

**IDPs male perspective**

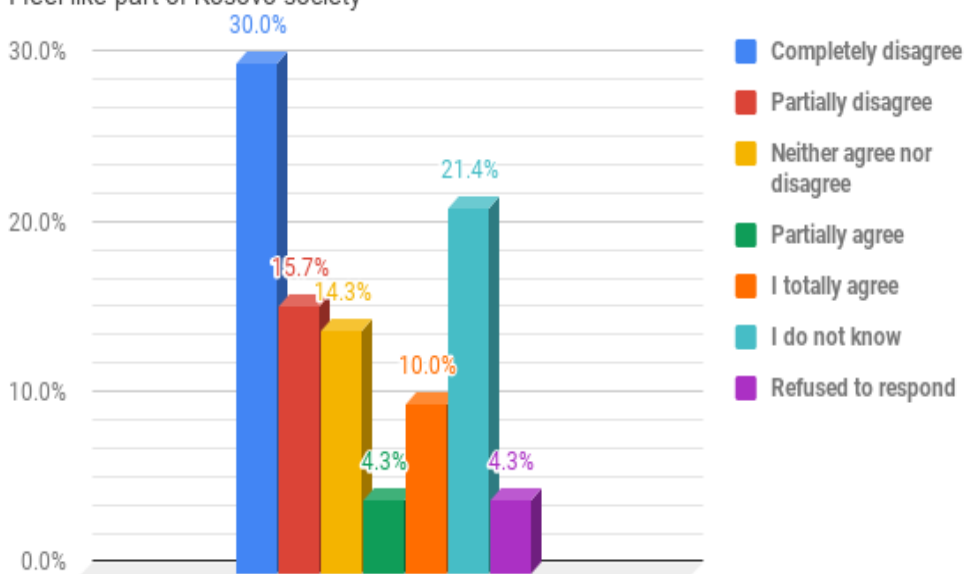
I feel discriminated, because I am IDP



*Chart no.5.2 Gender assessment on discrimination based on IDPs status*

**In the case that you decide to return to Kosovo\***

I feel like part of Kosovo society



*Chart no.6 IDP affiliation of belonging to the Kosovo society/IDPs respondents in the case of return to Kosovo\**

## In the case that you decide to return to Kosovo\*

Kosovo society supports Serbs / REA

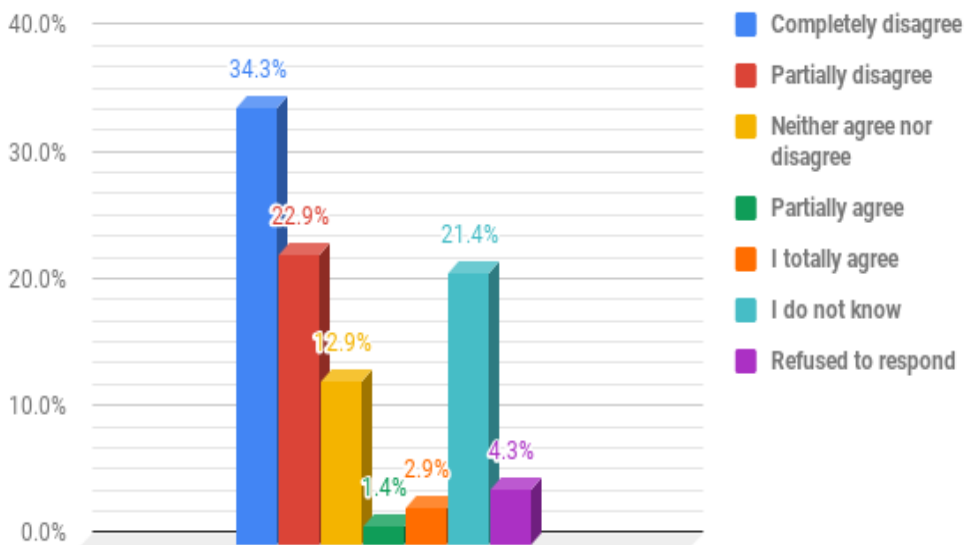


Chart no.7 IDPs opinion on received support by Kosovo society in the case of return IDPs respondents

## In the case that you decide to return to Kosovo\*

I believe that the Kosovo\* Government takes seriously the concerns of IDPs

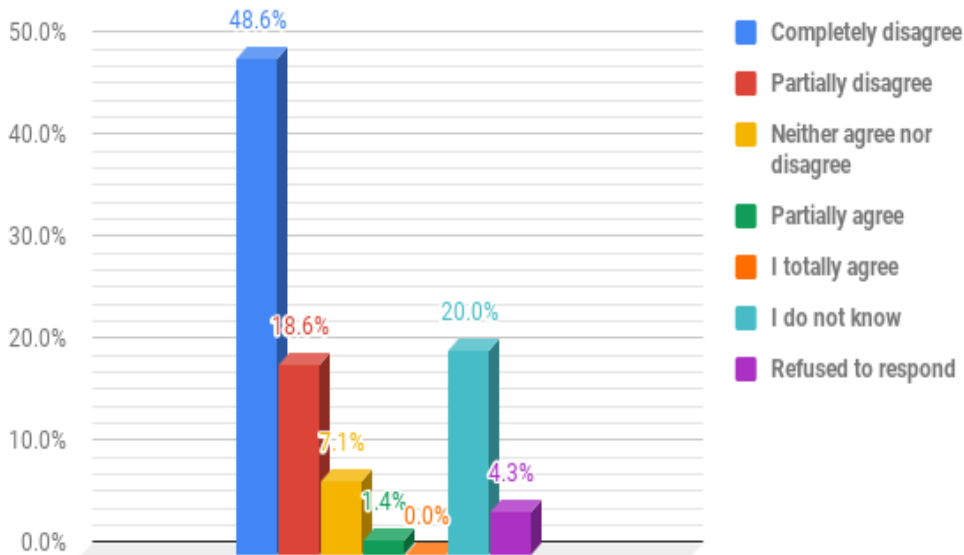


Chart no.8 IDPs opinion on how Kosovo\* government perceives IDPs concerns/IDPs respondents



## In the case that you decide to return to Kosovo\*

I feel discriminated because I am Serbian / REA IRL

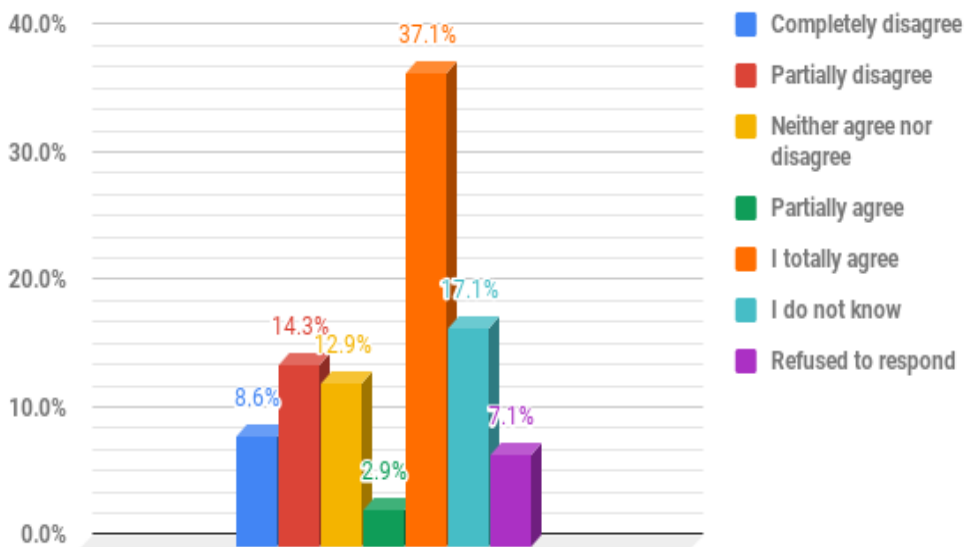


Chart no.9 IDP opinion on discrimination based on ethnicity also, IDPs status/IDPs respondents

### IDPs female perspective

In the case that I decide to return - I feel discriminated because I am Serbian / REA IRL

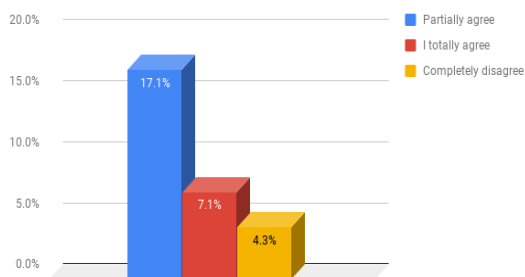


Chart no.9.1 Gender assessment/female perspective about discrimination based on ethnicity and IDP status

### IDPs male perspective

In the case that I decide to return - I feel discriminated because I am Serbian / REA IRL

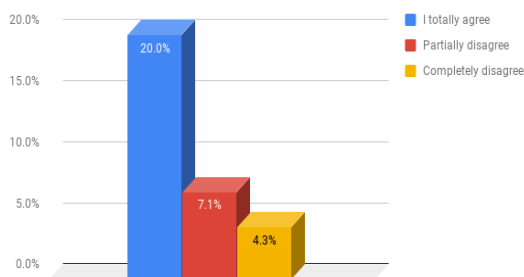
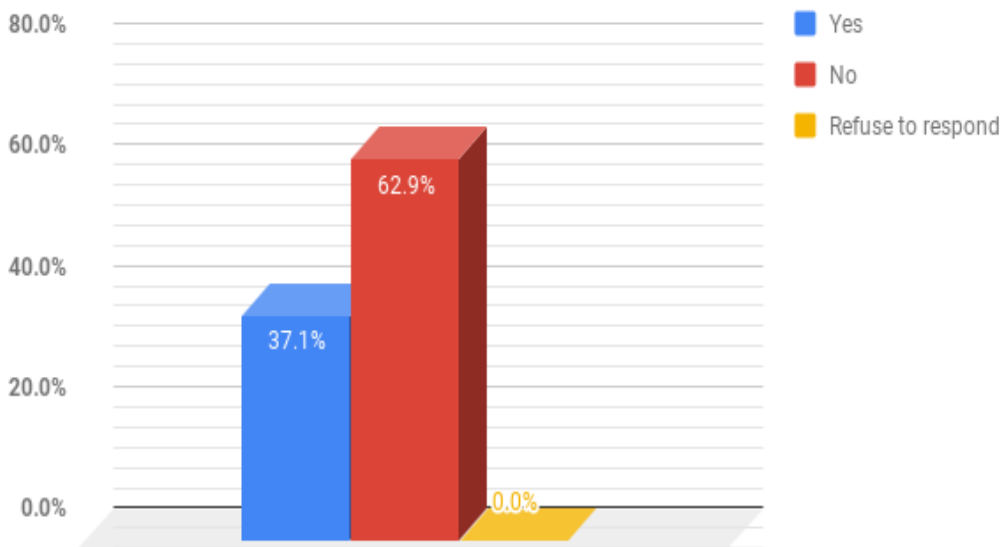


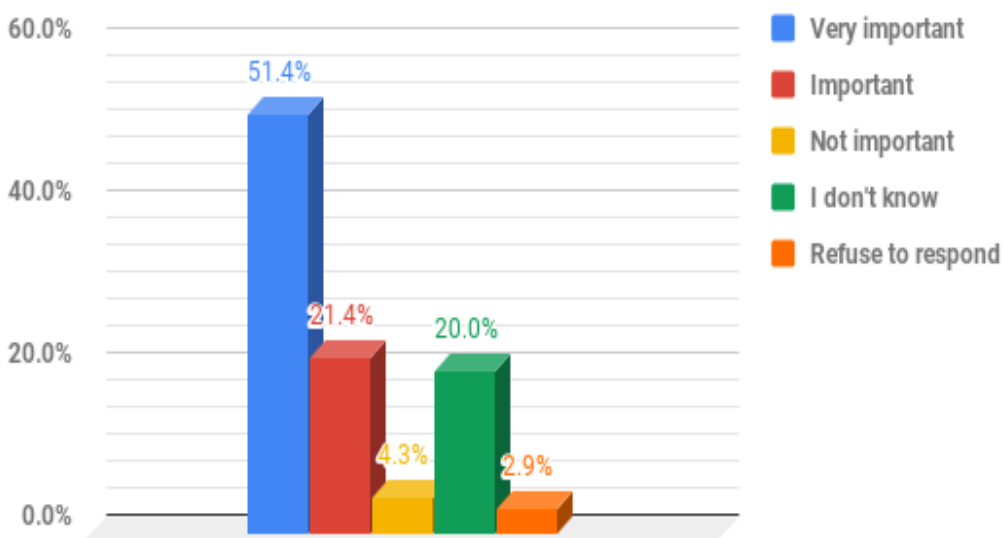
Chart no.9.2 Gender assessment/male perspective about discrimination based on ethnicity and IDP status

## Since you have been displaced, did you ever return for longer period to Kosovo\*?



*Chart no.10 IDPs return experience to Kosovo\*/ IDPs respondents*

## Would you say that the possibility of regular visits to Kosovo \* ...?



*Chart no.11 IDPs opinion on the importance of the possibility of regular visits to Kosovo\**

### What would be the reasons to visit Kosovo \*, if you can not go back there permanently? Provide three reasons

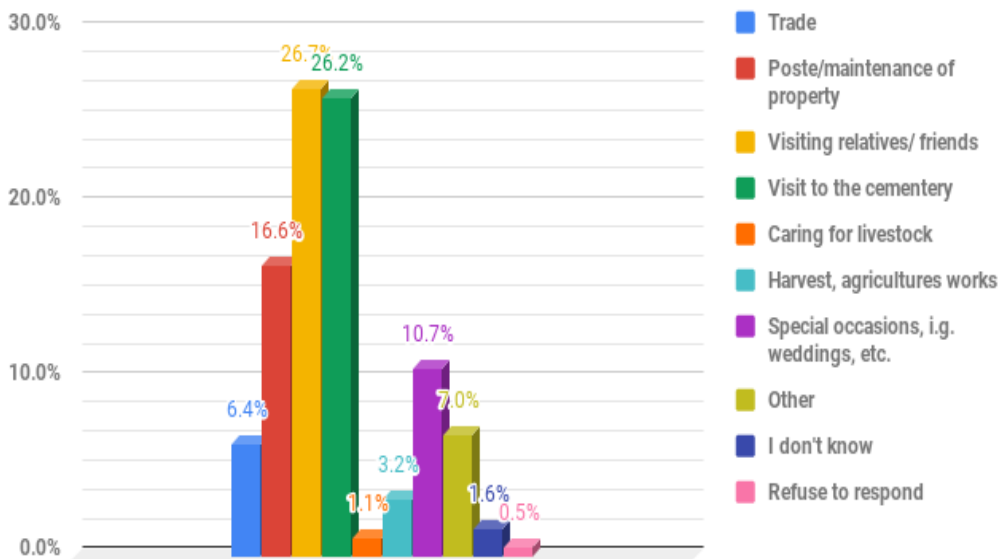


Chart no.12 IDPs reasons for visits to Kosovo\* in the case of lacking the possibility of a permanent return

### Available infrastructure

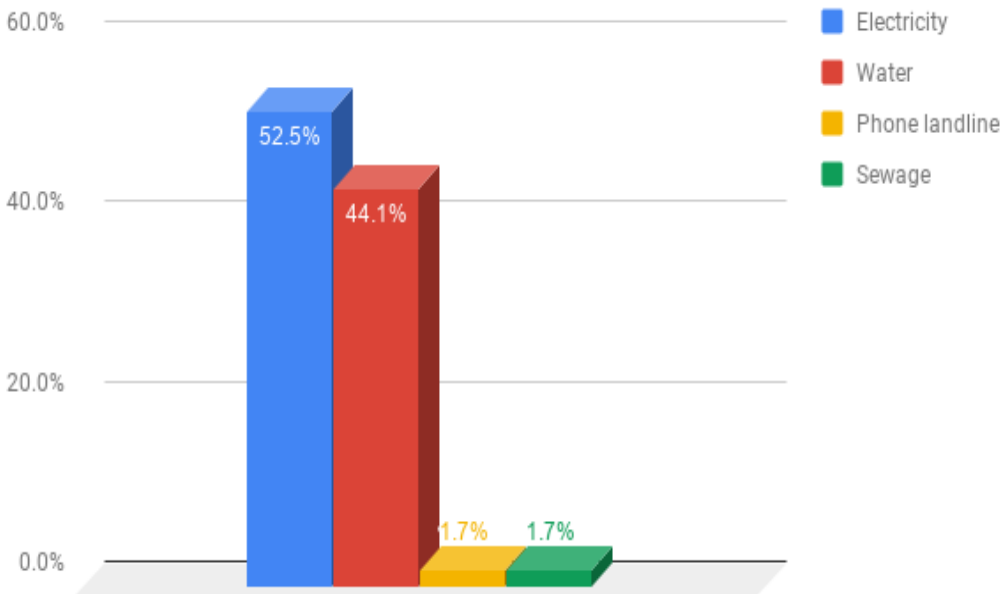
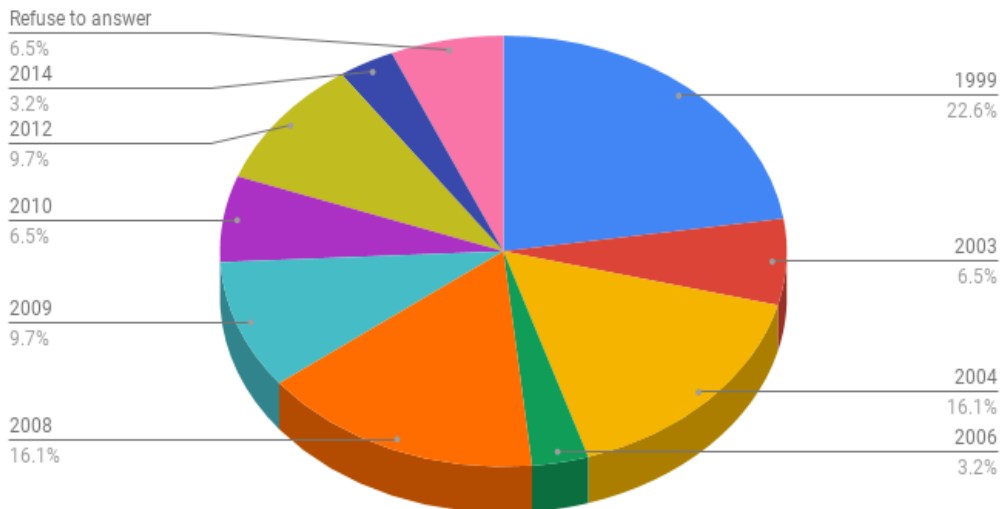


Chart no.13 Available infrastructure in Kosovo\* – Returned IDPs respondents

## Year of Return to Kosovo\*



*Chart no.14 Year of return to Kosovo\*/returned IDPs respondents*



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