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Chairperson: Ms. CHANET

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* No summary record was produced for the second part (closed) of the meeting.

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The meeting was called to order at 3.00 p.m.

CONSIDERATION OF REPORTS UNDER ARTICLE 40 OF THE COVENANT
(agenda item 6) (*continued*)

Report submitted to the Human Rights Committee by the United Nations Interim Administration Mission in Kosovo on the human rights situation in Kosovo since June 1999 (*continued*) (CCPR/C/UNK/1; CCPR/C/UNK/Q/1)

1. At the invitation of the Chairperson, the UNMIK delegation resumed its place at the Committee table.

2. Mr. BORG-OLIVIER (UNMIK), referring to question No. 22 of the list of issues, said it was untrue that the UNMIK Department of Justice had instructed the courts not to process compensation claims related to property damages incurred after 1999, which had mainly been lodged by members of minority communities. Following the March 2004 riots, the Department of Justice had contacted the courts and, in a letter dated 26 August 2004, had asked the judicial authorities to consider a temporary suspension of proceedings, because safe access to the courts for complainants had not been guaranteed and there were insufficient resources to deal with the very large number of cases. Moreover, numerous cases had involved members of KFOR and UNMIK, whom the local courts were unable to try owing to the privileges and immunities that went with their status. The judicial authorities, who were ultimately responsible for handling the cases, had suspended all proceedings regardless of the stage they had reached. During that time, the Department of Justice had taken steps to resolve the problems it had raised. In a letter dated 15 November 2005, it had indicated that security was no longer a major problem, and it had encouraged the authorities to resume proceedings relating to property damage in which the municipalities had been involved. Some of those proceedings were under way and the Department of Justice had energetically encouraged the courts to deal with the claims lodged by members of minority communities.

3. With regard to the staffing of the legal system (question No. 23), judges and other justice officials continued to be recruited, because staffing was still inadequate. No special steps had been taken to increase the number of forensic/legal experts. The need for expert reports had caused delays in many cases, because there were too few experts available to meet the needs of the courts in Kosovo. The low level of fees paid also discouraged experts both abroad and domestically to supply quality work expeditiously. The Kosovo Judiciary Council was now responsible for administering the courts, and it had to evaluate current needs and the distribution of the courts' material and human resources, pursuant to article 17 .1 of Regulation No.2006/52.

4. Several reforms had been introduced, in particular to shorten the time between filing the indictment and the trial. In April 2004, the deadline for handing down a written judgment after a verdict had been given had been extended to 15 days if the defendant was being held on remand and 30 days in all other cases (Kosovo Provisional Criminal Procedure Code). In the Mitrovica district court, an indictment had been filed in August 2000, but the case had only been scheduled for January 2005. In the municipal court in the same city, an indictment had been registered in February 2003, but the case had only begun in January 2005. In both situations, the delays had been the result of the large number of cases and the fact

that priority had been given to those in which the defendants were being held on remand. In the municipal Court of Gnjilane, an individual had been charged with falsification of documents in September 2000; an initial summons had been sent to the defendant in October 2001; and an arrest warrant had been served in June 2003.

5. In 2004, most of the municipal courts had cases pending in both the civil and criminal divisions. In 2003, there were a total of 249,695 cases registered, of which 61,713 had been opened in 2002. In 2003, the municipal courts had only handled 167,795 cases. Of 2,894 criminal cases registered in the first half of 2003, 56% had been dealt with within six months of appointing the court president, and 27% more than a year later. Municipal courts dealt with most cases involving minors.

6. Interim measures were often imposed too late. For example, a request for interim measures had been made in a case brought in the municipal court of Mitrovica in April 2003, but the petition had not been heard until April 2005. At the municipal court of Viti/Vitina, a request for interim measures made in February 2004 was only considered a year later. In many cases, the delays compromise the very purpose of the interim measures: in 2001, the Prizren municipal court had considered a request to order a halt to all work on land subject to litigation, but the request had been withdrawn two months later in August 2001, because the work had already been completed. According to data collected by OSCE, in 25 of the 36 cases heard in Mitrovica in 2000, the rulings had been issued with a delay of between one to eight months, and in 2001 up to five months. In cases heard in Gnjilane in 2000, the ruling in 49 cases out of 72 had been handed down with a delay of between one and seven months; the situation had improved in 2001, however, since six cases out of 67 had been delayed by one month. In the Prizren district court, OSCE had followed two cases in which the written judgment had been issued 14 months later. In the cases mentioned by OSCE, 30% of adjournments occurred because of the absence of one of the parties, usually the defendants. The serving of summons was a persistent cause of delay which had been denounced in 2004 by the juvenile courts in Pec, Vucitrn and Mitrovica. The municipal court of Pristina had postponed a civil case five times between 2002 and 2005, because it did not know whether the summons had been served on the party in question. The Prizren municipal court had sent eight summons in relation to a civil action that had begun in 1998. The courts were not making sufficient use of their power to request personal data held in the central civil registry, which would make it possible to avoid numerous delays. Lastly, OSCE had studied delays in executing interim measures in both civil and criminal cases. In the Prizren municipal court, the time taken to consider protection orders and emergency protection orders was 37 and 25 days after the request had been filed, whereas the law required a review within 15 days or 24 hours, respectively. In both cases, the orders had been executed.

7. On matters relating to freedom of expression and incitement to racial hatred (questions Nos. 24 and 25), the KFOR rules of engagement aimed to guarantee a safe environment in all regions of Kosovo, some of which contained places of worship belonging to minorities. Such sites were guarded by KFOR personnel, who made sure the integrity of their sites was respected and guaranteed freedom of movement for the minority population of those regions. As a measure of effectiveness, no serious incident had been reported on those sites since the events of March 2004. On 17 June 2000, the Secretary-General's Special Representative had promulgated UNMIK Regulation No. 2000/36 on the granting of radio and

television broadcasting licences in Kosovo, with the aim of creating the office of Temporary Media Commissioner. The Commissioner could punish radio broadcasting media that failed to respect the code of conduct governing radio and television broadcasting media, which contained a special provision prohibiting the dissemination of personal information concerning an individual, if such broadcast “constituted a serious threat to the life or security of that person, as a result of violence by self-defence militia or other forms of violence.” The code of conduct contained other provisions that prohibited broadcasting for provocative purposes, particularly among ethnic, cultural and religious groups, and content that “involved an imminent risk of causing damage, defined as death, injury, damage to property or other form of violence.” On 8 September 2005, Regulation No. 2000/36 had been replaced by the Law on the Independent Media and Radio Broadcasting Commission. Nonetheless, all the provisions and procedures implemented by the Temporary Media Commissioner would remain in place until such time as the Independent Media Commission amended, replaced, or repealed them.

8. Also, on 17 June 2000, the Secretary-General’s Special Representative had promulgated UNMIK Regulation No. 2000/37 on the conduct of the written press, which authorized the Temporary Media Commissioner to impose sanctions on newspapers that failed to respect the Temporary Code of Conduct Governing the Written Press in Kosovo, and which contained identical provisions to those of the Code of Conduct Governing Radio Broadcasting and Television Companies, on the publication of personal information concerning an individual, and for provocative purposes. In principle, the Temporary Code was renewed every 90 days by the Secretary-General’s Special Representative, if, in the opinion of the Temporary Media Commissioner, there was no internal mechanism to regulate the written press, or if the circumstances still required it. In 2005, the Kosovo Press Council had been created — a professional disciplinary body that had established its own code of conduct, and had been operational since September 2005. The Temporary Media Commissioner had therefore recommended that the Temporary Code of Conduct Governing the Written Press, which had been renewed several times and had expired on 17 December 2005, should not be renewed again. Regulation No. 2000/37 was nonetheless still in force, which enabled the Secretary-General’s Special Representative to intervene where necessary. On 9 December 2004, the Temporary Media Commissioner had reached an agreement with two television channels, TV-21 and KTV, regarding their the coverage of the March 2004 events. Both companies had admitted their failure to respect the code of conduct, and they had agreed to invest €5,000 and €10,000, respectively, in specific staff training on the coverage of conflicts. On 15 December 2004, the same type of arrangement had been made with the public television channel RTK, which had acknowledged that that it had failed to respect professional standards and had violated important principles, particularly by circulating its statements without having verified the facts. It had also acknowledged that it had broadcast interviews containing statements that could have been considered “incitement to hatred”. Consequently, the channel had agreed to spend €100,000 in 2005 on staff training. Following the events of March 2004, the Temporary Media Commissioner had found that just one press agency, the Serbian language newspaper *Jedinstvo*, had twice broken rules prohibiting it from denigrating a specific ethnic group, and it had been issued with warnings. In 2005, the Commissioner had again found *Jedinstvo* to be at fault and had imposed an €11,000 fine on the newspaper and its editor-in-chief. The fine had been reduced to €7,000 on appeal, although the Media Appeals Committee had

confirmed that the newspaper had incited ethnic hatred, on that occasion against Albanians. The Committee had, nonetheless, decided that the fine would not be enforced if *Jedinstvo*, the only newspaper to have refused to join the Press Council and the Code of Conduct, were to rejoin the Press Council, which it had immediately done.

9. Mr. GASHI (UNMIK), replying to question No.26 on the right to take part in the conduct of public affairs, said that 81 judges, or 26% of the total, were women, and 29 (9% of the total) belonged to minority groups. Members of minority groups accounted for 11.36% of ministry officials and central government institutions, and 12.76% of municipal employees; 40.47% of all municipal employees were women.

10. Mr. BORG-OLIVIER (UNMIK), referring to equality before the law (question No. 27), said that UNMIK had accepted that the situation of minorities in Kosovo would undergo an external review, and it had signed an agreement with the Council of Europe for that purpose on 23 August 2004. Article 2.2 of the Agreement on Technical Arrangements Related to the Framework Convention for the Protection of National Minorities required UNMIK to report to the Council of Europe. The first of such reports, presented by UNMIK on 2 June 2005, contained a detailed in-depth analysis of the rights of members of non-majority communities in Kosovo. It had been published and posted online on the Council of Europe website. A parallel civil-society report had also been produced and was currently being circulated. A delegation of the Advisory Committee of the Council of Europe had visited Kosovo on 11-15 October 2005 to obtain additional information. On 25 November 2005, the Advisory Committee had adopted an opinion that had been considered at a meeting of the Human Rights Group of the Council of Europe on 21 February 2006, with a view to formulating recommendations for presentation to the Committee of Ministers. On 21 June 2006, the latter had adopted a resolution containing recommendations and conclusions that took note of progress but also highlighted areas in which it was still necessary to take steps to apply the Framework Convention. UNMIK was preparing a strategy to implement those recommendations, and progress had already been made in certain areas. Regulation No. 2006/25 on a regulatory framework for the judiciary system in Kosovo should guarantee the integrity, independence, professionalism and impartiality of the legal system, which was responsible for protecting and guaranteeing the rule of law in Kosovo. In particular it would guarantee access to justice for all and would ensure that the system was open and fully reflected the multi-ethnic nature of Kosovo society. Moreover, the recently promulgated UNMIK Regulation No. 2006/36 on legal aid aimed to establish an integrated system of legal aid for criminal, civil and administrative cases, and guarantee protection of the rights and interests of communities, in accordance with international human rights regulations.

11. Mr. GASHI (UNMIK) said that the Provisional Institutions of Self Government had adopted a global strategy for applying the anti-discrimination law, to ensure that it continued to be enforced in all areas of social, political and economic life in Kosovo.

12. On the issue of document translation (question No. 28), all ministries had hired a supplementary translator, whose salary was financed out of a specific budget line. In the Ministry of Culture, Youth and Sports, interpreters' salaries were financed out of the ordinary budget and was no specific budgetary item for translations. The Ministry of Finance and the Economy did not have a specific budgetary item for

translation services, which at the central and local levels was the responsibility of the General Administration Department, whose Director decided how many translators were needed. In the Ministry of Labour and Social Protection, the translation bureau, consisting of three Kosovo Albanians and one Kosovo Serb, translated all official documents. In the Ministry of Health, there were just two translators for Albanian and English and for Albanian and Serbian, and translations were done by external agencies when the workload was too heavy. The Ministry had seven general budget lines, including one reserved for the Administration Department, which could hire external translation services. Translation contracts were awarded competitively, but the funding allocated to those services in 2005 and 2006 was not currently known, nor was the amount envisaged for 2007. The Ministry of Justice, which had just been created, did not yet have a translation service, and UNMIK did not know of any plans in that area. In the service responsible for providing assistance to victims, a translator worked in Albanian and in English. The other services still depended on the Department of Justice, where one person translated into and out of Serbian. Lastly, the Ministry of Public Services employed eight translators, including five for Albanian and English, and three for Albanian and Serbian. The human rights groups coordinator was unaware of any budget for external translations.

13. With regard to the education of minority children (question No. 29), the education reform introduced by the Minister of Education, Science and Technology in 2002-2003 was now being implemented for the first nine years of schooling. New school programmes were also being prepared. Those reforms had gained support from all communities present in Kosovo (Bosnian, Turkish, Roma, Ashkali, Egyptian, etc.), except for the Serb community. The communities included in the Kosovo education system had set up expert groups to prepare programmes to teach their language, history and culture (art and music). Kosovo currently had 28 primary schools and 14 secondary schools, all of them mixed, in which Albanian, Bosnian, Turkish, Roma, Ashkali and Egyptian children all got on well together. The Ministry of Education, Science and Technology had prepared a plan to develop pre-university education for the period 2007-2017, in which a work group consisting of members from different communities and representatives of international institutions had been set up to promote equality and respect for difference, and to underpin the link between education and the overall economic evolution of society. Other examples of specific steps taken by the Ministry of Education, Science and Technology were set out in detail in the written replies. Special attention was being paid to children of the Roma, Ashkali and Egyptian communities, who tended to have a lower level of education or no schooling at all. In 2002-2003, the Ministry of Education, Science and Technology had launched a programme of intensive courses that aimed to compress two years of studies into one, targeting children aged 9-16 years who had dropped out of school for various reasons. The courses in question were provided in cooperation with OSCE, UNICEF and the Save the Children NGO. To date, 3,580 children had followed those courses, of whom 865 had subsequently rejoined the normal education system. Educational progress in generally, and minority education particularly, had been hampered by restrictions on freedom of movement linked to security problems, the low level of education prevailing in the Roma, Ashkali and Egyptian communities, budget constraints faced by the Ministry of Education, Science and Technology, lack of textbooks and other pedagogic materials in the Bosnian and Turkish languages, lack of co-operation by minorities, high textbook printing costs owing to the small number of students, and the reluctance of

international or local NGOs to participate, lack of competent teachers, low rates of school attendance by girls in the Roma, Ashkali and Egyptian communities in rural areas, and the refusal of the Serb community to join the Kosovo education system. Furthermore, large numbers of Roma children lived in camps that were a long way from schools and that there was no transport to take them there. Their parents did not have the money to buy textbooks and school equipment, and some children did not even have the wherewithal to dress decently to go to school. The language barrier was also a frequent obstacle, since many Roma children did not speak Albanian. Very few Roma children participated in pre-school education. Difficulties encountered in enrolling their children in primary school caused many families to refuse to send their children to school. Children who were accepted in traditional schools were exposed to discrimination, bullying, etc.

14. Mr. BORG-OLIVIER (UNMIK), referring to dissemination of information relating to the Covenant (question No. 30), said that training events on international human rights protection instruments applicable in Kosovo were organized on an irregular basis. Nonetheless, the Kosovo Judiciary Institute continued to ensure that judges and prosecutors received regular training on the subject. The written replies had been prepared by pillar III under OSCE direction, in collaboration with the Office of the UNMIK Legal Counsel, drawing on contributions from various UNMIK offices, the Provisional Institutions of Self Government and KFOR, and on consultations with representatives of the Ombudsperson institution and civil society. Mr. Borg-Olivier noted that the reply to question No. 12 had been omitted by mistake, and he assured the Committee that it would be sent subsequently.

15. The CHAIRPERSON invited Committee members to put additional questions to the delegation.

16. Mr. KÄLIN, returning to questions Nos. 17, 18 and 19, recalled that the presence of the international community in Kosovo aimed to create conditions that would encourage displaced persons to return to their homes. Nonetheless, that goal was far from being achieved, as the number of returns was still very small. There were many reasons for that situation, and not all of them could be laid at the door of the international community. Four elements needed to be in place to allow displaced persons to return: personal safety, settlement of property disputes, implementation of the conditions needed for sustainable settlement, and the obtaining of funds needed for those purposes.

17. On the issue of safety, the situation had definitely improved, despite a number of recent incidents. There were two points, however, on which it would be interesting to have additional information. The first related to the fact that the progressive wave of returns that had begun in 2003 had been halted by the events of March 2004. The inability of KFOR and the Kosovo Police Service to control the upsurge of violence had discouraged people from returning. It would therefore be useful to know whether clear provisions had been made to guarantee effective protection of individuals in the event of new violence. The second point concerned the impunity that the perpetrators of the violence of March 2004 continued to enjoy. One could not hope to establish a climate of trust and security in such conditions. Further details on the measures that had been taken or would be taken to prosecute the guilty parties, would be desirable.

18. On the question of property, it appeared that property repossession was a rare event, particularly because large numbers of displaced people had not yet returned

home. The administration of those properties by the Kosovo Housing and Property Directorate and the Kosovo Property Office, which had succeeded it, was an excellent transitory arrangement; but the problem that arose when displaced persons returned would not be resolved in that way. Did the interim authorities have an effective property restoration procedure that would be applied when the moment arrived? If not, they certainly should have. As most of the properties under its administration were occupied by people other than their owners, often illegally, why were those people not paying a rent?

19. With regard to sustainable settlement of displaced persons after their return, Mr. Kälin acknowledged that economic difficulties could be an obstacle, but he viewed the hostile attitude of the dominant communities as a key factor. Although it was not always easy to characterize, that hostility was nonetheless strongly resented by the people it targeted. What measures had been taken to overcome those obstacles and enable displaced persons who had returned home, to feel welcome?

20. Ms. PALM wanted to comment on the subject of the right to due process and freedom of opinion and expression. She had been pleased to hear from the delegation that a high priority had been given to the independence of the judiciary; but she also noted that no independent body had been set up to oversee the actions of judges and international prosecutors, although there was internal oversight pursuant to the arrangements applicable to UN personnel. According to Amnesty International, the Ombudsperson institution had often raised concerns that international judges and prosecutors had not been made accountable to any oversight body, and nothing had been done to remedy that situation. UNMIK Regulation No. 2005/52 provided that the Kosovo Judiciary Council, which it created, could appoint local judicial authorities, issue rules applicable to them in the exercise of their functions, and, where necessary, take disciplinary action against them; but it did not have the power to take such steps in relation to international judges or prosecutors. The idea that the actions of international legal officials could be reviewed by a body comprising members of the local judiciary had some detractors, particularly among the international prosecutors and judges themselves. Nonetheless, UNMIK representatives had recently come out in favour. Up-to-date information on the Council's work would be welcome.

21. Ms. Palm noted that although the delegation had not said whether there was a well-defined mandate for judges, it was essential for their independence that their term of office was of a reasonable length. Nonetheless, the Committee understood that the contracts of international judges and prosecutors lasted six months, with the possibility of renewal, and they were subject to approval by the Department of Justice or the Special Representative of the Secretary-General. Such arrangements contravened all existing recommendations on the independence of judges. The lack of independence of the local judiciary was also worrying. The remuneration of judges was a key issue there, for low pay made them vulnerable and increased the risk of corruption. It was encouraging to hear that the issue was an UNMIK priority. The independence of the judiciary also depended on the judges' skills; and it would seem that much remained to be done in that domain in Kosovo. Not only were there too few judges, but those who were currently serving did not have the necessary abilities. The programmes mentioned by the delegation were clearly insufficient to resolve the problem, and it was necessary to know whether other specific steps were being taken to make the judiciary more effective.

22. With regard to steps taken to guarantee access to the courts for persons belonging to minorities, Ms. Palm had noted that the existence of parallel Serbian courts in Kosovo had had a negative effect on equal access to courts, but no mention had been made of steps taken to improve the human rights situation of minorities. Moreover, it would seem that the problem of access to justice was not specific to the northern region of Kosovo. It was unacceptable that a certain category of persons could not enjoy the guarantees proclaimed in the Covenant. Had an in-depth study been made to determine the effects of parallel courts on the exercise of individual rights proclaimed in the Covenant?

23. The delegation had denied the report that the UNMIK Department of Justice had instructed courts not to process compensation claims filed by persons belonging to minorities, and had said that on the contrary, courts had been encouraged to do so. The matter called for more detailed information.

24. In relation to question No. 23, Ms. Palm said that despite important steps taken by UNMIK to speed up court proceedings, the case backlog continued to grow, and proceedings were subject to excessive delays, particularly in the application of interim measures. In June 2006, OSCE had made recommendations on the application of interim measures in the framework of civil cases. Details on how UNMIK planned to follow up those recommendations would be welcome.

25. Mr. WIERUSZEWSKI agreed with the Mr. Kälin's view on the factors hindering the implementation of human rights in Kosovo. Even with the best laws in the world, lack of political will to implement them led directly to failure. The replies given by the delegation did not explain what justified such slowness in implementing human rights protection. For example, discrimination based on ethnicity or political conviction persisted, and mere statements of intent would clearly not suffice to remedy the situation.

26. The UNMIK delegation's replies on the implementation of article 26 of the Covenant were also somewhat disappointing, because it was known that the judges on the Supreme Court did not yet have any minority representative. In 2002, however, UNMIK had decided to establish proportional representation of minorities throughout the civil service, and had expressed the view that a failure to attain the minimum threshold ought to raise concerns about discrimination, and that each such scenario suggested the need for intervention. As the evidence showed that the objectives set had not been achieved, it would be interesting to know what type of intervention was being planned. In the core document (CCPR/C/UNK/1), UNMIK had recognized that neither the methodology for establishing proportional community representation nor the affirmative action proposals had been implemented thus far, and that the recruitment of minorities had "too often been seen as a question of filling a quota than providing meaningful participation", particularly at senior level management positions.

27. With regard to the implementation of article 27 of the Covenant, the European Roma Rights Centre had stated in a report that, while it welcomed the adoption of anti-discrimination legislation in September 2004, the implementation of that legislation remained unsatisfactory. There again, UNMIK had a legislative tool that was entirely appropriate but had not produced the expected results. Moreover, Mr. Wieruszewski was astonished that the adoption of measures to end discrimination against minorities clearly depended on a strategy to implement the recommendations of the European Council's Framework Convention for the

Protection of National Minorities. Lastly, he welcomed the dissemination of information on the Covenant by UNMIK, but noted that the Committee had not received information from human rights NGOs working in Kosovo, as had usually happened.

28. Ms. WEDGWOOD said that she had the impression that everything in Kosovo was to largely in suspense, pending the definition of a final status for the territory. Nonetheless, that status could clearly differ according to whether human rights were effectively protected or not. That was why the protection of minority rights in Kosovo was so important. She agreed with the view expressed by Mr. Kälin on returns, and noted that the problem of dereliction of duty by the United Nations peacekeeping forces was neither new nor specific to Kosovo.

29. Ms. Wedgwood wanted to know whether school programmes included the two main languages, Albanian and Serbian, and whether they had been revised to take account of the cultural heritage of the two Albanian and Serbian communities. She also wanted to know whether the public pronouncements of persons in positions of responsibility in the provisional institutions were published in the two Albanian and Serbian languages, which would enable the authorities to show the population that cohabitation was possible. On the judiciary front, the Council of Europe had found that in the courts, people often had to sign documents in a language that they did not understand, which was unacceptable.

30. Mr. CASTILLERO HOYOS stated that the implementation of article 12 of the Covenant had improved, and that UNMIK was gradually winding down its escort services. Nonetheless, recent information suggested that the inhabitants of certain small enclave settlements could only leave their village twice a week to go to neighbourhood markets and, in some cases, the KFOR bus that transported village residents only came once a week. That situation had knock-on effects in terms of access to health services, employment, etc.; and UNMIK also recognized that restrictions on movement were one of the main barriers to access to education for minority groups. Another area in which failure to respect article 12 posed a problem was property rights. Given the situations described, it would be interesting to know whether UNMIK considered that it had done everything in its power to guarantee the protection of the rights envisaged article 12 and, if not, what it intended to do.

31. Mr. Castillero Hoyos had taken note of the statistical tables in the written replies showing the representation of minority groups in the judiciary. The statistics contained a breakdown by minority but, aside from the fact that one might question whether Muslims constituted an ethnic group, several minorities (Roma, Egyptian, Croat, Bosnian, etc.) did not appear there. That seemed to corroborate information from Amnesty International that some minorities, including the Roma, Ashkali, Egyptian and others, could not yet exercise their right to participate in the conduct of public affairs. Mr. Castillero Hoyos asked the delegation what steps had been taken to ensure minority participation at all levels of the process of dialogue to determine the future status of Kosovo.

The meeting was suspended at 4.20 p.m. and resumed at 4.40 p.m.

32. The CHAIRPERSON invited the UNMIK delegation to reply to the questions that had been put orally by Committee members.

33. Mr. BORG-OLIVIER (UNMIK) said that the results achieved in terms of the number of displaced persons returning to Kosovo were still undeniably very poor.

There were many reasons for that, particularly insecurity, although the situation had improved most recently. Having said that, UNMIK and the provisional institutions had made great efforts to ensure that the violations of the right to security that had been committed during the riots in March 2004 could not happen again. Among other measures, they had taken steps to ensure that security forces maintained a higher profile in the areas where minority communities were living; and the protection of cultural heritage and places of worship had also been strengthened. Thanks to the creation of the Housing and Property Directorate, some housing disputes had been settled, but disrespect for property rights remained a worrying issue that required urgent measures, because it reduced the prospects of return for displaced persons and undermined the economic development of Kosovo in general. That was why the authorities had set up the Kosovo Property Office, with broader powers, to replace the Housing and Property Directorate. In that endeavour, UNMIK had worked closely with the provisional institutions, considering that it was important to engage the administration's senior figures in the task. That said, it was true that private individuals had been prevented from exercising their property rights and several others had profited from the situation in Kosovo to occupy and use land illegally. The authorities had taken steps to remedy the situation, specifically by setting up a compensation procedure for injured parties, and some progress had also been made on that.

34. On steps taken to ensure the sustainable return of displaced persons, Mr. Borg-Olivier highlighted the involvement of the provisional institutions, which had allocated budgetary funding for that purpose since the March 2004 riots. In general, UNMIK was encouraging returns and called for reconciliation between the various communities living in Kosovo. Protocols had also been signed with the authorities of the Serbian Republic, which ought to result in joint actions.

35. With regard to the judicial system, Mr. Borg-Olivier stressed that the legal system set up in Kosovo by UNMIK posed special problems, since UNMIK was simultaneously a United Nations agency and a provisional administration. It was thus hard to see how international judges, appointed by the United Nations, and accountable to it, could be overseen by the Judiciary Council in Kosovo. There were nonetheless many procedures for evaluating their professional behaviour and following up any complaints. If, like other members of UNMIK staff, international judges had short-term contracts (which was apparently contrary to the principle of tenure for judges), it was the result of budgetary constraints; but, in practice, contractual continuity was guaranteed. On the matter of judges' salaries, another guarantee of their independence, the problem was not easy to resolve, given the wide disparities that existed in that domain in the region. It was also necessary to bear in mind that the European Union was about to fund a major project to make it possible only to hire judges with the necessary qualifications, and to help strengthen the competency and independence of the courts. On the issue of parallel courts, Mr. Borg-Olivier said, in addition to the replies already given, that the Commission would need to find a solution during discussions on the future status of Kosovo, and that the decentralization proposed would need to overcome the problem of local community needs in the judicial domain. The congestion of the courts would be taken into account in the permanent reform process; and a new law was currently being drafted with a view to organizing them better. Nonetheless, quick results — interim measures for example — could not be expected, even if desirable. Apart from the funding problem, the limitations of existing capacities was a major

constraint. Mr. Borg-Olivier would inform the Ministry of Justice of the concerns raised by Committee members, which echoed the OSCE recommendations.

36. Replying to Mr. Wieruszewski and Ms. Wedgwood, Mr. Borg-Olivier stressed that UNMIK had already done a tremendous amount to implement a legal framework in Kosovo. The results were not all that had been expected because the existing instruments had to be completed by secondary legislation and supported by qualified staff. In no way could it be said that everything was in suspense pending definition of the future status of the territory. There had been many achievements: free and fair elections, municipal administrations in place, democratic and active institutions, all in an environment that was originally very hostile. Thanks to the major efforts made by the international community, the foundations had been laid for the territory's future status. While it was true that the benefit of those efforts was not yet shared equally by everyone, in particular the minority communities, it was nonetheless a better Kosovo that would emerge one day, respectful of European and international standards.

37. Referring to the rights of minority communities, Mr. Borg-Olivier recalled that the constitutional framework envisaged all recognized communities in Kosovo being represented, particularly in Parliament. Communities that exercised their rights could benefit greatly from that. Furthermore, all communities were consulted — in different ways depending on their numerical size — and their views were taken into account in all political processes, including those to define the future status of Kosovo.

38. Mr. GASHI (UNMIK), stressed that his presence in the delegation was evidence of the willingness of the Provisional Institutions of Self Government to submit to a review by bodies such as the Committee, and that political leaders in Kosovo wanted to integrate the different communities. On the linguistic front, Albanian Kosovo leaders often expressed themselves in Serbian; the Prime Minister had also read out a statement in Serbian to the Kosovo Assembly. Local leaders now needed to make a similar effort to promote linguistic pluralism, although that goal that had been made more difficult by the fact that Serbs were boycotting Kosovo institutions. It was too early to make a judgment on the results achieved; it was better to wait for the Provisional Institutions of Self Government to take over sole responsibility for managing the affairs of the territory before pronouncing on how they were ensuring the application of Covenant rules.

39. The CHAIRPERSON noted that it was not for the Committee to express an opinion on the future status of Kosovo; but it did have a duty to ensure that all inhabitants of the territory enjoyed the rights guaranteed by the Covenant. Among the positive aspects, she said that UNMIK had set up new structures and achieved many things. Nonetheless, Committee members had noted a mismatch between the abundance and quality of existing regulations and the reality in terms of guaranteeing people's rights on the ground.

40. In its final comments, the Committee would doubtless return to several of the points dealt with at length in the discussion: discrimination against women, which was explained by an ancient culture of male domination; the reason why the Ombudsperson institution had been replaced by the Human Rights Advisory Group; the independence of international judges and incomplete separation of the different powers; impunity, particularly with regard to the events of March 2004; the slow return of refugees and displaced persons; the obligation, in the case of arrest, to

inform the detainee of the reasons for the detention and bring him/her before a judge as soon as possible (art. 9); the conditions of detention (art. 10); the question of displaced persons, for which the delegation had promised a response within the deadline set by the Committee's rules; the human rights situation in the north of Kosovo; the boycotting of institutions by the Serb community and the measures that UNMIK could take to help it shed that attitude.

41. The Chairperson thanked the UNMIK delegation for its report and for the supplementary explanations given to the Committee. She also thanked the delegation for having assisted the Committee in its work.

42. Mr. BORG-OLIVIER (UNMIK) thanked the Committee for the attention it had paid to the human rights situation in Kosovo and to UNMIK activity, and also thanked the Serb delegation for its preliminary statement.

43. *The UNMIK delegation and the Serbian delegation both withdrew.*

The public part of the meeting rose at 5.10 p.m.