

European migration policies discriminate against Roma people

[22/02/10] **European governments are not giving Roma migrants the same treatment as others who are in similar need of protection. Roma migrants are returned by force to places where they are at risk of human rights violations.**

In Germany, Austria and “the former Yugoslav Republic of Macedonia”, large numbers of Roma migrants have been given tolerated status, essentially a form of temporary protection against expulsion. It does not confer residence or social rights. An example of this is the German *duldung* status.

There are credible allegations that Roma from outside the EU are more likely to be provided with “*duldung*” status rather than a more durable status, compared with non-Roma third country nationals.

These aspects were examined in a study (“Recent Migration of Roma in Europe”) published jointly by me and Knut Vollebeck, the OSCE High Commissioner on National Minorities in April 2009.

The study provides an analysis of the existing human rights standards on migration in Europe and highlights discriminatory practices that Roma migrants still face. It concludes with a set of recommendations for action by member states in order to enhance effective protection of the human rights of Roma migrants in Europe.

I have had to deal with this issue with respect to the forced returns of Roma, Askhali and Egyptians to Kosovo¹. After a visit there in March 2009 I published a report which concluded that Kosovo does not have the infrastructure that would allow a sustainable reintegration of the returnees. This went all the more for the Roma.

Another visit there in mid-February convinced me that this continues to be the case. In Kosovo itself there are still about 20.000 internally displaced persons since 1999 who have not been able to return to their original habitats since 1999. The unemployment rate in Kosovo is about fifty per cent and there is just not sufficient capacity now to give a further number of returnees humane living conditions.

The reintegration strategy endorsed by the authorities in Pristina is not being implemented, the responsible actors at the municipal level are not aware of their responsibilities and there is not even a budget allocated for the strategy.

Of particular concern is the fact that some Roma who have been forcibly returned have ended up in the lead-contaminated camps of Česmin Lug and Osterode in northern Mitrovica, inhabited for a decade now by Roma families, including children, with deeply serious effects on their health².

Though there are now, at long last, plans to move the camp inhabitants to a less hazardous environment, the Roma and Askhali families living there are in desperate need of prompt rescue and intensive health care. They should not have to wait any longer³.

The offer to them must also respond to their fear for their own safety – they have not forgotten the events of 1999 when they were chased away – and to their concern about schooling for their children in a language they understand. Also, there should be a possibility to find jobs. This should be the priority, also for the international community which has part of the responsibility for the present crisis.

The relationship between the Kosovo authorities and the European governments is not one between equal partners, it is in fact widely asymmetric. When the reception of returnees is made a condition for talks about visa liberalisation or opening for other privileges, the authorities in Pristina have to give in and the fate of the refugees becomes secondary.

This raises questions about the readmission agreements now requested by European governments. My conclusion has been that for the moment only *voluntary* returns – genuinely voluntary – should be pursued.

During 2009 more than 2 600 forcible returns took place. Of these, 429 related to Roma and Ashkali. The majority of them came from Germany, Sweden, Austria and Switzerland. Preparations are being made to increase the rate of returns.

Individual assessments of the protection needs should of course also be applied also in these cases. However, such testing must consider the particularly vulnerable situation of Roma-Ashkali in Kosovo today.

In general, European governments seem not to accept that Roma could have protection needs. In the European Union the policy is that all EU member states shall be considered “safe countries of origin” in respect of each other in asylum matters. Consequently, a citizen of one EU member state may not be granted international protection in another EU member state.

It may be sobering to learn that whereas Roma from Hungary have been refused asylum in France, for instance, Roma individuals from the same country – and from the Czech Republic - have sought and been granted asylum in Canada.

The agreed Directives within the EU do not support Roma rights in reality. In practice, the ‘Free Movement Directive’ impacts differently on Roma than on other EU citizens. It provides that every EU citizen has the right to reside in any EU member State for a period of three months without any other requirement than a valid passport. For longer periods of stay, however, the person concerned must prove that s/he is not a burden to the host State, through either employment or adequate financial resources. A majority of Roma cannot fulfill this requirement.

Also, the protective provisions of the "Free Movement Directive" are breached much more easily in respect of Roma than any other identifiable group. Expulsions of Roma have been carried out in contravention of EU law. In other cases destruction of Roma dwellings has been used as a method to persuade Roma to leave “voluntarily”.

Discrimination of Roma in migration policies has met with little or no opposition in almost every country. This may not be surprising in view of the lingering anti-Gypsyism in large parts of Europe.

However, it is high time to review the approach.

To push Roma families between countries, as now happens, is inhumane. It victimizes children – many of whom were born and grown up in the host countries before they were deported.

The return policy is also ineffective. Of those forcibly returned to Kosovo no less than 70-75 per cent could not reintegrate there and moved to secondary replacement or went back to the deporting countries through illegal channels.

Expulsions between EU countries have also failed in a great number of cases as the Roma have used their right as EU citizens to move within the European Union area.

States now spending considerable amounts to return Roma to their countries of origin, would make better use of this money by investing in measures to facilitate these persons’ social inclusion in their own societies.

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1. All reference here to Kosovo should be understood to be in compliance with UNSC resolution 1244 and without prejudice to the status of Kosovo. ([back](#))
2. In 2009 alone no less than 18 returned families ended up in these camps according to credible information provided to me in Kosovo. ([back](#))
3. Apart from the Roma there are also two other minorities living under very similar conditions in Kosovo, the Ashkali and the Egyptians. ([back](#))