



Strasbourg, 1 July 2009

MG-S-ROM (2009)3

Updated Opinion of MG-S-ROM on
the Return of Roma to Kosovo¹ and South Eastern Europe

Adopted by the MG-S-ROM at its 27th meeting in Seville, Spain
on 26-27 March 2009

Adopted by the CDMG at its 57th meeting in Strasbourg
on 28-29 May 2009

The Committee of Ministers' Deputies took note of this updated Opinion
on their 1062nd meeting on the 1st July 2009

The Committee of Experts on Roma and Travellers (MG-S-ROM),

Recalling its Opinion on Parliamentary Assembly Recommendation 1633 (2003) on Forced returns of Roma from the former Federal Republic of Yugoslavia, including Kosovo, to Serbia and Montenegro from Council of Europe member states dated 6 April 2004; and its Opinion on Parliamentary Assembly Recommendation 1708 (2005) on the current situation in Kosovo and the reply of the Council of Europe Coordinator for activities concerning Roma to the same PACE Recommendation, both dated July 2005;

Bearing in mind UNHCR's position on the Continued International Protection Needs of individuals from Kosovo from June 2006, which states that "*Roma and Serbs are in need of international protection and their return to Kosovo should be limited to return on voluntary basis*";

Bearing in mind, the Council of Europe Commissioner for Human Rights' appeal to governments in Europe to avoid forced returns to Kosovo and to grant people coming from Kosovo, at the very least, a permission to stay in the country until conditions in Kosovo permit their safe return, as well as the Commissioner's statement following his visit to Kosovo in March 2009: "*Such deportations should still be avoided and I do not think it is appropriate to put pressure on local authorities to accept such forced returns in the present situation*" ;

¹ All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

Having regard to Readmission Agreements signed between the European Union and a number of governments in South Eastern Europe, as well as taking note of the European Roma and Travellers Forum's call in October 2007 for a moratorium of at least two years regarding the implementation of those parts of readmission agreements concerning the return;

Recalling the Conclusions of the Regional Conference on Durable Solutions for Roma Refugees, IDPs and Returnees in South Eastern Europe organised by the Council of Europe, in particular its Parliamentary Assembly, and Serbian authorities, in the Parliament of Serbia, Belgrade, on 29-30 October 2007, which stated *inter alia* that “*in order to guarantee durable solutions, the return of all refugees and IDPs, including Roma refugees and IDPs, should be voluntary and conducted in safety and dignity without any fear of harassment, discrimination, arbitrary detention and physical and material threat*”;

Bearing in mind the Conclusions of the International Round Tables on challenges and prospects of sustainable integration of Kosovo Roma, Ashkali and Egyptians in host countries and in Kosovo itself organised in Vienna in October 2008 and in Pristina in February 2009 by the Project on Ethnic Relations (PER) with the support of the OSCE Office for Democratic Institutions and Human Rights, which state *inter alia* that “*policies of forced return by the host countries are ineffective and unsustainable as many of those returned by force leave the country shortly after their return*”;

Nothing the fact that many Kosovo Roma have spent already more than ten years in host countries and started a new life there, and that their children have integrated in schools in host countries and may have lost ties with and the language of the area of origin of their parents and taking note of the good practice of some member states, such as Germany and Switzerland, in providing residence permits in certain circumstances determined on a case by case basis according to national asylum and migration laws of the host countries;

Bearing in mind that returnees may be considered as “foreigners”, and thus be subjected to discrimination;

Considering the fact that some Roma from South Eastern Europe are, *de facto*, stateless and could be thus prevented from accessing the same rights as other citizens in their country of origin if they do not acquire the nationality of this state;

Bearing in mind the obligation of relevant authorities under the United Nations Security Council Resolution 1244 to enforce the principles of pluralism and respect for human rights and freedoms and the rule of law and their duty to promote and facilitate a safe and dignified return of refugees and internally displaced persons;

Having in mind the “Readmission Policy” paper of UNMIK dated 1st January 2008 as a uniform procedure for the carrying out of forced returns to Kosovo that is geared to origin from Kosovo and not to ethnicity;

Considering the DECISION No 575/2007/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of establishing the European Return Fund for the period

2008 to 2013 as part of the General Programme “Solidarity Management of Migration Flows”;

Recalling that within the framework of the readmission process, all relevant integration programmes should be financed;

While acknowledging some improvements in Kosovo and in South Eastern Europe with regard to Roma communities, the MG-S-ROM is of the opinion that:

- Following the fundamental rights of every person and following the concurring opinion *inter alia* in the EU member-states that a multi-ethnic Kosovo has to be preserved, refugees and IDPS, including Roma, originating from Kosovo must be given the real possibility to return there;
- Given the still fragile security situation in Kosovo, any claims for asylum by Kosovo Roma should be carefully considered by national authorities on an individual basis in accordance with international law and national laws. All asylum seekers should have access to a fair and efficient asylum procedure, including a right of appeal for applicants who have been refused asylum;
- Member States should not create a secondary displacement by sending Kosovo Roma to other parts of South Eastern Europe, particularly given the limited resources presently available for successful integration of new returnees. New returns to this region would jeopardize the current authorities’ efforts to integrate the domestic Roma population and Kosovo Roma asylum seekers and refugees already present on their territory;
- Governments in South Eastern Europe should speed up the process of implementation of national programmes, strategies and action plans aimed at better integrating their Roma communities, including refugees, returnees and displaced persons. They should allocate budgetary resources for the establishment of institutional frameworks and adequate mechanisms required for tackling the problems of Roma refugees, displaced persons and returnees, as well as strengthening the administrative and institutional capacities at national and local level;
- The process of return of persons on the basis of readmission agreements should be conducted with transparency, including provision of information on conditions of return, and in compliance with international human rights standards;
- The authorities of Member States and organisations involved in the return of Roma to Kosovo should take all appropriate measures to ensure that returns are conducted primarily on a voluntary basis, in an orderly, gradual and dignified manner, and in co-operation with the relevant authorities under the United Nations Security Council Resolution 1244.