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Schleswig-Holsteinischer Landtag
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Dear Thomas Wagner,

Please find attached a statement from the European Roma Rights Centre related to the return of Roma, Ashkali and Egyptians to Kosovo. This statement has been prepared in response to your request sent 10 June 2010, related to Motion of the Bündnis 90/DIE Grünen, SPD, DIE LINKE and SSW Drucksache 17/520: Intermitting the deportations to Kosovo – Roma and Ashkali shall not be deported into unacceptable circumstances (Antrag der Fraktionen von BÜNDNIS 90/DIE GRÜNEN, SPD, DIE LINKE und SSW: Abschiebungen in das Kosovo aussetzen – Roma und Ashkali dürfen nicht in eine unzumutbare Situation abgeschoben werden!)

Respectfully,



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14 September 2010

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ERRC statement on Roma, Ashkali and Egyptians from Kosovo

The European Roma Rights Centre (ERRC) is a public interest law organisation which combats anti-Roma racism and discrimination in Europe. Based on a request of 10 June 2010, the ERRC hereby submits written comments summarising critical issues for Roma, Ashkali and Egyptians from Kosovo. The following information is largely based on field research and interviews conducted in May 2010. It provides an outline of the major issues facing Roma, Ashkali and Egyptians living in Kosovo as well as the issues arising in the return process, particularly from Germany.

1. The Process of Returns

Many Roma, Ashkali and Egyptians from Kosovo are living in Western European countries or are displaced in other Balkan countries. The status of individuals from these communities varies; many are not formally recognised as refugees, making them vulnerable to forced returns. Germany, in particular, recently signed a new readmission agreement with Kosovo and has announced their intention to return a large number of Kosovars who sought asylum in Germany over the next few years, the majority of whom are Roma, Ashkali and Egyptians.

In Germany, since applying and being rejected for asylum, many Roma, Ashkali and Egyptians have been living with Duldung “tolerated persons” status for up to 20 years. This status has been criticised by the Council of Europe’s Commissioner for Human Rights, who indicated that Roma, Ashkali and Egyptians are more likely to be rejected for asylum and receive this status, eventually resulting in their return to situations where they are extremely vulnerable to human rights violations.¹

Interviews with Roma, Ashkali and Egyptians returned to Kosovo indicate that the processes associated with the Duldung status vary from region to region in Germany. However, in all cases it was apparent that individuals living in Germany with this status were without security or stability. Frequently, they had been denied permission to work and thus survived on social assistance. In cases in which Roma, Ashkali and Egyptians with Duldung status were granted permission to work, it was only for a limited time and employers were reportedly extremely reluctant to accept an employee in such a precarious situation.

Roma, Ashkali and Egyptians respondents stated that at the time they renewed their Duldung status (usually every 3 or 6 months), officials repeatedly asked when they planned to return to Kosovo and many report being threatened by state officials with police deportation procedures. Numerous interviewees reported that this questioning and at times, threatening, escalated each time they reapplied for renewal of their Duldung status.

As a result, despite finding a safe and welcoming place in German society during their stay, many Roma, Ashkali and Egyptians in Germany live a life full of stress and anxiety. After years of fear of return and unemployment, they are not equipped for the transition back to a state with limited resources, inadequate return assistance, few employment opportunities and badly functioning services.

Both before and after return, many Roma, Ashkali and Egyptians reported making extremely high payments to German lawyers to file claims to stay or return to Germany, despite the fact that they could not afford such payments because they were often legally excluded from employment by their Duldung status. Many were unaware of the possibility of accessing legal aid.

¹ Council of Europe, Commissioner for Human Rights, “European migration policies discriminate against Roma people”, *Viewpoint*, 22 February 2010, available at: http://www.coe.int/t/commissioner/Viewpoints/100222_en.asp

The ERRC was informed that the German government periodically sends a list of potential returnees to the authorities in Kosovo, asking if these individuals can be safely returned. Civil society actors in Kosovo expressed concern that the requests may not reach the appropriate municipality for assessment in all cases and that the authorities promptly agree to all return requests in order to seem competent and cooperative, allegedly due to pressure to appear ready for EU integration. However, some believe individual conditions or circumstances of return are not checked with respect to safety, property or the capacity of the area. As a result, many families have reportedly been returned regardless of security or other conditions: most do not have any employment or housing to return to.

Numerous Roma, Ashkali and Egyptians returned to Kosovo stated that during the deportation process, German police often come in the middle of the night giving the family only one hour to pack and not letting them use cell phones or prepare anything before taking them directly to the airport.

Some returnees reported having been informed by German authorities that they cannot return to Germany for a certain number of years. Some are also told that if they try to return to Germany after this time period, they will have to pay the cost of deportation/detention (in one case this was reported to be 15,000 EUR for a family of 5).²

Some returned families are separated during the return process. During interviews in May 2010, the ERRC encountered returned Roma, Ashkali and Egyptians who had been separated from their spouses and their children.

2. The situation of Returnees in Kosovo

Upon return, most Roma, Ashkali and Egyptians encountered by the ERRC did not have anything to go back to in terms of housing or employment.

The majority of Roma, Ashkali and Egyptian returnees interviewed by the ERRC did not receive any re-integration support upon return. The only exception was that offered through Project URA, which only applies to returnees from 3 German regions (Baden-Württemberg, Niedersachsen and Nordrhein-Westfalen) and only for a limited time. At the time of research, Project URA was only able to offer limited support for six months, including subsidising rent and a part of salary (if the individual can find a job or housing, both of which are extremely scarce). After six months, there is no further support available to returnees regardless of their status or level of integration.

Lack of Access to Employment

The employment market in Kosovo is extremely under-developed and there is a general lack of employment opportunities for people to return to. According to the Kosovo Ombudsman Institution, the unemployment rate is 98% among the Roma, Ashkali and Egyptian communities in Kosovo.³ None of the returnees met during ERRC research were able to access formal employment.

Some public sector and private sector jobs in Kosovo are set aside for members of minority communities. However, community leaders report that these jobs are often filled by members of the majority who claim to be Romani, Ashkali or Egyptian.

The ERRC received reports of jobs requiring a disproportionately high level of education for the level of skill or knowledge required, which may result in discrimination against Roma, Ashkali and Egyptians (for police jobs and also municipal sanitation).

Jobs previously held by Roma, Ashkali and Egyptians in industry are gone due to privatisation which has often resulted in closure or downsizing. New owners are also reported to be unwilling to hire outside their ethnic group. As a Romani activist explained: "Employment in Kosovo is similar to any transitional state; the majority gets the jobs, hires their own people. The members of the Romani community who had jobs in public institutions were fired after the war and they put in Albanians."⁴

² Interview with Dr Dirk Auer, journalist. Pristina, Kosovo: 18 May 2010.

³ Republic of Kosovo, Ombudsperson Institution, *Eighth Annual Report 2007-2008*, 21 July 2008, available at: <http://www.ombudspersonkosovo.org/?id=2,e,74,2008>.

⁴ Interview with a Romani activist. Prizren, Kosovo: 22 May 2010.

Social assistance is generally very low in Kosovo, amounting to only 60 EUR/month. This makes it extremely difficult to support a family for people who are unemployed, as is the case of most returned Roma, Ashkali and Egyptians.

As a result, many Roma, Ashkali and Egyptians in Kosovo rely on remittances from their relatives living abroad for survival:

They [my family] send remittances to support us here. [...] Many here are supported by family members working abroad. [...] If they are not abroad, we cannot survive. My son is collecting metals and he comes at the end of the day with 2 or 3 EUR. He should have work to go to everyday. If we didn't have family we would die. Even if they only send 100 EUR.⁵

According to a 2009 study from the Kosovo Foundation for Open Society, remittances from abroad are a significant source of income for many families. More than half those persons who receive support from relatives abroad said their families are totally dependent or highly dependent on such assistance, around 35% said their families are slightly dependent, whereas only 10% said they are not even slightly dependent on assistance from Western countries.⁶ UNDP research in 2004 concluded that among Roma, Ashkali and Egyptians, remittances, help from relatives/friends and alimonies constitute 20.86% of the total income which represents the highest rate among all ethnic communities in Kosovo.⁷ These figures may indicate that reliance on remittances is in fact growing at a time when Western countries like Germany are working to return these people.

Substandard Housing Conditions

Many returnees interviewed by the ERRC live in extremely substandard housing situations; there appeared to be little difference between Roma, Ashkali and Egyptians returned very recently and those returned several years ago. This is often because their pre-war housing was seriously damaged or destroyed completely. Many are forced to move around continuously because they are only able to find short-term solutions.

Many Roma, Ashkali and Egyptians cannot access rebuilding programmes. Reconstruction programmes were made available shortly after the conflict in 1999 and many Albanian returnees who came back quickly were able to access them. However, due to ongoing instability and violence against minorities, Roma, Ashkali and Egyptians tended to return much later. Furthermore, even during the initial stages of reconstruction, Roma, Ashkali and Egyptians were treated differently than Albanians. According to the UNHCR and OSCE in 2003:

Not only were Kosovo RAE [Roma, Ashkali and Egyptian] property right holders denied construction permits to build on their land, but Kosovo Albanian property right holders were granted construction permits in the same area and illegal construction by the majority community, known to the municipality, continued unregulated. The Kosovo RAE [Roma, Ashkali and Egyptian] property right holders were denied construction permits by the municipality based on the zoning of the area, while the majority community applicants were granted construction permits within the same zoning. The municipality, based on the zoning designation, refused to consider appeals to its decision. Subsequently, based on a September 2000 Municipal Council decision changing the zoning designation, the municipality, through the UN Municipal Administrator, promised remedial action. To date [December 2002], however, over 100-inventoried illegal constructions remain unregulated. As this case illustrates, the continued ineffectiveness of administrative remedies negatively affects the ability of minority communities to access their property rights and thus exercise their right to return.⁸

⁵ Interview with an Ashkali man. Lipjan, Kosovo: 24 May 2010.

⁶ Kosovo Foundation for Open Society, Baseline Survey, The Position of Roma, Ashkali and Egyptian Communities in Kosovo (Survey was conducted by COMPASS Research & Consulting Company), Pristina 2009

⁷ UNDP, Human Development Report Kosovo 2004. Pristina 2004

⁸ UNHCR, OSCE, Tenth Assessment of the Situation of Ethnic Minorities in Kosovo (Period covering May 2002 to December 2002) March 2003

Thus, Roma, Ashkali and Egyptians now find that the support programmes either expired before their return or now require property ownership documents, which many Roma, Ashkali and Egyptians cannot produce because they were destroyed or they lived in informal settlements.

Roma, Ashkali and Egyptians who have been able to reclaim their property have returned to large outstanding utility debts incurred by occupiers, which they are expected to pay. In some cases, owners have been handed bills for over 3,000 EUR, which they simply can not afford.⁹

Many returnees report that UNHCR or the receiving municipality told them that electricity/water costs would be covered upon their return but no such assistance was actually made available upon return.

Barriers to Education in Kosovo for Returnee Children

Reportedly, the majority of returned Romani, Ashkali and Egyptian children are not in school. According to a recent UNICEF report, only one quarter of returnee children from these communities attend school when they return to Kosovo.¹⁰ During ERRC field research in 2010, none of the children of the families who had returned from Germany attended school. One Romani respondent indicated that he could not send his children to school for fear they would be hurt.¹¹

Many Romani, Ashkali and Egyptian children born abroad, or living the greater part of their life abroad, do not speak Albanian or Serbian. They were extremely well integrated in Germany, attending school, participating in activities and surrounded by German friends. The return is a serious impediment to their education as there are no language support programmes in Kosovo for returnees from Germany.

Returned Romani, Ashkali and Egyptian children who are not able to enter school (in Albanian) at the grade level of others in their age group are only permitted to enrol in remedial catch up school for a few years and are not allowed to enrol in mainstream schools at a lower grade than their age.

Violence against Romani, Ashkali and Egyptian children is reported in primary and secondary school, mostly by other children. Community leaders indicate that ethnic Albanian children beat up Romani, Ashkali and Egyptian children while travelling to and from school (sometimes because they are travelling significant distances and/or going to the Serbian school).

Discrimination in Access to Health Care

Albanian or Serbian clinics or hospitals are segregated and are accessed by Roma, Ashkali and Egyptians based on language and the cost of the medicines, according to ERRC interviews. Ambulances reportedly refuse to serve Romani, Ashkali and Egyptian communities at times.¹² In other places, the Serbian healthcare facilities don't have ambulances or they won't come to Albanian/Roma, Ashkali and Egyptian areas.

UNDP has reported discrimination against the Roma, Ashkali and Egyptians in access to essential medicines which should be provided free of charge. These basic medicines are scarce and must often be paid for by those who need them. Roma, Ashkali and Egyptians reportedly are asked to pay nearly twice as often as members of the majority community (86% of the time, compared to 47% among majority respondents).¹³

Security Concerns

Many Roma, Ashkali and Egyptian returnees met by the ERRC were scared for their safety. Many did not leave their homes to try to access employment or services or send their children to school.

⁹ Interview with a Romani woman. Gjilan, Kosovo: 26 May 2010.

¹⁰ UNICEF, *Integration unter Vorbehalt: Zur Situation von Kindern kosovarischer Roma, Ashkali und Ägypter in Deutschland und nach ihrer Rückführung in den Kosovo*, 2010, available at: http://www.unicef.de/download.php?f=content_media/presse/Roma-Studie_2010/UNICEF-Studie_Roma_2010neu.pdf

¹¹ Interview with a Romani man. Pejë/Peć, Kosovo: 21 May 2010.

¹² Interview with a 24 year-old Romani man. Gjilan, Kosovo: 26 May 2010.

¹³ Movement for Peace (MDPL) and Center for Legal Aid and Regional Development (CLARD), *Project "Strategic Litigation on Anti-Discrimination and Minority Rights"*, 16 September 2009.

Although interviewees were generally reluctant to discuss it, their behaviour often indicated that Roma, Ashkali and Egyptians felt restricted in their movement. This was evidenced by the fact that many do not leave the area of their homes or neighbourhoods. ?I would think the security piece is the most important in challenging the return policy. Do we have better information on this?

Personal Document Issues

Many returnees have only their old Yugoslav documents, if any, and are forced to decide immediately upon arrival in Kosovo about whether they will apply for Kosovo or Serbian documents, without any guidance as to the repercussions of this choice. As Serbia continues not to recognise documents from Kosovo, this may have significant impact on an individual's ability to move and to access governmental institutions, services and benefits.

3. Recommendations

As a result of the problems outlined above, a large number of returnees leave Kosovo again immediately upon arrival. According to the Commissioner for Human Rights, "No less than 70-75% of those forcibly returned move to secondary displacement or go back to the deporting countries through illegal channels – after having lost their homes, jobs, years of schooling and a considerable amount of money."¹⁴

The European Roma Rights Centre therefore recommends that the German Government:

- Ensure full and individual consideration of the status of every individual under the UN Convention and Protocol Relating to the Status of Refugees¹⁵ and the European Convention on Human Rights¹⁶ before return.
- Determine the level of integration in Germany (contribution to community, involvement and contribution to society, education, commitment to language, etc.) before returning people to Kosovo. Many are extremely well integrated in Germany, if given permission to work they might access residence, as was temporarily provided for under *Gesetz zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern* in 2005. An extension and expansion of the opportunity to access residence through employment for those with Duldung status for many years would allow families to stay together and children to complete school.
- Allow for longer terms before requiring renewal of the Duldung (at minimum annual renewals);
- Allow for voluntary returns with plenty of time given and genuine support towards (re)constructing a house, getting property documents, training for employment, etc.
- Allow persons living under the Duldung status in Germany to access employment and provide employment permits on a permanent (or extended) basis. Lack of access to employment remains the primary obstacle to integration and forces people to rely on social assistance.
- Ensure that people can access legal aid in their deportation process, in accordance with German law.

¹⁴ Council of Europe, Commissioner for Human Rights, "Children victimised when families are forced to return to Kosovo", *Human Rights Comment*, 7 July 2010, available at: http://commissioner.cws.coe.int/tiki-view_blog_post.php?postId=56

¹⁵ United Nations, Convention and Protocol Relating to the Status of Refugees, available at: <http://www.unhcr.org/3b66c2aa10.html>

¹⁶ European Convention on Human Rights, available at: <http://www.echr.coe.int/ECHR/EN/Header/Basic+Texts/The+Convention+and+additional+protocols/The+European+Convention+on+Human+Rights/>