

Kosovo Rroma: The Situation after Independence

Rroma Foundation Reports
November 2008

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I. NATIONALITY

1. The New Kosovo Constitution and Citizenship Laws

The Kosovo is explicit in who has the right of citizenship in this new country. Article 155 of the constitution states that: 1. All legal residents of the Republic of Kosovo as of the date of the adoption of this Constitution have the right to citizenship of the Republic of Kosovo. 2. The Republic of Kosovo recognizes the right of all citizens of the former Federal Republic of Yugoslavia habitually residing in Kosovo on 1 January 1998 and their direct descendants to Republic of Kosovo citizenship regardless of their current residence and of any other citizenship they may hold.¹

One needs to note that many ethnic Albanians, who fled the country before the 1999 war, are de facto also excluded from Kosovo citizenship. Law 03/L-034 of the Republic of Kosovo therefore elaborates on this article 155 and grants a possibility for the Kosovo Diaspora to obtain a passport. The Article 13 of this law allows for the naturalisation of members of the Kosovo Diaspora and, in paragraph 2 states that “A member of the Republic of Kosova Diaspora shall be every person who has regular and lawful residence outside of Republic of Kosova and who can prove that he/she was born in Republic of Kosova and maintains close family and economic links in Republic of Kosova.” Paragraph 3, states that “A member of the Republic of Kosova Diaspora shall be also every person who is a descendant within one generation of a person referred to in paragraph 2 of this Article and who can prove that he/she maintains family links in Republic of Kosova.”²

This article seems to leave an open door for members of the Diaspora to return. However, in the case of ethnic minorities in Kosovo, where in most cases, entire families left the country and they obviously did not have any close family ties or economic links with Kosovo, this law effectively condones the ethnic cleansing of the region. The transitional provisions of this law (Art. 28 and 29) do not change anything to that fact.

We have asked the press spokesman of the Kosovo Republic both per phone and in writing to elaborate on these provision and laws, as well as to give more ample information on the praxis. We still have not received any answers to our enquiries.

2. Serbia and Montenegro

According to the Swiss Federal Office for Migration, (Bundesamt für Migration - BFM), refugees from Kosovo have an alternative to a return in the new Republic of Kosovo. As Serbia does not recognise this country, they can apply for a Serbian passport.

This statement from a Swiss federal body is actually condoning the ethnic cleansing of Kosovo, this even as Switzerland is one of the countries that did recognise Kosovo and was one of the first to open a new embassy. But even if Serbia doesn't recognise Kosovo, obtaining a Serbian or Montenegro passport is less than trivial in most cases.

¹ See <http://www.kushtetutakosoves.info/repository/docs/Constitution.of.the.Republic.of.Kosovo.pdf>

² See http://www.gazetazyrtare.com/e-gov/index.php?option=com_content&task=view&id=132&Itemid=56&lang=en

According to the General Consulate of the Republic of Serbia in Zurich, in order to obtain a Serbian passport, one requires official Yugoslav documents (i.e. an old passport, birth certificate or other), and a registration in the Kosovo archives currently held in various places in Kosovo. It is to be noted that in June 1999, the Serbs took the registers of several Kosovo communes to Serbia.

Many refugees from Kosovo, especially minorities do not fulfil these pre-requisites. They seldom had valid passports and official Yugoslav documents, and we have several documented cases where the persons were not registered in those archives, preventing them from ever obtaining a passport from Serbia. Montenegro follows generally the same guidelines as Serbia, and, as in the case of Serbia nowadays, is reluctant to take on more refugees from Kosovo, especially in the case of ethnic minorities with an Albanian name and of Moslem religion.

It is also to be noted that the European Roma Information Office (ERIO) in its latest newsletter from November 2008 states that “Serbian authorities failed to prevent attacks against businesses and homes owned by ethnic Albanians in the wake of Kosovo’s declaration of independence (by the majority ethnic Albanian government) in February 2008 or to bring to justice those responsible, Human Rights Watch said in a report released today. Serbia’s treatment of ethnic minorities is likely to be critically assessed in the European Commission’s annual progress report on Serbia, to be published on November 5.”³

Under such circumstances and the already tense situation, it is more than questionable whether Serbia or Montenegro would grant citizenship to members of non-Serbian ethnic minorities of Kosovo.

3. Impact on Refugees and Returns

The impact of these laws in Kosovo and the practice in Serbia and Montenegro mean that many refugees in Western Europe are now de facto stateless with no hope of ever obtaining a passport of their country of origin. It is also to be noted that in the interim period between June 1999 and the Fall of 1999, some of the local registers in Kosovo were manipulated and members of minorities deleted from the registers.⁴ We have several documented cases of people who were in possession of a birth certificate or other papers such as property deeds who are no longer present in their communes of origin. These people cannot even prove nowadays that they ever were in Kosovo!

For asylum seekers whose application have been refused and are requested to leave their host country, the effects can be devastating. The practice of some countries such as Switzerland or Germany whereby returning refugees are sent back with temporary travel documents from their host country, documents that are taken from them upon arrival in Kosovo⁵ leaves them as stateless in their own country.

This can only be considered as an undue deprivation of the most basic human rights and this practice should be stopped immediately until the Kosovo government changes those laws.

³ ERIO November 2008. <http://erionet.org/site/upload/publications/enews/e-news,%2006%20November%202008.pdf>

⁴ This was acknowledged by the UNMIK.

⁵ As per the statements of several returning refugees in the region. This is nothing new, as several countries have signed agreements for the return of refugees with Kosovo, Serbia, Bosnia, etc.

II. KOSOVO MINORITIES

1. Constitutional Provisions

The Kosovo constitution, in the article 64, paragraph 2 and article 148, paragraph 1 regulates the The allocation of seats to minorities in parliament. In effect, the constitution grants Rroma, Ashkali, Egyptians one seat each, and one additional seat for a representative of either group with the highest number of votes. In addition, it grants Serbian minority ten seats, the Bosnian community, three seats; the Turkish community, two seats; and the Gorani community, one seat if the number of seats won by each community is less than the number guaranteed.

In principle, this would seem to guarantee that the Kosovo assembly will always have at least twenty seats reserved to minorities. There are several points that need to be mentioned here: First, this seat allocation based on ethnicity is certainly not a sign of democracy. Would any European country reserve seats for Jews? Second, this allocation of seats doesn't actually reflect the actual pre-1999 ethnic diversity of the country. It actually under-represents all minorities, especially the one of the Rroma. Finally, it condones the separation of Rroma into three distinct groups (see below), a policy started by Milosevic.

The article 5 of the constitution states that 1. The official languages in the Republic of Kosovo are Albanian and Serbian; 2. Turkish, Bosnian and Roma languages have the status of official languages at the municipal level or will be in official use at all levels as provided by law. This interesting provision is not yet in place, and the administration currently only functions in Albanian, with very few exceptions.

2. The Facts

a. Roma, Ashkali, Egyptians

The first draft of a paper on the strategy of Integration of Roma, Ashkali, Egyptians in Kosovo, the result of a conference organised in Vienna in October 2008 by the Project on Ethnic Relation (PER), states that: "The terminology Roma, Ashkali and Kosovo Egyptians is a recent creation which goes back to the arrival of the international community in Kosovo. The distinction of three separate groups is largely the result of the war in Kosovo where Roma have been accused of collaborating with the Kosovo Serbs. Case in point are different Roma communities who today prefer calling themselves either Ashkalija or Kosovo Egyptians and have stopped using the Romani language and teaching it to their children."⁶

In fact, the origin of the terminology of Roma, Ashkali, Egyptians pre-dates the war. It was essentially the result of Milosevic' policies of "divide and conquer", whereby it was better to have three distinct smaller minorities rather than one that was effectively larger than the Serbian minority. Together, it has to be noted, these three communities made up more people than the Serbs in Kosovo.

⁶ PER, October 2008: Policies Toward Sustainable Integration Discussed by Roma, Ashkali and Egyptians of Kosovo with the Kosovo Government and the International Community. First draft. It not yet known whether this statement will remain in the final document.

One also has to note that some Ashkali actually still speak Rromanes. So while many have lost the language, they are de facto Rroma, mostly of Kovači origins.

This political separation into three groups has had some rather funny consequences: It is far from uncommon to have brother and sisters within different communities, i.e. a Rroma family very often has Ashkali relatives an vice versa.

This separation into three distinct entities has unfortunately been readily endorsed by governments and NGO alike, often in the name an ill-placed political correctness.

The Swiss authorities have gone one step further into what can only be qualified as an absurdity. They separate the Rroma community into Serbian and Albanian speaking groups. Needless to say that this has no scientific basis, but, according to the Swiss Federal Office for Migration, reflects the integration of the Rroma into one or the other community as well as their “main” second language. The fact is that most Rroma speak both languages, as in school and for official purposes, Serbian was prevalent. In addition, the largest and most prevalent second language for Rroma in the region was Osmani Turkish. In fact, most of the Rroma were considered to be closer to Turks, especially the well integrated Arlii who are always “forgotten” when one speaks about Rroma in the region.

Rroma in Kosovo comprise several groups (which are found cross borders in all neighbouring countries). The largest and mostly ignored one are the Arlii, who in several places were part of the local bourgeoisie; the Kovači (also sometimes called Bugurdži), traditionally blacksmiths. These two groups and subdivisions thereof are documented in Kosovo since at least one thousand years, were always sedentary. Finally, the third main group, the Gurbeti (calling themselves exclusively Rrom), is a group that came in the 17th century from Romania, fleeing slavery in that region and was by far less integrated into the society. There are several subgroups and divisions, such as the Prilep Arlii, the Arabajdži etc. further complicating the picture.

As is often the case, the integrated Rroma were not considered to be “Gypsies”, and were very much pro-Albanian at least until 1999, where they suddenly found themselves excluded, rejected, and forced away from the region.

b. Bosnians

Although not the subject of this paper and review, one still needs to note a very similar process has been deliberately started with the Gorani population. Goranis, originally Moslems Slavs, have been partly re-branded as “Bosniaks”. The reason for this renaming is actually quite obvious: As the name suggest, these are not autochthonous populations but “foreign” i.e. from Bosnia, and as thus could possibly “return” to that country.

c. Minority Representatives and Elections

Article 64 of the constitution of Kosovo implicitly implies that the minority representatives in the Kosovo parliament are democratically elected. As in other places where “Rroma Representatives” are given some form of self-government (for example Hungary), democratic elections have seldom been put in place.

The reasons for such a lack of transparency in the process are multiple but can readily be understood: As a start, one would need to actually register members of those minorities as such, which, at least in the case of Kosovo, has not been done. Furthermore, one would need to actually need to organise effective elections within the community. This has not taken place either.

As such, at least in the case of the Rroma minority (used here to encompass Rroma, Ashkali, Egyptians), the “representatives” have been nominated rather than elected. Lacking a true political and democratic base, these representatives owe their appointments to contacts and connections. This is not to say that some of them are not truly respected within the community, but this non-democratic process severely limits their effectiveness and puts their representativeness into question.

Finally, and this is the case in Kosovo as in other places with some degree of minority self-governments, what can 4 representatives change in the actual process and laws?

d. Official Languages and Education

It is worthwhile to note that if you speak Rromanes, the Rroma language, anywhere in Kosovo, you will be a best insulted and told to leave. This is still the case, and many Rroma families actually have stopped to teach this language to their children for fear that they will be discriminated upon.

The implementation of the article of the constitution regarding languages is not yet done. With only a handful of exceptions, business with the local administrations is conducted exclusively in Albanian. Being a “majup”, the derogatory term used in Kosovo to denote Rroma, or having a Serbian name, are sufficient to elicit a negative response on most requests.⁷

The usual response to enquiries as to why the police or generally the administration in Kosovo has so few representatives of the Rroma minority is that Rroma lack the pre-requisite education to fill these posts.⁸ This response is usually taken for granted by the Western governments, as anyhow, Rroma are illiterate... This specific topic is highlighted in the section on population and statistics but actually hides the fact that many Rroma were and are educated, with university degrees, and could if there was a real will, take up those positions in the administration.

III. POPULATION AND STATISTICS

1. Current and Pre-War Population

There are still no reliable statistics of the current Rroma population in Kosovo. Estimates range from 15,000 to 40,000. The pre-War population, according to most sources was much higher, but the last official census in Kosovo, the controversial 1991 census, has a very low number of Rroma (smaller

⁷ Note that many people in Kosovo, especially Rroma, had their names “slavicised” in the 19th century. Some of those names were latter “albanised”, but there are many documented cases of close family relatives having different variations of the same surname (one Serbian, the other Albanian). We can document cases where people having a Serbian family name were turned down when asking for documents.

⁸ For example Mr. Makolli, Human Right Organisation in Kosovo, in front of a camera in 2006. The answers have not yet changed.

than 40,000) in Kosovo. In fact, most Rroma, and especially the largest groups declared themselves as Albanians during that census. The pre-war population of Rroma can thus only be estimated. The estimates range from 100,000 to 350,000.

The best statistics for Kosovo at large are still the Ottoman tax registers. From the 15th century onward, the Rroma population in that region hovered at around 25% of the overall population.⁹ Based on these Ottoman registers, and on a rather constant proportion of the overall population, once arrives at roughly 300,000 Rroma in Kosovo prior to the war. Note that the very same extrapolation for Bulgaria yields the rather accurate number of 900,000 Rroma in that country nowadays.

2. Statistics: Literacy, Employment, etc.

According to the UNDP, only 65% of Rroma men and 56% of Rroma women aged 15 to 24 are literate (as opposed to 98% for the rest of the population), and 76% of the Rroma men and 69% of the Rroma women aged 25-34 are literate as opposed to 98% for the rest of the population. In addition, only 25% of Rroma children attend secondary education and only 1.4% finish high school.¹⁰

At first glance, these numbers speak for themselves and illustrate the perceived difficulty of finding suitable Rroma to fill positions in the Kosovo administrations as highlighted in the preceding section.

On the other hand, one can actually ask how one arrived at this statistic. As a first principle, in order to give a percentage, one needs to know how many are still living in the country. And with the current estimates, these percentages could vary widely. In addition, the Kosovo Rroma from the Diaspora are not taken into account. And many educated Rroma fled the region either prior to 1999, due to Serbian persecutions or after the war, due to the Albanian ethnic cleansing. This is not to say that all intellectuals actually fled. In fact, there still are high school teachers, lawyers, doctors, as well as other well educated Rroma in Kosovo.¹¹

In addition, there are several ways to read this statistic: It is for example interesting to note that the literacy level *decreased* in the last 10 years among Rroma in Kosovo. This is in fact a symptom of the current discrimination that Rroma are faced with in the Kosovo education system. Most Rroma are denied access to secondary school, are beaten up regularly within the schools, and many parents fear sending their children to school at all. This situation, which we already saw in 2006, has not changed at all in the last few years. Even amongst families where parents finished high school or even university, the education level has decreased in the current generation. This is a clear symptom of ongoing discriminations.

Similar statistics show an extreme inequality of income: In some statistics, the average income of Rroma is 3-4 times lower than the ones of Albanians. However, the UNDP Report “Faces of Poverty. Faces of Hope” has put the unemployment level among Roma in Kosovo at 89%, and it is actually much higher.

⁹ See L. Tcharenkov, S. Laederich. The Rroma. Schwabe Verlag, 2005. Chapter on Ottoman tax registers.

¹⁰ UNDP, Human Development Report Kosovo 2004. Pristina 2004.

¹¹ This is nothing new. As early as the 15th century, the Ottoman tax registers noted all professions, including notary, doctors, policemen, etc. amongst Rroma in the region.

The only actual fact that can be reliably inferred from this statistic is that Rroma have little if any chances of finding employment in present day Kosovo. This can either be represented as their perceived “inability” or as their “lack of qualifications” in the current workplace, as this has been repeatedly done by NGOs and governments alike, or can be seen as yet another form of discrimination. Circumstantial evidence suggests the latter. We know of several well-qualified Rroma who were sent back from various countries to Kosovo. Their previous activities outside of Kosovo from construction, bakery, to more clerical work, and they all speak at least another language, mostly German in the cases we know of. Without exceptions, none of them has been able to find constant employment. In cases where they do, they are often not paid by their Albanian bosses. For those who never left Kosovo, the situation is the same. In many cases, small artisans (carpenters, smiths, etc.) had to give up their activity in the last years, as they were either not paid or had difficulties getting material.

These statistics (and the ones on housing – see next section) actually highlight the fact that *Rroma are being consciously made to become a social problem*. This policy is implicitly condoned by Western Governments and NGOs for whom, Rroma are in any case a social and not a minority issue. If one contrast this to the situation in places like Switzerland, where most of the Rroma refugees have found work and are integrated, one see the actual effects of the constant discrimination faced by Rroma in present-day Kosovo.

IV. HOUSING

1. Before the War

Before the war, Rroma lived in Kosovo either in Rroma quarters, called Mahala in the Balkan or in individual houses within the general population. The Mahala should not be thought of as being slums, but rather as being the result of the Ottoman politics which segregated cities in quarters based on ethnic and religious appurtenance. Some of these Mahala are over 600 years old.

Fact is, most Rroma had houses. And many had nicer houses than the general Albanian population. A fact that actually generated envy. Some of the Rroma actually lost a lot of property with the arrival of the communists to power after World War Two, as they were actually landowners.

2. The Current Housing Situation

Shortly after the war, many of the Rroma Mahala were entirely destroyed. This was for example the case in Pristina itself, but also in many other communes in Kosovo. In addition, many individual houses were either burnt down or their inhabitants chased away and the property seized. We can document several cases of Albanian families living in former Rroma property in various places of Kosovo.¹²

A 2005 UNDP study *Faces of Poverty* (Bratislava, 2005) indicates the following disparity with regard to housing conditions of Kosovo Rroma: Rooms per Houshold Members: Roma: 0.49/Non-Roma: 0.72; Square Meters per Household Members: Roma 14/ Non-Roma: 21; Share of the population not

¹² In some cases, the current inhabitants did tell us that they actually lived on Rroma property.

having access to bathroom or toilet inside of the house: Roma: 72%/Non-Roma: 45%.¹³ The current conditions (as early as 2006, but tendency declining) are much worse. There are much less than 14 square metres per person in most settlements, a lack of space that is compounded by the return of refugees from Western Europe.

There are still a number of Roma living in temporary shelters, usually in barracks in various places. In one of the most notorious ones, the camp in Plementina, a first apartment building was inaugurated in June 2006 in great fanfare, accommodating 36 families but still leaving a substantial number of families in the barracks. A second one with 23 apartments was finished in June/July 2007. However, further effort on this project is needed to ensure water and electricity supplies for all apartments and a proper heating system and access to services.

In Mitrovica, a similar housing project was started. The Roma Mahala of Mitrovica was totally destroyed in 1999. It originally housed over 9,000 Roma. The people from this Mahala were put in temporary housing, in a refugee camp, which was lead infested.¹⁴ A parade example was started and it was officially stated that more than 500 Roma families would find permanent housing in this new settlement. Fact is, no more than 36 houses for 57 families have been actually rebuilt. And of those who moved into new housing, only 13 families from the lead infested camp of Mitrovica did find a new home.¹⁵

Fact is, there are still many Roma in Kosovo who are living in temporary quarters, this, nine years after the end of the war. While some efforts have been made in some places, not much more than this has been done. One has built a few houses, showed them to the press, and declared that progress was made. This misses the main point. If one takes the Plementina example, people who had to live in this camp had houses and property. And the international community gladly endorsed plans whereby these very refugees were to be given houses in a place that was not their own.

This can only be qualified as being cynical and being a de facto acceptance by Western governments of the actual ethnic cleansing of vast swathes of Kosovo.

These actions are a symptom of the NGOs and Western Government actions. Roma who were well integrated and lived within the general community are now parked into ghettos. They have no chances of going anywhere else, no future, and, far from their ancestral homes, have also little hopes of rebuilding a life in those places. Still existing Mahala such as the Terzi Mahala in Prizren are filled with Roma fleeing other places.

The fact is that the reconstruction programs, while expensive, has yielded very little results. There are still people in temporary shelters and camps, and there are still many families who cannot return to their homes.

¹³ UNDP Study Faces of Poverty. Bratislava, 2005.

¹⁴ ERRC, Romani Return to the Mitrovica Mahalla marred with Problems, www.errc.org/cikk.php?cikk=2827&archiv=1

¹⁵ Schweizerische Flüchtlingshilfe (SFH). Rainer Mattern. Kosovo Update; Aktuelle Entwicklungen. 12. Aug. 2008.

The latest chicanery against Rroma in several Mahala but also for example in the Plementina housing project has been about utilities. Water, electricity have often been turned off.¹⁶ The official reason for such shortages, apart from the appalling state of the infrastructure is often laid to unpaid bills. Reasonable on might say, but if you have no work, no income, one would assume that the state helps at least in funding those basic necessities.

Unfortunately, the access of social help for Rroma families is still severely restricted, and many families do not get any help at all.

3. Property Deeds

Property deeds are a hot topic in most Eastern European countries, and especially so in the current Kosovo. First of all, it was quite uncommon to have any property deed under communism in the first place, as private property was not officially allowed. This lack of property titles is not a Rroma specific problem, as it affected most of the Kosovo residents.

It is not actually uncommon to have old Ottoman property deeds among Rroma. But these are of little use nowadays. We have several cases where the Rroma owners are lucky enough to have an actual deed in their hands. This does not help. To describe but one case, the house is currently occupied by Albanians. Our representatives who enquired about the property were threatened and told to leave immediately, and all neighbours swore that no Rroma ever lived in this house. This is no exception but rather the norm for Rroma who used to live within the Albanian villages and towns.

From the government side, it is often argued that the Rroma lived in “informal” housing settlements that were never authorised.¹⁷ According to the Vienna conference cited earlier, “the Government will follow the goals contained in the Kosovo Standards Implementation Plan (Goals 6.8 and 6.9) and the European Partnership Action Plan related to informal settlements (Priority 31).¹⁸ These goals are consistent with the commitments contained in the Stability Pact ‘Vienna Declaration on Informal Settlements in South Eastern Europe’ to which Kosovo is a signatory since 2004.”

The Council of the European Union reiterated in the Decision of 18 February 2008 (2008/213/EC) the importance of regularising informal settlements and finding sustainable solutions for the housing and integration of Roma communities that are living in hazardous living conditions in camps and for internally displaced persons groups living in informal centres.¹⁹

¹⁶ Schweizerische Flüchtlingshilfe (SFH). Rainer Mattern. Kosovo Update; Aktuelle Entwicklungen. 12. Aug. 2008. We have several reports in various places regarding this latest twist in Kosovo.

¹⁷ PER, October 2008: Policies Toward Sustainable Integration Discussed by Roma, Ashkali and Egyptians of Kosovo with the Kosovo Government and the International Community. Section on housing.

¹⁸ Following the European Council Decision 2006/56/EC of 30 January 2006¹⁸ on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro including Kosovo, and to address these issues, the Kosovo Action Plan for the Implementation of European Partnership 2006 (Kosovo EPAP, 2006) was adopted.

¹⁹ See Council Decision of 18 February 2008 on the principles, priorities and conditions contained in the European Partnership with Serbia including Kosovo as defined by United Nations Security Council Resolution 1244 of 10 June 1999 and repealing Decision 2006/56/EC (2008/213/EC). Citation from PER, October 2008: Policies Toward Sustainable Integration Discussed by Roma, Ashkali and Egyptians of Kosovo with the Kosovo Government and the International Community. Section on housing.

These vague resolutions actually hide the reality: Rroma have no chance in the current Kosovo to retrieve their rights to lost property and to recover their homes. In fact, none of the nice resolutions has managed to grant back a Rrom his house.

One should also consider that most of the buildings in present day Kosovo are actually illegally built. This doesn't only concern Rroma, but generally all citizen of Kosovo. UNMIK has not been effective in implementing a proper resolution of the property issue, much less even to control the building of houses on land that very well may have been owned by someone else.

A few attempts have been made to sort out the property issues regarding Serbian owned houses. These have failed. In the case of Rroma, nothing has been even tried.

4. Ghettos

While forceful evictions have mostly ceased, pressure to leave is still common in many places in Kosovo. In fact, the last two years since our last report on the situation of Rroma in Kosovo, there has been an increased "ghettoisation" of the Rroma in Kosovo. The number of safe havens for Rroma has decreased, and these are increasingly overpopulated by returning refugees. This is for example the case in Prizren, where the Terzi Mahala by now has more non-local residents as original ones. Yet, several governments, among these the Swiss and German ones, use the mere existence of these safe havens as an excuse for stating that minorities are safe in Kosovo.

Putting people into ghettos is not a sustainable option, as these Mahala have a very limited capacity. Using them as an excuse is actually accepting that Kosovo was ethnically cleansed.

V. STATE OF JUDICIAL SYSTEM

1. Assessment from NGOs

The general judgement of the state of the judicial system in Kosovo is more than negative. According to the Kosovo Ombudsman, The failure to improve the situation can only lead to further confusion and the general lack of trust of the population in the judiciary, which is detrimental to the society as a whole.²⁰ According to Human Right Watch, the Kosovo legal system is not in a position to protect victims and especially minorities. This report criticises the lack of witness protection and states that witnesses are often and commonly massively threatened, a fact that explains why there have been no convictions for attacks against minorities in Kosovo.²¹ Fact is, up till now, there have been no convictions at all for attacks against the Rroma minority. Overall, the number of convictions in such attacks is minimal and can only be deemed as a shame.

Amnesty International states that the judicial system in Kosovo collapsed, condemns the inability of the justice system to prosecute war crimes and bemoans the ineffectiveness and the lack of prospects of the system in Kosovo.²² This scathing indictment of several years of inaction on the part of the international community is part of the sad reality for minorities in Kosovo. There is, according to

²⁰ Schweizerische Flüchtlingshilfe (SFH). Rainer Mattern. Kosovo Update; Aktuelle Entwicklungen. 12. Aug. 2008. P 11.

²¹ Human Right Watch, March 2008. Kosovo Criminal Justice Scorecard. <http://hrw.org/reports/2008/kosovo0308/>

²² Amnesty International: The challenges to fix a failed UN justice mission. January 2008.

Amnesty international, little prospect to find an easy fix of the underlying problems of the justice system in Kosovo.

There is no legal basis in Kosovo, and the mix of applied laws includes old Yugoslav, human rights, UNMIK regulations as well as laws passed by the new Kosovo assembly.²³

The EULEX, planned as part of the Kosovo independence and the Ahtisaari plan is still not in place. The latest agreements will require a UN security council's agreement for their activities to start in earnest. This is by far not yet secured, as this will require a buy-in from the Russians and Chinese, who, up until now, have been vehemently opposed to the Kosovo independence.

2. Rroma and the Legal System

In view of the pressure on witnesses, the actual lack of judicial oversight on police, detention, as well as the overall state of corruption in the country, very few Rroma will dare to declare an attack for fear of reprisal. The fact that no one having participated in the attacks against Rrom in 2004 has been prosecuted is a clear sign that the judicial system in Kosovo is not ready to truly protect minorities.

Many attacks still do occur against Rroma. They are not the only ones targeted, and one common statement is that these attacks are related to organised crime rather than being attacks targeted explicitly at minorities. It is often difficult to distinguish between the two, as doing business in Kosovo is certain to raise the attention of various criminal or at least paralegal groups. This is not the point.

The main point is that the judicial protection of citizen of the new Republic of Kosovo is not present, at least for members of ethnic minorities. Even if some of the attacks were related to organised crime or were the result of business disputes, the mere fact that none of these attacks can be brought to court, much less prosecuted or indicted shows that the protection of each citizen and the equality of each person in front of the law is still not guaranteed in Kosovo. In that respect, the state is failing a substantial number of its citizen, and there are still few prospects for improvements.

VI. FEAR AND REPORTS

1. The Official View

Many representatives from Rroma in Kosovo officially say that the situation is improving, that there are no discriminations, that Rroma in Kosovo can freely travel and generally have no problems. When the members of the general Rroma population are asked the same question in front of either a camera or an Albanian translator, one is fairly sure that the answers will be dithyrambic. All is well, the situation is improving, there are no discriminations, there are no problems, just the issue of work, infrastructure etc... Security is fine, and yes, all Rroma should return to Kosovo.

2. The Actual Statements

As soon as the cameras are turned off, or as soon as the Albanian translator vanishes, the tone changes. Discriminations, constant insults, being constantly reminded one should leave the country etc., a litany of complaints usually comes to the surface. All people asked will tell you about an evicted person,

²³ Kosovo Ombudsperson Institution, Eight Annual Report 2007–2008, 21. July 2008, S. 12.

about someone who has lost his house, his job, who has been beaten up, will tell you of people vanishing, of attacks during the night, even in the reportedly safe havens of the few remaining Mahala. In brief, the situation is as black as the official one is white and rosy. This auto-censorship on the part of the Roma in Kosovo is the result of an ongoing fear: The fear that if they tell their version of the story, they will have more problems, will suffer, be beaten, and so on. This may not seem rational in the well-regulated environments of Western Europe but this fear is palpable and present. And this fear is warranted. Critical voices are not tolerated. We can actually testify on this in details, as a report that was not even controversial actually generated threats, here in Switzerland. This is much worse in Kosovo, as the rule of law is not yet established.

3. Whom to Believe?

The easy way is what most administrations prefer. Their official statements are taken for granted, and critical voices are relegated to a far background, and dissident voices are silenced with statements such as that the “representatives” of the community have officially said that all is well. There is however, a simple way to “test the waters”: ask any Albanian on the street what he thinks about Roma, more specifically in this case about Majup, for this term is widely used in Kosovo, and the answers should actually raise more than concerns for the future of that minority in Kosovo.

The mildest view held among Albanians on the street is that all Roma collaborated with the Serbs, that they were not forced to flee but followed the Serbian army withdrawal, that they were guilty of plunder and more, and that it was a good riddance in any case, as Roma never work, steal, beg, and are generally a nuisance.

This is truly a mild version of what one hears in the street. While Kosovo politicians are more differentiated nowadays, they are playing with the Western stereotypes of travelling, begging and stealing Roma with great success. After all, Roma are a social problem...

The problem is largely self-made. Roma were integrated, as we have already mentioned in this report. The ongoing general views of Roma as alien, foreign, as Serbian collaborators contribute to the climate of fear among the general Roma population, and to the fact that unless interviews are carried in an anonymous way, in Romanes, the statements one obtains are nearly worthless.

VII. SECURITY SITUATION

1. Recent Developments on Security in Kosovo

Yes, the security situation in Kosovo has bettered. There is however nothing that the international community can be proud of. The main reason why the most blatant conflicts and attacks as the famed ones in 2004 have not again occurred, is that the Western World has de facto recognised the ethnic separation and cleansing of Kosovo. The lack of conflict is currently due more to the lack of contacts than the lack of potential for such conflicts in the future. Bring back a large number of Serbs to Prizren, or to any other place that is now “Serb-free”, and one can guarantee that in spite of UNMIK presence, a severe conflict will arise.

The Western World has thus actually very much like in Bosnia, accepted an ethnically defined state and the status quo of ethnic cleansing.

This is not to say that conflicts and security issues do not exist anymore. The situation in the North of Kosovo continues to remain more than tense, with constant disputes, manifestations, etc. In all places where there are significant minorities, whichever they are, the situation is still near an open conflict. Again, as in our rapport in 2006, we must say that the only forces in UNMIK.KFOR who protect their own minorities are the Turks, with a significant presence in villages of those communities and with a rapid reaction in case of attacks. In all other places, protection of Roma in the Mahala they are living is totally lacking.

One such example, in a case where potential violence could have taken place, is the case of the Independence Day in Kosovo. In several places in Kosovo, while there was a large deployment of security forces in Serbian regions, there was absolutely no KFOR presence could be seen in near Roma settlements.²⁴

The lack of police and KFOR protection in Kosovo has not changed in the case of the Roma minority since our last report in 2006. When something occurs, when one is insulted, even in front of a KFOR or Kosovo Police Force, no intervention is to be expected. As a Rrom, one is left to oneself, without any hope, at least currently of official or legal protection.

And violence there is. There are still cases of rapes, especially in the case of younger women, such as recent ones in Pejë/Pec, but also in other communes of Kosovo; there are disappearances, mostly of younger people, people of whom one has not heard ever since; there are young women who disappeared and were never heard of again; and there are beatings, often severe, requiring documented hospitalisation.

One usual argument, an argument that alas, has been often used by various governments in denying asylum to the victims, is that these beatings or even rape were provoked by the victims themselves, either because they were walking through the wrong part of town, or, as heard more recently, that these were the result of business deals that turned sour. This latest twist in explaining such attacks is quite interesting. The usual argumentation states that this is “common” business practice in Kosovo to beat up someone who doesn’t repay his debts, or that it is “common” to rape his wife or daughter, or to abduct his children in such cases.

This very well may be the case, but actually shows that the state of the judicial system as well as the state of the legal protection in Kosovo lies somewhere between pre-history and early mankind. This is certainly not the case of a rule by law where rights as well as obligations are subject to litigations but certainly not to lynching, abductions, and other non-legal means.

Where all the cases that we can document businessmen, one could believe that some of those attacks were only motivated by anachronistic business practices. But we have documented cases where these are more of a racket, where actually, the beaten up people were owed money. Also, an employee complaining about not getting his salary, an artisan not getting paid, these are no business deals but

²⁴ See for example, the Swiss Television Report “Rundschau” of February 20, 2008 on this topic. This is by far a single case (i.e. here Prizren), but a general case in Kosovo.

outright discrimination and lawlessness. And should a Rrom venture out of his “safe” quarter, simply walk through the “wrong” part of town or worse, enquire whether he can return to their homes, the potential for violence increases tremendously.

Violence, which had abated since 2006, is again present. Fear from attacks and actual violence do occur regularly. Police protection is still absent, and prosecution and conviction of attackers is still non-existent.

There has so far been no single conviction in Kosovo for any attacks on the Rroma minority. Until this changes, and something is truly done to give some level of confidence to this minority about their status and protection in the country, one cannot hope for any progress. Furthermore, this lack of effective legal action only strengthens the case that Kosovo is failing its minorities, and is not truly protecting them by implicitly condoning such actions.

2. Ongoing Discrimination

One thing is clear in Kosovo. And this, even if you are blond. Don't in any case speak Rromanes on the street. Don't go any places, remain at home; don't look for any jobs, there are none; the list of “do not” in Kosovo is long if you are part of this minority.

In this respect, the new Kosovo state has made no progress whatsoever. If you are Majup, you are out. And there is little to be added. Those who have a job, who work, often hide their identities. They no longer teach their language to their children for fear that if they speak it at school, they will be bullied or beaten up, and they will have no prospects for further education.

Rroma do not have exclusivity on exclusion and discrimination in present day Kosovo. All minorities are suffering from the same issue. What is different with Rroma, is that the state as well as the international community remains largely oblivious of their plight. After all, they are poor, they never worked, they are difficult to integrate. All these themes are present in every report from either the Kosovo authorities or the international community.²⁵

Even if these statements were true, this would still not be acceptable. Discrimination at every level, in the street, in the administration, at work, in finding work, for social help, etc. is still the norm and has not improved on iota in the last years.

3. Access to Social Help and Healthcare

If you are ill, if you are Rrom, then go to Serbia for treatment. This is not only a statement on the dire state of health care in Kosovo, but an actual fact. We have several cases of people who had to go to Serbia to treat themselves or their children. Even money, in fact cash, did not do the trick in Kosovo itself. The state of the health system in Kosovo does not explain it all. That it is in need of improvements has been documented since a long time,²⁶ but the actual underlying discrimination has

²⁵ See the PER report, or the UNDP, or whichever report on Kosovo Rroma you read.

²⁶ The state of the health system is in need of improvements. See for example Schweizerische Flüchtlingshilfe (SFH), Kosovo - Zur Lage der medizinischen Versorgung – Update. Bern, Juni 2007. Internet: www.ecoi.net; United Nations Kosovo Team, Erste Beobachtungen zu Defiziten im Gesundheitsversorgungssystem im Kosovo. 2007.

so far not been even looked at. Fact is, access for Rroma to health care, even with money, is still restricted for the Rroma in Kosovo.

The same holds true for social help. While it is officially available to all, it seems that for Rroma, there are always papers or something that is missing and prevents any help from actually being granted. The number of recipients of social help, even in this dire situation, is still remarkably low among the Rroma community.

VIII. CONCLUSION AND RECOMMENDATIONS

The overall situation in Kosovo remains explosive. A forced return of minorities to that region, be they Rroma or others, may very well ignite a renewed conflict in the region. In any case, the pre-requisites to a return are still not given. This is also the opinion of the Rroma representatives of Kosovo as well as, implicitly, of the Kosovo government, as it cannot afford the costs of absorbing returning refugees, much less guarantee them that they will be able to retrieve their lost properties.²⁷ In any case, returning minority refugees will not be able to lodge themselves, thus landing as up until recently in camps such as Plementina or the Mitrovica camps²⁸; will not be able to find work, and this not because of lack of qualifications or general lack of work in the region but because of ongoing discrimination; will not be able to get access to social or health services, because of their apurtenance but also because of the unresolved citizenship issues; in brief, will have no future or choice but to leave again.

This citizenship question is far from being resolved, and without this, access to the entire state infrastructure, i.e. social care, health care, education, etc. is not granted. Returning refugees without an effective and iron-clad guarantee they will be granted citizenship immediately is effectively depriving these people of their most basic rights.

The international community is turning a blind eye to these issues. The UNMIK actually states that there is now a framework for the return of refugees to Kosovo. According to this latest statement, the “UNMIK’s Office of Communities, Returns and Minority Affairs (OCRM) together with PISG formulated draft readmission policy, including the operational procedures, and the reintegration strategy to manage and support forced returnees or persons repatriated to Kosovo from the host countries.”²⁹ This policy ignores the facts and realities of present day Kosovo.

The security situation is still not fully under control. The interim phase, with overlapping jurisdiction and competences between UNIK, EULEX, and the Republic of Kosovo doesn’t help. It is to be noted here that the EULEX deployment is yet still being delayed. One now speaks of December at the earliest, and meanwhile, one has a de facto power vacuum.

The underlying causes of the plight of minorities are not being addressed adequately, be it at the Kosovo level or at the international one. The international community, once again, has recognised a

²⁷ See for example the result of the PER sponsored conference on sustainable return of refugees to Kosovo, in October 2008 in Vienna. <http://www.per-usa.org/1997-2007/announcements.htm>.

²⁸ <http://kosovoroma.wordpress.com/2008/05/27/mitrovica-lead-crisis-romano-them-asks-for-comprehensive-information-from-the-un/>

²⁹ [http://www.unmikonline.org/DPI/PressRelease.nsf/0/FCDE97BA8C53409AC12573EC003D4F5E/\\$FILE/pr1709.pdf](http://www.unmikonline.org/DPI/PressRelease.nsf/0/FCDE97BA8C53409AC12573EC003D4F5E/$FILE/pr1709.pdf)

state based on ethnic appurtenance. In the previous case, this was Bosnia. And in this particular case, the Western World only accepted the actual partition and ethnic cleansing of the region.

The same acceptance on similar ground of the Republic of Kosovo actually means that the international community has a moral responsibility in ensuring the future of minorities. Unfortunately, they also have to recognise that the clock cannot be turned back. The minority refugees cannot be brought back, at least in the near future, and the hard realities of their expulsion of the region cannot be undone.

There would have been a chance, in 1999. Nothing was done. The fact that one now has refugees who cannot go back is a reality. Europe has recognised yet another new country based on ethnicity and on this alone. And in an ethnically defined state, regardless of the window dressing that is being done, the reality is that minorities have no place. The consequences of such a choice are clear and need to be acknowledged by the European governments.