



Ensuring Romani Interests in the Kosovo Status Negotiation Process

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Introduction

On 20 February 2006, the so-called status negotiations process has officially started. Under the leadership of an international negotiation team, the discussions between representatives of the Provisional Institutions of Self-Government (PISG) in Pristina and delegates of the Serbian government are meant to set the groundwork for the future and eventually final political status of Kosovo.

While minority rights are a central issue of these negotiations, with the international community insisting that the degree of achievement of these rights will essentially determine whether Kosovo will be granted independence or not, the Kosovo minorities have not been called to participate directly in the negotiations. The non-Serb minority communities in particular lack the possibility to make their voice and concerns heard.

Roma have requested a direct participation in the talks in Vienna. They have also requested to be granted full equality with all the other people of Kosovo regardless what the future status of the province will be. The situation of the Roma refugees and the IDPs remains of particular concern.

Background

On 24 October 2005, the UN Security Council concluded to open the discussions over the future political status of Kosovo. Martti Ahtisaari, a Finnish diplomat and chief negotiator of the peace agreement with the Federal Republic of Yugoslavia in 1999, was appointed at the head of the international negotiation team with seat in Vienna.

After a series of bilateral talks, first direct talks took place in February 2006. According to the plans of the international negotiators, so-called status-independent technical issues will be discussed first, before the debate on the Kosovo political status will be opened. Minority rights are scheduled to be discussed in the second half of this year.

While members of the Serb community are taking part in the negotiations as members of the Serbian team, the non-Serb minorities are not directly participating in the talks. On 9 November 2005, the Pristina team decided to establish a Consultative Committee for Minorities as a forum for participation of the non-Albanian communities in the status talks.

The task of this Committee has been defined as to provide advice on minority issues during the status talk. The Committee is headed by Veton Surroi, an ethnic Albanian and member of the ORA party. Representatives of the Roma, Ashkali and Egyptians communities in Kosovo have participated in its meetings.

The Kosovo Roma

According to the last census from 1991, Kosovo had a population of 1,607,690 people out of which 82.2 percent ethnic Albanians, 9.9 percent ethnic Serbs, 2.9 percent Muslims, 2.2 percent Roma.¹ Since this census is based on revised results on the basis of the results of former censuses, - the official census was boycotted by parts of the population, in particular, by ethnic Albanians - , a former census from 1981 is sometimes considered as a more accurate indicator of the true composition of the population. According to this census, Kosovo counted about

¹ Kosovo Census Data: 1948, 1953, 1961, 1971, 1981, 1991, in: Mertus, Julie A. 1999: Kosovo: How Myths and Truths started a War, University of California Press, Berkley/Los Angeles/London, p. 316

1,585,000 inhabitants, out of which 1,226,736 ethnic Albanians (77 percent) and 214,555 ethnic Serbs (13 percent), 58,662 Bosniacs, 12,513 Turks and 34,126 Roma.²

Roma have estimated that the number of Roma in Kosovo was much higher: According to the Roma National Congress, the Roma population of Kosovo Roma encompassed 200,000 people before the war: Rajko Djuric estimates that 260,000 Roma lived in Kosovo before 1999.³

According to the shadow report realised by NGOs on the occasion of review of implementation of the Framework Convention for the Protection of National Minorities in Kosovo, two third of the Kosovo Roma or 100,000 people have been displaced as the result of the Kosovo conflict, of which 40-50,000 went to neighbouring countries, while the rest moved to other regions and Western Europe.⁴

According to the authors of this report, there are currently about 35,000 Roma living in Kosovo.⁵ UNMIK provides the figure of 39,000 people, including Ashkali and Kosovo Egyptians.⁶ Rajko Djuric asserts that there only 29,656 Roma left in Kosovo today.⁷

The UNMIK report on the implementation of the Framework Convention for the Protection of National Minorities in Kosovo lists seven out of 30 municipalities in Kosovo where no or hardly any Roma have been left after the war and several others where the Roma population has been decimated.⁸

The largest number of Kosovo Roma are thus living outside Kosovo in Diaspora which poses an indubitable challenge for their inclusion and democratic participation in the status negotiation process. Kosovo has one Roma political party, the “Partija e Re E Bashkuar e Romve e Kosoves” (PREBK) or “the New United Party of Roma from Kosovo” which occupies one of the four seats reserved for the Roma, Ashkali and Kosovo Egyptians in the Kosovo Parliament. This party has merely a regional basis in Prizren.

The situation is further complicated by the ethnic division into Roma, Ashkali and Kosovo Egyptians, which was strongly exacerbated by the Kosovo conflict. The Ashkali community is represented in the Kosovo Assembly by its own representative, the Egyptian community occupies two seats.

Kosovo Roma and the Status Negotiation Process

In May 2005, the Kosovo Roma and Ashkali Forum launched a petition to the heads of the international community asking for the inclusion of the Kosovo Roma, Ashkali and Egyptians in the status talks. This petition was supported by more than 70 organisations among which all the main international Romani organisations and more than 700 individuals, including many national NGO leaders.

² ibid.

³ Former IRU’s president speaks out against an independent Kosovo, *Romano Vodi*, 25.11.2005

⁴ Shadow Report on the Implementation of the Framework Convention for the Protection of National Minorities, Pristina/Kosovo, September 2005

⁵ ibid.

⁶ OSRSG/UNMIK, email reply 27 April 2006

⁷ Former IRU’s president speaks out against an independent Kosovo, *Romano Vodi*, 25.11.2005

⁸ UNMIK: Report submitted by the United Nations Interim Administration Mission in Kosovo (UNMIK) pursuant to Article 2 .2 of the Agreement between UNMIK and the Council of Europe related to the Framework Convention for the Protection of National Minorities, ACFC (2005) 003, Strasbourg, 2 June 2005

Since May 2005, several attempts have been made in order to gather Roma representative of the different strands of the debate on Kosovo around a common platform:

In October, during an ODIHR meeting in Warsaw, Kosovo Roma and Roma from the neighbouring countries agreed on a joint platform including 21 individual demands in relation to the status settlement. They gave the European Roma and Travellers Forum (ERTF) the mandate “to enter into negotiations with the representatives of the international community and the representatives of the local and national governments involved most notably the Provisional Institution of Self-Government and the Government of Serbia and Montenegro and the Serbian Government on the modalities of such a process [the inclusion of Roma, Ashkali and Kosovo Egyptians in the status process].”⁹

In January 2006, a round-table on “The final Status of Kosovo and the position of the Roma and Ashkali communities” took place in Pristina under the auspices of ODIHR. At the end of this round-table the participants issued a set of recommendations for “safeguarding the rights and the interests of Roma and Ashkali communities in Kosovo”. They requested full participation in the negotiations on the future political status in Kosovo and equal rights and participation.

In March 2006, a meeting in Skopje brought together key representatives of the Roma from Kosovo as well as representatives of ERTF and IRU as well as representatives of the CPRSI. The participants of this meeting called for ERTF to participate in the status negotiations.¹⁰

During a hearing at the European Parliament on 7 March on the issue of the inclusion of minorities in the status process, Rudko Kawczynski, President of the European Roma and Travellers Forum, presented a series of requests related to the settlement of the Kosovo issue and, on this basis, asked for a direct participation of the Roma in the status talks.

There is a broad agreement on the main issues and concerns, in particular with regards to the central claim to be admitted to the status talks. Some of these issues will be summarised in the following.

The status of Roma in Kosovo

The Constitutional Framework for Provisional Self-Government in Kosovo, which was signed by the Special Representative of the UN Secretary General, Hans Haekkerup, on 15 May 2001, avoids any reference to a majority and minority communities. Instead, the document consequently employs the terms of people and community.

Chapter 4, entitled “Rights of Communities and their Members”, states in its General Provisions:

“4.1 Communities of inhabitants belonging to the same ethnic or religious or linguistic group (Communities) shall have the rights set forth in this Chapter in order to preserve, protect and express their ethnic, cultural, religious, and linguistic identities.

4.2 No person shall be obliged to declare to which Community he belongs, or to declare himself a member of any Community. No disadvantage shall result from an individual’s exercise of the right to declare or not declare himself a member of a Community.”¹¹

⁹ Joint platform of the Kosovo Roma and the Roma of the former Yugoslavia, Warsaw, 21 October 2005

¹⁰ Political Platform of Kosovo Roma. Common statement of the participants to the meeting on Kosovo Roma, jointly organized by the OSCE ODIHR Contact Point for Roma and Sinti Issues and the European Roma and Travellers Forum (ERTF), Skopje, 25 March 2006

¹¹ Constitutional Framework for Provisional Self-Government in Kosovo, 15 May 2001, Pristina

Under “Rights of Communities and Their Members”, the Constitutional Framework says:

“4.4 Communities and their members shall have the right to:

- (a) Use their language and alphabets freely, including before the courts, agencies, and other public bodies in Kosovo;
- (b) Receive education in their own language;
- (c) Enjoy access to information in their own language;
- (d) Enjoy equal opportunity with respect to employment in public bodies at all levels and with respect to access to public services at all levels;
- (e) Enjoy unhindered contacts among themselves and with members of their respective Communities within and outside of Kosovo;
- (f) Use and display Community symbols, subject to the law;
- (g) Establish associations to promote the interests of their Community;
- (h) Enjoy unhindered contacts with, and participate in, local, regional and international non-governmental organizations in accordance with the procedures of such organizations;
- (i) Provide information in the language and alphabet of their Community, including by establishing and maintaining their own media;
- (j) Provide for education and establish educational institutions, in particular for schooling in their own language and alphabet and in Community culture and history, for which financial assistance may be provided, including from public funds in accordance with applicable law; provided that, curricula shall respect the applicable law and shall reflect a spirit of tolerance among Communities and respect for human rights and the cultural traditions of all Communities;
- (k) Promote respect for Community traditions;
- (l) Preserve sites of religious, historical, or cultural importance to the Community, in cooperation with relevant public authorities;
- (m) Receive and provide public health and social services, on a non-discriminatory basis, in accordance with applicable standards;
- (n) Operate religious institutions;
- (o) Be guaranteed access to, and representation in, public broadcast media, as well as programming in relevant languages; and
- (p) Finance their activities by collecting voluntary contributions from their members or from organizations outside Kosovo, or by receiving such funding as may be provided by the Provisional Institutions of Self-Government or by local public authorities, so long as such financing is conducted in a fully transparent manner.”¹²

The Provisional Constitutional Framework further stipulates that 20 of the 120 seats in the Kosovo Assembly shall be reserved to representatives of the non-Albanian communities of which four for the Roma, Ashkali and Egyptian Communities,¹³ but no distinction is made between the different people of Kosovo who thus enjoy full equality in all aspects.

With regards to the Bosnian precedent where Roma as well as other communities have not been recognised as constituent people under the Bosnian Constitution which was adopted after the signature of the Dayton Peace Agreement resulting in an exclusion from political offices and lesser rights in terms of the maintain and development of their culture and ethnic identity,¹⁴ - an issue which is not addressed during the current review of the BiH Constitution - , Kosovo Roma have been demanding to enjoy full equality with the other communities in Kosovo including political participation at all levels and the right to preserve their culture and language.

¹² *ibid.*

¹³ *ibid.*, 9.1.3.b. (ii),

¹⁴ See: European Roma Rights Center (ERRC): The Non-Constituents. Rights Deprivation of Roma in Post-Genocide Bosnia and Herzegovina, *Country Reports Series*, No. 13, February 2004

It has been suggested that the Ohrid Framework Agreement could provide an outcome for the definition of the different Kosovo people. In the same vein as the Kosovo Provisional Constitution, this agreement refrains from making any declarative distinction between majority and minority and instead simply refers to “communities”.¹⁵ Subsequent to the signature of this agreement, Roma, formerly recognised as a people of Macedonia, have been granted the status of a constituent people of Macedonia under the revised constitution of 2001.

The situation in Kosovska Mitrovica

The situation in Kosovska Mitrovica is of particular concern to the Roma from Kosovo for two related reasons: the reconstruction of the Roma Mahala in Mitrovica’s South and the situation of the Roma refugees in the IDP camps in Northern Mitrovica.

The Roma Mahala in Kosovska Mitrovica, with its reportedly 8,000-10,000 inhabitants, was the largest Romani settlements in the former Yugoslavia. According to its former inhabitants the Roma Mahala existed at this place for 300 years at least. Before its destruction, on 16 and 17 June 1999, when ethnic Albanians who also destroyed other Romani settlements throughout Kosovo, the Fabricka Mahala counted more than 1,000 individual houses, several companies and a full public infrastructure including an annex of the Mitrovica city hall and a police station.¹⁶

In its report on the implementation of the Framework Convention for the Protection of National Minorities in Kosovo, the UN civil administration noted:

“The Roma Mahala in Mitrovicë/Mitrovica used to be the largest RAE settlement in the Balkans. It was destroyed in the aftermath of the conflict by members of the majority community who took revenge for the alleged collaboration of Roma individuals with the Serbian forces during the conflict. *At that time, French NATO forces had already seized control over the territory.*”¹⁷ (our italics)

On 18 April 2005, after several months of negotiations, a Memorandum on the Return of 100 Roma and Ashkali families staying in the refugee camps in Northern Mitrovica was signed between UNMIK, the UNHCR and OSCE and the Municipality of Kosovska Mitrovica for the return of Roma to the Roma Mahala in Southern Mitrovica. No former inhabitant of the Roma Mahala was present among the signatories of this agreement.¹⁸

The reconstruction of the Mahala has been impeded by several factors among which alternative plans of the Albanian municipality to build a recreational and shopping centre at the place of the Mahala expropriating thus the former owners,¹⁹ a funding shortage witnessing the lack of commitment from the side of the international community to this project,²⁰ and a lack of transparency and participation of the former inhabitants of the Mahala and in particular those staying abroad, which generated fears and suspicion.

¹⁵ Framework Agreement, 13 August 2001

¹⁶ Analysis of the Diaspora of the Roma Mahala in Kosovska Mitrovica, Vienna, 1 April 2006

¹⁷ UNMIK: Report submitted by the United Nations Interim Administration Mission in Kosovo (UNMIK) pursuant to Article 2.2 of the Agreement between UNMIK and the Council of Europe related to the Framework Convention for the Protection of National Minorities, ACFC(2005) 003, Strasbourg, 2 June 2005

¹⁸ Meeting notes by Nicolae Gheorghe, OSCE Special Advisor on Romani Issues, of a Meeting of Kosovo Roma organised by the OSCE/ODIHR in Vienna from 29-31 March 2006

¹⁹ Danish Refugee Council: Government Assistance Programme to Returns - Sub-Programme: Return to the Roma Mahala, Mitrovicë/a, 2004

²⁰ On 12 October 2005, the SRSG issued the following statement: “We now have the will, we have the plan, we have efforts on the way, but we do not have the money. What stands in the way right now is the lack of resources”. (UNMIK Press Release: SRSG thanks Germany for contribution to the relocation of Roma IDPs, 12 October 2005)

The Agreement signed between UNMIK, the OSCE and the Municipality of Mitrovica for instance foresees that the owners of houses built on communal land will merely be given the usufruct of their new homes for a period of 99 years²¹ whereas this land had been given to its former inhabitants for permanent use.²²

The use of the term “reconstruction” is actually misleading, since the current plan merely foresees the construction of a small number of houses and two apartments buildings for 80 to hundred families.

Part of this suspicion is also raised by the fact of linking of the reconstruction with the return to the Mahala. The former inhabitants in the Mahala and in particular those living in Diaspora in Western Europe are afraid that the reconstruction of the Mahala shall be made conditional on the return of all of its former inhabitants to this place.

Fears are further nurtured by the unresolved status of Kosovo. More particularly, it is feared that the Roma will be “on the wrong side” in case there will be a partition of Kosovo as proposed by Serb representatives. Indeed, the Mahala is located on the south bank of the Ibar river which in this event could become a demarcation line.

Former inhabitants of the Mahala are also afraid that they might lose their property rights in the course of the reconstruction as the information about the actual size and situation of the Mahala is indeed a matter of contention since not all the buildings have been registered in the cadastre.

The issue has been further complicated by the linking of the reconstruction of the Mahala with the situation of the Roma IDPs in the IDP camps in Northern Mitrovica.

In 1999, the UNHCR built camps in Žitkovac, Česmin Lug and Kablare, where Roma, Ashkali and Egyptian IDPs were settled. These camps are located in the immediate vicinity of the Trepca mines, which UNMIK shut down because of the danger they represented to health and environment.

What was initially conceived as a temporary solution for a short period of time became a permanent home for some 700 IDPs, in their majority former inhabitants of the Roma Mahala. In 2000, the World Health Organisation (WHO) issued a first report which found that all of the children and most of the adults living in the vicinity of the Trepca Mine had blood lead concentrations below the authorised levels. By 2004, the WHO declared the area around the IDP camps inhabitable, and in October, recommended the immediate removal of children and pregnant women from the camps.²³

UNMIK finally proposed a two-stage strategy consisting in the temporary evacuation of the inhabitants of the camps to another location, before the reconstruction of new housing in the former Mahala would be completed.

Only a few families have accepted UNMIK’s offer to resettle to the former French military base, the Osterode Camp, which was opened as a new IDP camp on 9 January. According to

²¹ Povratak u Romskom Mahalu, 18 April 2005, 5

²² Analysis of the Diaspora of the Roma Mahala in Kosovska Mitrovica, Vienna, 1 April 2006

²³ ERRC: Written Comments of the European Roma Rights Centre Concerning Kosovo for Consideration by the United Nations Human Rights Committee on the Occasion of Review of the Country Report of Task Forces on UNMIK, 20 February 2006

UNMIK's own sources, 47 families from the Kablare and Cesmin Lug camps had been moved to Osterode by 28 March, and 14 more families have registered to be moved.²⁴

The IDPs as well as NGOs such as the ERRC have objected that the new location is hardly a hundred meters away from the old camps and does not provide thus any real improvement to the IDPs' situation.²⁵ Moreover, the inhabitants of the camps are afraid that the new camp might become a new permanent solution again and prejudice their return to the Mahala.

During the meeting in Vienna, the participants received information according to which UNMIK in cooperation with the local authorities would plan to begin with the reconstruction of the Mahala by 4 April. They issued a statement to the president of the European Roma and Travellers Forum, Rudko Kawczynski, informing him that the Roma would not support the reconstruction process, because the current planning does not correspond to the pre-war situation, security in the area is not given, and because no former consultation with the former inhabitants of the Mahala had taken place. They also insisted that they were claiming compensation for the 1,024 Roma houses, which were destroyed during the war.²⁶

More generally, the Roma in Diaspora called on the UN to separate the humanitarian problem of the IDPs living in the camps from the political problem of the reconstruction of the Mahala. They have also asked for a direct dialogue with the Steering Committee in charge with the reconstruction of the Mahala.²⁷

The issue of refugee returns

After a serious setback subsequent to the March 2004 pogroms, minority voluntary refugees returns to Kosovo have further declined in 2005. According to the UNHCR, 12,471 minority voluntary returns had been documented by 31 March 2005, of which 1,340 Roma and 3,210 Ashkali and Kosovo Egyptians.²⁸ Between 1 January and 30 November 2005, the UNHCR, documented 1,925 voluntary returns, of which one third were Kosovo Serbs.²⁹

In his review on the Kosovo Standards' Implementation Process, UN Special Envoy, Kai Eide, stated:

“The overall return process has virtually come to a halt. A general atmosphere in many places is not conducive to return. Multi-ethnicity is often not seen as a goal. While overall statistics are hard to find, it is a widespread view that currently as many or more Kosovo Serbs are leaving Kosovo than returning.”³⁰

Fears, according to which the signature of a new Memorandum of understanding between UNMIK and the German government would induce a wave of mass deportations, have not materialised. According to BETA, out of 3,011 people whom Germany wanted to deport to

²⁴ United Nations Interim Administration Mission in Kosovo (UNMIK), Kosovo: Highlights of joint press briefing of 29 Mar 2006

²⁵ NGO reports; ERRC: Written Comments of the European Roma Rights Centre Concerning Kosovo for Consideration by the United Nations Human Rights Committee on the Occasion of Review of the Country Report of Task Forces on UNMIK, 20 February 2006

²⁶ Gjuner Adula, Coordinator of the Skopje Group, Letter to Rudko Kawczynski, President of the European Roma and Travellers Forum, Vienna, 30 March 2006

²⁷ Meeting notes by Nicolae Gheorghe, OSCE Special Advisor on Romani Issues, of a Meeting of Kosovo Roma organised by the OSCE/ODIHR in Vienna from 29-31 March 2006

²⁸ UNHCR OCM Pristina: Minority Voluntary Returns to Kosovo, as of 31 March 2005

²⁹ quoted according to: UN Security Council: Report of the Secretary-General on the United Nations Interim Administration in Kosovo, 25 January 2006, S/2006/45

³⁰ Eide, Kai: A comprehensive Review of the Situation in Kosovo, October 2005

Kosovo in 2005, UNMIK refused clearance for 1,615 people. Ultimately, the German authorities have been able to deport only 438 of the remaining 1,396, because they have been unable to locate many of them.³¹

On several occasions, UNMIK sent back deported asylum seekers to Germany: On 15 November 2005, UNMIK Office for Communities and Returns, returned 33 of the 82 passengers of a flight from Karlsruhe to Pristina, according to UNMIK, Roma and Ashkali, on the grounds that their forced repatriation went against the agreement between UNMIK and the German authorities.³² According to the German *Flüchtlingsrat*, several dozens of deported asylum seekers were sent back to Germany on 17 March 2006 alone.³³

Nevertheless, forced repatriations from Western Europe to Kosovo have been going on, despite security concerns, insufficient reception capacities and an economic and social situation which is not conducive for sustainable returns.

On 13 February 2006, UNMIK signed a new Memorandum of Understanding on Repatriation with Sweden, updating an earlier memorandum signed in 2004.³⁴ According to this memorandum, Ashkali and Kosovo Egyptians can be returned to Kosovo on the basis of a prior, individual assessment of their case. Roma in general as well as Kosovo Serbs from parts other than Kosovska Mitrovica are not mentioned in the text of the memorandum.³⁵ Similar agreements exist with Germany and Switzerland.

In 2005, UNMIK negotiated return protocols with Serbia and Montenegro as well as with Macedonia in 2005. A return protocol was agreement at technical level between the Serbian Government and the PISG in September 2005. According to UNMIK, the signature of the return protocol with Montenegro has been postponed until after the Montenegrin referendum on 21 May, whereas the Macedonian government has informed UNMIK, that there is “no further need” for signing a return protocol given that “the current cooperation between UNMIK and Skopje on Voluntary and Sustainable Returns is satisfactory”.³⁶

No information has been available as regards to the return protocol which has been negotiated between UNMIK, the PISG and the Macedonian government. However, the Macedonian government and PISG have agreed to step up the return process which eventually concerns up to 2,200 people, mainly Roma, Ashkali and Kosovo Egyptians who have sought asylum in that country.³⁷ On 15 February 2006, *Utrinski Vesnik* reported that Macedonia is preparing to set up joint teams together with the Kosovo authorities in order to “facilitate the return of 2,000 Kosovo refugees”.

In addition to the forced returns to Kosovo proper, Roma organisations have been concerned about repatriations to Serbia and Montenegro. According to information of Roma NGOs, 515 Roma families, or about 3,000 persons, had been deported from Western Europe to Montenegro in 2004. 315 Roma families had been deported from Germany, France, Austria and the Benelux

³¹ UNMIK is sending deported refugees back to Berlin, *BETA*, 24 March 2006

³² OCRM resolves forced repatriation crisis, UNMIK OCR, 16 November 2005

³³ UNMIK is sending deported refugees back to Berlin, *BETA*, 24 March 2006

³⁴ UNMIK Press Release: UNMIK and Sweden sign Memorandum of Understanding on Repatriation, 13 February 2006

³⁵ Memorandum of Understanding between the Government of the Kingdom of Sweden and UNMIK (draft)

³⁶ OSRSG/UNMIK, email reply 27 April 2006

³⁷ Government of The former Yugoslav Republic of Macedonia: FYROM: Discussions for faster return of Kosovo refugees, 21 September 2005

countries to Podgorica alone. During the same year, 10,200 Roma were deported in 2004 to Serbia.³⁸

According to *TANJUG*, Serbia and Montenegro has signed and ratified readmission agreements with 13 European countries.³⁹ According to the European Council on Refugees and Exiles, ECRE, further agreements have been signed but not yet ratified.⁴⁰ On 13 February 2006, a readmission centre was opened at the Belgrade airport aimed to assist forcibly repatriated people.

In the context of its opening, the Serbian Minister for Human Rights and Minorities, Rasim Ljajic, said that 8,500 people per year had been forcibly repatriated since the signing of readmission agreements in 2001.⁴¹ In an interview with *Danas*, Dragoljub Ackovic, a member of the Presidency of the World Romany Congress said that he expects about 70,000 Roma to be repatriated from different Western countries during the next one or two years.⁴² Many of these forced repatriations concern Roma who have migrated to Western Europe well before the start of the wars in the former Yugoslavia and who had their children raised in Western Europe.

Roma have requested for a stop of forced repatriation of Roma, Ashkali and Kosovo Egyptians to Kosovo. They have asked for a regularisation of those who have integrated in their host country and a reopening of the asylum procedures in contentious cases or where new elements can be brought.

The participation of non-Albanian communities in the status negotiation process

The demand of the non-Serb minority communities including the Kosovo Roma and Ashkali to participate directly in the Kosovo status negotiation has received support from various sides.

On 31 October 2005, the occasion of the fifth anniversary of UN Security Council Resolution 1325/2000 (Resolution 1325) on Women Peace and Security, Amnesty International called for an inclusion of women and the representatives of minority communities including Roma, Ashkali and Kosovo Egyptians in the status negotiation process.⁴³

In the conclusion to its opinion on the implementation of the Framework Convention for the Protection of Minorities, the Council of Europe Advisory Committee, recommended to “[e]nsure the meaningful participation and input of persons belonging to all communities in the talks concerning the future status of Kosovo.”⁴⁴ (our italics)

The Advisory Committee noticed that an “[e]ffective participation of persons belonging to minority communities is one key area where ... further progress is particularly important”. The Committee that that “[t]his principle should be reflected also in the discussions relating to the future status of Kosovo, *which should involve not only Serbs and Albanians but representatives of other communities as well.*”⁴⁵ (our italics)

³⁸ Various newspaper articles, quoted according to: Amnesty International: Serbia and Montenegro: A wasted year. The continuing failure to fulfil key human rights commitments made to the Council of Europe, 22 March 2005

³⁹ Office for Readmission to be opened at Belgrade Airport, *TANJUG*, 13 February 2006

⁴⁰ ECRE: Country Report 2004 – Serbia & Montenegro

⁴¹ Return May Not Be a Homecoming, *IPS*, 5 April 2006

⁴² Osservatorio sui Balcani: Migrants sans papiers : l'Europe expulse, Belgrade accueille, 27 February 2006, *Courrier des Balkans*, 7 March 2006

⁴³ Amnesty International: Kosovo: Include women and minority communities in final status talks, 31 October 2005

⁴⁴ Advisory Committee on the Framework Convention for the Protection of National Minorities: Opinion on the Implementation of the Framework Convention for the Protection of National Minorities in Kosovo (adopted on 25 November 2005, ACFC/OP/I(2005)004, Strasbourg, 2 March 2006

⁴⁵ *ibid.*

The Committee considered that “it is of paramount importance that these [the non-Serb] communities are also included in the design, implementation and evaluation of policies, practices and legislation affecting, directly or indirectly, minority communities.”⁴⁶ The Committee underlined that “[t]his pertains also to discussions relating to the future status of Kosovo, in which representatives of all minority communities must be given a meaningful role going beyond mere consultation *pro forma*, in order to ensure that the outcome takes into account also their concerns.”⁴⁷

In a separate section on the issue of the status talks, the Advisory Committee stated the following:

“The Advisory Committee is of the opinion that *one of the most crucial issues related to the participation of minority communities is the way in which they will be involved in the talks on the future status of Kosovo.* Taking into account that the talks are likely to cover many issues affecting the future status and protection of minority communities in Kosovo, *the Advisory Committee agrees with the representatives of minority communities who have stressed that the effective involvement of all communities of Kosovo, and not only the Albanian and Serbian communities, must be ensured in this process.*”⁴⁸ (our italics)

The Advisory Committee further specified that the effective involvement of all the communities of Kosovo “is instrumental not only in light of the principles contained in Article 15 of the Framework Convention, but also to ensure that the outcome takes into account the concerns of all communities and attracts the widest possible support within the society. The Advisory Committee considers that this issue - the importance of which was acknowledged by several international and local interlocutors during the visit - *should be one of the main elements in the follow-up to the findings of the monitoring of the Framework Convention*, including by the representatives of the international community.”⁴⁹ (our italics)

A direct participation of the minorities in the status negotiation talks as well as in the drafting of the new constitution has also been supported by Turkey. In his contribution to the debate on Kosovo during the meeting of the UN Security Council on 14 February 2006, the Turkish Ambassador, Baki Ilkin, said:

“Likewise, we also welcome the establishment of the Consultative Committee for Minorities, which will provide advice on minority issues. Furthermore, we also deem it crucial that all minorities be engaged in the status talks. To this end, *we believe that a representative for all minorities*, in addition to the one for the Kosovo Serbs, *should be present in the negotiating team.* Another option would be to institutionalize the relationship between the Consultative Committee for Minorities and the negotiating team so that all minorities would be able to share their views and proposals with the negotiating parties at each stage of the talks related to the future status of Kosovo. Furthermore, we believe that minorities should be included in the drafting of the new Constitution.”⁵⁰ (our italics)

⁴⁶ *ibid.*

⁴⁷ *ibid.*

⁴⁸ *ibid.*

⁴⁹ *ibid.*

⁵⁰ Statement by H.E. Ambassador Mr. Baki Ilkin Permanent Representative of the Republic of Turkey to the United Nations at the Security Council Meeting on the debate on Kosovo, New York, 14 February 2006

The response of the international community

Despite an oral commitment to the inclusion of the non-Albanian communities in the status negotiation process, the international community's attitude in this regard has been extremely mitigated. This is particularly true as regards to the non-Serb minority communities who do not constitute a political factor in the negotiations and who are de facto relegated to a third place.

In his report to the UN Secretary General, the UN Special Envoy for the review of the Kosovo Standards Implementation Process, Kai Eide, said:

“The international community is committed to ensure that the future Kosovo respects the political, social and economic rights of all ethnic groups, in accordance with resolution 1244 (1999). This must also be reflected in an effort to bring the minority communities into the [status negotiation] process. In addition to Belgrade and Pristina, *the Kosovo Serbs will have to be addressed as a party to this process. Mechanism must also be found to involve the smaller communities.* They often declare their readiness to contribute to Kosovo's future status. But, they also expect that this process will address their own rights in the future Kosovo.”⁵¹ (our italics)

In the ensuing debate at the UN Security Council Meeting, the Special Representative of the UN Secretary General, Soren Jessen-Petersen said, that “*the voices of civil society and all the people of Kosovo must be heard* [in the status negotiation process]. Kosovo's other communities, including Turks, Bosniacs, Roma and Egyptians, had as much a claim to Kosovo's future as Serbs and Albanians. Indeed, Kosovo's diversity was its treasure.”⁵² (our italics)

In his report to the UN Security Council on 25 January 2006, UN Secretary General, Kofi Anan, said:

“On 22 November, the Kosovo negotiating team met with my Special Envoy and submitted a document outlining its platform for status negotiations, including its commitment to equal rights for the majority and minority communities based on the rule of law. My Special Representative has repeatedly stressed that it is essential *to involve* civil society, women's groups and, *in particular, minority community representatives in this process* to ensure that they have a say in designing the future of Kosovo. On 9 December, the negotiating team established a Consultative Committee for Minorities, *which will provide advice on minority issues.*”⁵³ (our italics)

The members of the international Contact Group have repeatedly urged the non-Albanian communities to participate in the status process. On 31 January 2006, the Ministers issued a statement in which they “call on Kosovo's Serbs and other minority communities to seize the opportunity of the status process to ensure their concerns are fully addressed.”⁵⁴ A similar statement was repeated following the meeting of the Contact Group in April.⁵⁵

In spite of these declarations, nothing has been done in order to allow a direct participation of the non-Albanian communities in the status talks. Most worrisome, the international community seems to lack a clear understanding of ethnic/national minorities which goes out from several statements made by the Special Representative of the UN Secretary General, where he lists the

⁵¹ Eide, Kai: A comprehensive Review of the Situation in Kosovo, October 2005

⁵² Security Council presidential statement offers full support for start of political process to determine Kosovo's future status, Security Council, 5289th & 5290th Meetings (AM & PM), United Nations Security Council, 24 Oct 2005

⁵³ UN Security Council: Report of the Secretary-General on the United Nations Interim Administration in Kosovo, 25 January 2006, S/2006/45

⁵⁴ Kosovo Contact Group Statement, London, 31 January 2006

⁵⁵ Contact Group wants Kosovo status resolved this year, Southeast European Times, 11 April 2006

non-Albanian communities in one breath with women's associations and other civil society organisations.⁵⁶

In the same vein, the UN Special Envoy for the status talks, Martti Ahtisaari, answering to journalist at a press conference in Brussels, reacted to the question whether he plans to hold any direct talks with representatives of the non-Serb minorities, by saying that he met with representatives of the Kosovo Serbs on several occasions as well as with the non-Serb minority communities, adding that those are "covered" now, and that he wants to move forward meeting with women and civil society organisations.⁵⁷

In its reply to the Opinion of the CoE Advisory Committee on the Implementation Framework Convention for the Protection of National Minorities in Kosovo, UNMIK said:

"There have been significant developments in the status negotiations since the adoption of the Advisory Committee's Opinion. The Kosovo Negotiating Team has met with the Special Envoy of the Secretary-General for the future status talks, Mr. Martti Ahtisaari, and submitted a document outlining its platform for the status negotiations, reflecting its firm commitment to equal rights for the majority and the minority communities based on the rule of law. On 9 November 2005, *the Kosovo Negotiating Team established a Consultative Committee for Minorities to provide advice on minority issues.* The Special Representative of the Secretary-General has repeatedly emphasized the critical importance of involving civil society, women's groups and, in particular, minority community representatives in the status process to ensure that they have a say in designing the future of Kosovo. To this end, UNMIK Pillar III/OSCE is currently conducting a series of workshops for potential members of the Kosovo delegation and other participants to contribute to the final status negotiation process. Participants in these trainings include parliamentary representatives of Kosovo' Serb and non-Serb minority communities."⁵⁸ (our italics)

Where the Advisory Committee had requested a meaningful participation of the non-Albanian communities, UNMIK refers to the establishment of a Consultative Committee with the task "to provide advice on minority issues." (sic!) And again, as it was pointed out already before, also in this document, the non-Albanian communities are listed on equal footing with women's groups and civil society organisations!

⁵⁶ See for instance: Security Council presidential statement offers full support for start of political process to determine Kosovo's future status, Security Council, 5289th & 5290th Meetings (AM & PM), United Nations Security Council, 24 October 2005

⁵⁷ Press Conference at the European Commission on 27 January 2006 (our transcript)

⁵⁸ UNMIK: Observation on Opinion on the Implementation of the Framework Convention for the Protection of National Minorities in Kosovo (adopted on 25 November 2005), 18 February 2006

The position of ERTF

The European Roma and Travellers Forum provides its full support and backing to the claim of Kosovo Roma for their immediate and direct participation in the status talks. While ERTF does not want to take position on the very status issue, the organisation believes that the settlement of political, economic and cultural rights negotiated during the status negotiations is of crucial importance to the Roma communities. Moreover, ERTF supports the Kosovo Roma in their claim for compensation over the war-time damages including compensation for lost property and physical and psychological damage.

ERTF is prepared to take over the mandate which the organisation has been given in several meetings to take part in the negotiations and requests, at least, an observer status in this process with full access to all meetings' documents and other material.

Recommendations

Based on the above, the European Roma and Travellers Forum requests the support of the Council of Europe on the following issues:

Related to the status negotiations

- Create the conditions for an effective and free participation of the Roma and other non-Albanian communities in the status talks;
- Sufficient financial and logistic endowment for the establishment of a Roma negotiating team which would be able to make a meaningful contribution to the negotiations in Vienna;
- Ensure that the rights of all Kosovo people are taken into account and dealt with on an equal footing during the status talks;
- Ensure, in particular, that the situation of the Roma in Diaspora is taken into account and that an effective consultation among them is taking place before any final decision as regards to an eventual independence of Kosovo and Kosovo's future constitution;

Related to daily life in Kosovo

- Ensure that all the Kosovo communities are granted the same rights in Kosovo regardless Kosovo's future political status;
- Ensure that the rights of Roma are properly implemented. This concerns in particular the right to maintain and develop their culture, the preservation of their cultural heritage including grave yards and the right to use their language in public and in front of administration, to receive education in their language and to have media in their own language;
- Ensure a fair and equal distribution of donors aid in the reconstruction process;
- Ensure the property rights of those who had their houses destroyed or unduly occupied by other people;
- Ensure an effective participation of Roma in political life and public institutions and all levels;
- Ensure an indiscriminate access to education, employment and public services;
- Create the possibility for the establishment of Roma municipalities in places where there was a considerable Roma population on the basis of the pre-war figures.

Related to security and freedom of movement

- Guarantee full freedom of movement and security;
- Ensure a consequent pursuit of all ethnically motivated crime;
- Ensure an effective and independent monitoring of Human Rights violations,
- Maintain an independent ombudsperson institution in Kosovo and make sure that it can perform its work free from political interference and that all Kosovo people including Roma have equal access to its services.
- Ensure an equal and fair representation of all Kosovo people including Roma in the security forces in particular in the police.

Related to refugee returns and the situation of refugees and IDPs

- Assure that all those who want to return to Kosovo can do so under the best possible conditions and with all the guarantees regarding their personal safety and that they are free to choose their place of living;
- Assure that no forced deportations of Kosovo Roma to Kosovo or to any other place in Serbia and Montenegro take place;
- Open the possibility for third country resettlement for those in the region who have not been able integrate in their host country;
- Grant permanent residence rights to Kosovo Roma and Roma from other parts of Serbia and Montenegro who have integrated in their host country;
- Reopen the asylum procedures for those who can bring new evidence or where serious shortcomings in the procedure can be proven.

Related to Kosovska Mitrovica

- Immediate evacuation of the Roma in refugee camps to a safe environment.
- Independent medical investigation into the effects of the lead-poisoning and medical treatment to the victims of the lead-poisoning.
- Compensation to the victims and their families in particular to those who have suffered irreversible or lethal hazards as the consequence of being placed in an unhealthy environment.

- Comprehensive investigation into the state of the Mahala before the war on the basis of any available documents and testimonies.
- Participation of the former inhabitants of the Roma Mahala in its reconstruction starting with the planning process.
- Indiscriminate access to all documents and material related to the reconstruction of the Mahala.
- Guarantee the inviolability of their rights including to those who do not foresee to return to the Mahala in the near future.

In addition, ERTF requests that the perpetrators of war crimes and of ethnically motivated crimes against Roma are persecuted and brought to justice, compensation for the victims and the clarification of the destinies of the disappeared.

Document prepared by Dr. Karin Waringo

Strasbourg, 16 May 2006

Key documents

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