



NOT SAFE AT ALL.

**THE SAFE COUNTRIES OF ORIGIN
LEGISLATION AND THE CONSEQUENCES
FOR ROMA MIGRANTS**

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IMPRESSUM

Not Safe At All. The Safe Countries of Origin Legislation and the Consequences for Roma Migrants

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90% of children in Roma settlements are growing up in poverty.

22% attend secondary school, of whom only 15% are girls. In average, 89% of students in Serbia attend secondary school.



64% finish primary school on time.



6% of children from Roma settlements attend early childhood education, compared to 50% of all children in Serbia.



According to the 2011 census, out of 147.604 Roma living in Serbia there were only 204 Roma university students in 2010.

Sources: OSCE, *Roma remain one of most vulnerable groups, continue to face difficult living conditions and discrimination in access to social protection, health, employment and adequate housing, as stated in reports by independent bodies*, 08.04.16.

See table 6. in: *Analiza primene afirmativnih mera u oblasti obrazovanja roma i romkinja i preporuke za unapređenje mera*, June, 2016. pp. 40.

INTRODUCTION

When Germany's government decided to effectively open its borders to refugees from Syria in summer 2015, many celebrated this move as a humanitarian response to the dramatic influx of refugees and migrants which took place via the "Balkan route". Compared to the reactions of other governments in Europe along the paths taken by refugees, reactions which included the hasty building of fences, this decision must indeed be viewed as a humanitarian act. Nevertheless, the decision to temporarily and partially suspend the Dublin Regulation has to be understood as a retroactive adjustment to the fact that migrants and refugees have been crossing these same borders for at least two years and have been living "irregularly" on German territory in ever-increasing numbers.

Yet this de facto amnesty has been accompanied by a plethora of new restrictive asylum and border policies at the national and EU levels; policies aimed at containing migration into the EU. In quick succession, German parliament passed two "Asylum Packages", among others, simplifying the deportation of rejected asylum seekers and suspending family reunions for accepted refugees. Another key measure is the designation of a growing number of countries as so-called "safe countries of origin". Above all, it was countries from the Balkans - Serbia, Kosovo, Albania, Montenegro, Bosnia and Herzegovina, and Macedonia that were declared as "safe", and consequently the German authorities generally came to consider asylum applications from these countries as unfounded. Whilst this does not mean that asylum applications will now be automatically rejected, the chances of asylum being granted are very slim – given the fact that rejection rates for asylum seekers from Serbia were as high

as 99% (97% for asylum seekers from Kosovo) in Germany even before this decision was made.¹

Nevertheless, the designation of the Balkan countries as “safe” has profound and far-reaching consequences – not only for migrants currently applying for asylum, but also for people who have been petitioning for asylum and living in Germany for several years, and in some cases, decades. The majority of asylum applicants from Serbia, Kosovo and Macedonia are Roma,² who are subject to persecution, marginalization and social exclusion all over Europe. There are few reliable statistics concerning the ethnic origins of asylum applicants available, but according to a minor inquiry undertaken by the DIE LINKE parliamentary group in the Bundestag, ca. 70% of asylum applications from Kosovo processed in Germany in 2014 were made by Roma, Ashkali or Egyptians.³ For these applicants, this decision means they will have an even smaller chance of being recognized as refugees, therefore being severely disadvantaged in the asylum process, where they may be regarded as “economic” or “poverty migrants” or even as “false asylum seekers”.

Politicians and asylum granting authorities systematically frame the causes of migration by Roma as relating to poverty and economic reasons – they completely fail to recognize the presence of widespread anti-gypsyism as well as direct and structural discrimination as being part of the equation. The Roma are the largest minority in Europe. The majority of the 10-12 million Roma in Europe are living in significantly worse living

1 Eurostat, *Final decisions on applications by citizenship, age and sex. Annual data 2008-2015*, 2016.

2 EASO, *Asylum Applicants from the Western Balkans, Comparative analysis of trends, push-pull factors and responses*, 2015.

3 *Antwort der Bundesregierung auf die Kleine Anfrage der Fraktion DIE LINKE*, Bundestags-Drucksache 18/4142, 2015.

conditions than their fellow citizens, and many are victims of prejudice and social exclusion – both within and outside of the European Union (EU). The history of the Roma in Europe is a history of repression, persecution and forced evictions, including of genocide against the Roma in World War II. On paper, the EU and the German government have dedicated themselves to fighting the persecution and exclusion of Roma. In practice, Germany doesn't even recognize as grounds for asylum the direct and structural discrimination which many Roma are victim to in the Balkan countries.

In the shadow of the current German “Willkommenskultur” there are daily deportations, the majority of them to the Balkans. The number of deportations doubled in 2015 and continued to increase rapidly in 2016. Many Roma have been forcibly sent back to countries they left because of anti-gypsyism, massive poverty and wide-ranging exclusion from basic social services and necessities, such as housing, employment, health services and education. Their countries of origin have been repeatedly criticized by the UNHCR, human rights organizations such as Amnesty International and even by the Council of Europe for systematic discrimination against Roma. These findings and reports are being deliberately ignored in the asylum granting processes; people are being deported to or prohibited from leaving their home countries and left without any meaningful support despite promises by their governments and the EU to support Roma inclusion. The problem is that the small number of existing inclusion programs have only marginal effects in countries such as those in the Balkans. In light of the continual imposition of austerity measures, cuts in public services, unemployment, the lack of welfare and overall poverty, short-term local inclusion projects will only be a drop in the ocean, let alone permit the whole of the deprived Roma community to have some chance of

an overall improvement of their material conditions. Moreover, the vast majority of Roma communities have no say in the distribution of money intended to support “their inclusion”, which only contributes to an already existing prejudice held towards the Roma: no matter what happens, they just won’t integrate.⁴

This brochure hopes to bring these largely hidden processes into focus: the changes in asylum laws that simplify rejecting asylum applications and deportations, the consequences these policies have for Roma migrants from the Balkans, and the widespread discrimination and exclusion of Roma in the Balkans, particularly as regards Serbia and Kosovo. We want to show that the Roma are subject to discrimination not only in their home countries but also due to racist and neo-protectionist migration policies and asylum practices. We will discuss why the Roma inclusion programs, to which politicians frequently refer, have so far not achieved anything in terms of improving the situation of Roma or combating the causes of migration. Finally, we will suggest several alternatives to the current inhuman and racist treatment of migrants from the Balkans.

Wenke Christoph, Tamara Baković Jadžić & Vladan Jeremić

⁴ Ivan Radenković, *Romi između multikulturalizma i politike štednje*, in: Bilten, 17.09.14.

Percentage of Roma that live in segregated neighborhoods in the year 2005



Percentage of Roma that live in segregated neighborhoods in the year 2014



Source: Decade of Roma Inclusion Secretariat Foundation, *Roma Inclusion Index 2015*.

WHY DO “SAFE COUNTRIES OF ORIGIN” CONTRADICT THE FUNDAMENTAL RIGHT TO ASYLUM?

When the German Bundestag judged in 2014 and 2015 that the Balkan states were “safe countries of origin”, it effectively declared these countries to be generally free from persecution. Thus, the federal government made the argument that the vast majority of asylum applications coming from these countries are submitted for reasons not relating to asylum, and that they only create high expenditure in terms of workload and cost for the authorities.¹ The right to asylum is, however, a basic individual right; every application for asylum must be individually examined. For this reason, the politics of “safe countries of origin” is highly controversial, since applications from these countries are effectively being denied across the board as unfounded – even if the applicants are fleeing discrimination and marginalization on a major scale, as are many Roma from the Balkans.

¹ Legislative Draft of the Federal Government, *Draft legislation to categorise further states as safe countries of origin and to facilitate access to the labour market for asylum applicants and foreigners on sufferance*, 30.4.14.

Article 16a, Section 3 of the German Constitution allows legislators to determine states to be “safe countries of origin”. However, this is permitted only in such cases where it appears to be guaranteed that neither political persecution nor inhuman, degrading treatment or punishment occur in these states. This conception of persecution was expanded in 2011 by an EU Directive² and incorporated into Paragraph 3 of the Asylum Law. Within this conception, persecution may occur not only as political persecution by a state, but also when an action is either so severe in its type and frequency that it presents a serious violation of fundamental human rights, or when it consists of an accumulation of such varied measures that it impacts on persons in a similar way. Since this law was enacted, a claim to asylum may be founded not only upon state persecution, but also upon persecution by private third parties unrelated to the state. The violation of human rights in such cases includes not only a violation of political and civil human rights, but also of social and economic human rights. Moreover, individual measures or situations such as discrimination, repressions, limitations and humiliations may form a basis to claim persecution if they accumulate to create a set of circumstances so unbearable for those affected that they can escape only by fleeing the country. This so-called cumulative, or rather structural discrimination is the main motivation for Roma fleeing from South-Eastern Europe, who face common and widely attested experiences of anti-gypsyism and racism.

Given that the right to asylum is a personal fundamental right, the authorities must examine each asylum application individually. However, by ranking Bosnia and Herzegovina, Macedonia and Serbia in 2014, and later Albania, Kosovo and Mon-

² *Qualification Directive 2011/95/EU.*

tenegro in the Asylum Package I³ of 2015 as “safe countries of origin”, the Bundestag has taken the individual decision-making powers regarding persecution out of the hands of the Foreigners’ Registration Office, and generally declared the states to be persecution-free. While this was permissible, according to the powers granted in Article 16a, Section 3 of the German Constitution, the Bundestag still had to invoke “good reasons” for doing so, in line with a Constitutional Court ruling made in 1996.⁴ This required a “thoroughly detailed analysis of the facts”, the citing of all “available and reliable sources”, and a “certain measure of diligence”. The number of conditions has been further increased by the expansion of the conception of persecution in EU policy. Thus, a country can only be ranked as safe if it can prove the existence of a democratic system, as well as demonstrating that there is no persecution taking place on a general and ongoing basis, no torture, inhuman or degrading treatment or punishment, no threats of violence, and no armed conflicts.⁵

This legally mandated, thorough examination of the countries of origin was utterly lacking in the actions of the federal government, in the Bundestag and in the Federal Council (Bundesrat) - due to the expedited legislative process, it was not even possible. Just one week after a hearing with six third-party experts, the committee responsible made the decision – which received criticism from the opposition - on July 1, 2014, to leave the draft laws on the categorization of Bosnia and Herzegovina, Macedonia and Serbia unchanged. Just two days later, the legislative draft was voted on in a plenary session of the Bundestag

³ *Asylum Procedures Expedition Law*, 20.10.15.

⁴ *BVerfGE 94, p. 115 et seq.*

⁵ *Directive 2013/32/EU* of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection.

and passed by a majority vote. It was therefore possible for the Federal Council to approve it on September 19, directly after the summer break. The declaration of Albania, Kosovo and Montenegro as safe countries went through even faster, the legislative procedure lasting just one month.

A careful analysis of these issues should have taken into account the large number of extremely critical reports on these countries by European, international, and UN organizations, ranging from Amnesty International and Pro Asyl to the OSCE and the U.S. Department of State. All of this documentation paints a picture of the situation facing the Roma in these countries which, according to the criteria in the EU Policy, could only be classified as “structural discrimination”. The Open Society Foundation summarizes in its public health program the desperate situation of the Roma as follows: “Roma experience systematic discrimination and exclusion in various spheres of life, such as citizenship, education, employment, housing and access to justice. Many Roma have little – if any - personal documentation, obstructing their access to most basic and essential services. ... Compounding these problems are negative public attitudes and stereotypes about Roma, which remain deep-rooted and continue to give rise to more tangible forms of discrimination and rights violations”.⁶ The complete lack of examination and consideration in the legislative process of the condition of the Roma in the Balkan states, as well as the multiple criteria which clearly contradict these states’ declaration as being safe countries, make this law unconstitutional. For this reason, 27 members of the SPD in the Bundestag retracted their own votes in October 2014. Despite their underlying criticism of this law,

⁶ Open Society Foundations, *Roma Health Rights in Macedonia, Romania, and Serbia: A Baseline for Advocacy*, 2013.

they had supposedly only voted for it as part of an agreement within the party coalition.

Clearly, long before the increasing numbers of refugees from the Near and Middle East drove the federal government to draw up such hasty legislative defense measures, it had planned to use the instrument of “safe countries of origin” in order to rigorously curb the constant movement of refugees from the Balkan states. The decision to change the Asylum Law had already been made in the coalition contract for the eighteenth legislative term.⁷ In the draft legislation, the federal government explained that it wanted to thereby reduce the costs of administering asylum procedures and to make Germany less attractive as a target country for immigrants from the Balkans.⁸ This would supposedly limit the abuse of asylum rights, without disadvantaging asylum seekers actually in need of protection.

In effect, the fundamental right to asylum was undermined. This entailed a refusal to examine cases individually and the reversal of the burden of proof: documenting persecution is now imposed solely upon asylum applicants; during a shortened procedure, they must prove – in hearings sometimes lasting as little as ten minutes – that they are threatened by persecution, as opposed to the ‘legal presumption’ of safety. This process is a hurdle that is almost impossible to clear, particularly so for the illiterate among the Roma. This process also calls the individual nature of the right to asylum into question, as for asylum applicants from “safe countries of origin”, one can hardly speak of an

⁷ *Coalition agreement between the CDU, the CSU and the SPD*, 18th legislative term, 2013.

⁸ Legislative Draft of the Federal Government, *Draft legislation to categorise further states as safe countries of origin and to facilitate access to the labour market for asylum applicants and foreigners on sufferance*, 30.4.14.

unbiased procedure. On these grounds, the European Council on Refugees and Exiles (ECRE) voiced the criticism that lists of safe countries in fact contribute to the stereotyping of asylum applicants on the basis of nationality, increasing the danger that such applications will not receive a thorough examination.⁹ Overall, the protection in place surrounding rights for asylum applicants from safe countries has been reduced to a minimum.

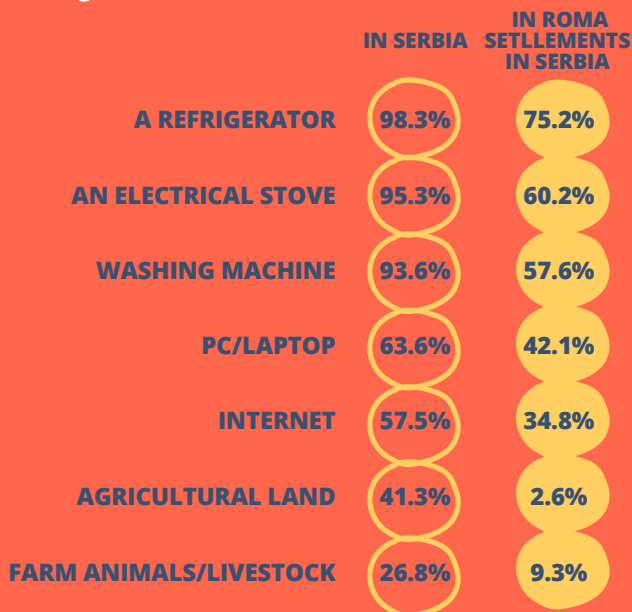
No less problematic is the issue that the spread of negative attitudes towards the Roma and the more general anti-gypsyism has been strengthened by these laws. The Roma, viewed as ‘bad’ and ‘false’ refugees, have become victims of a divisive and ultimately racist refugee selection process. These laws are therefore not only a direct attack on the substantive content of German asylum rights; in addition they barely avoid an impression of being anti-Roma laws, since two thirds or more of the refugees from the Balkan states in the past have been Roma.¹⁰

Norman Paech

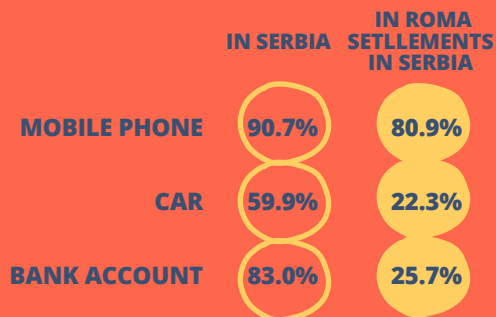
⁹ ECRE, *ECRE Comments on the Proposal for a Regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin and amending the recast Asylum Procedures Directive (COM(2015) 452)*, 2015.

¹⁰ See Norman Paech, *Report on the constitutionality of the 'legislation to categorise further states as safe countries of origin and to facilitate access to the labour market for asylum applicants and foreigners on sufferance'*, 2014, produced for the European Rom and Cinti Union.

Percentage of households that own:



Percentage of households where at least a member has or owns a:



Source: Statistical Office of the Republic of Serbia and UNICEF, *2014 Serbia Multiple Indicator Survey and 2014 Serbia Roma Settlements Multiple Indicator Cluster Survey, Key Findings*, 2014, p. 18.

WHY CAN'T SERBIA BE CONSIDERED TO BE A SAFE COUNTRY FOR ROMA?

The main arguments made for adding Serbia to Germany's "safe country of origin" list were that Serbia is a democracy, that it complies with all international standards as regards the necessary protection of minorities' human rights, that there is no indication of systematic persecution or repression against minorities by the state and that the country is therefore firmly on its way towards EU accession. However, while Serbia did ratify a number of human rights conventions and has an legislative framework in accordance with these, the reality of the living conditions Roma experience and the existing general systematic and institutional discrimination tells a different story, one that will be hard to change within the existing political constellation.

One of the main challenges for defending the rights of Roma asylum seekers is to prove that discrimination they are facing in Serbia has a cumulative effect that amounts to persecution. In addition, it is necessary to prove that the state has failed to provide effective protection to Roma victims of discrimination and violence. The concept of cumulative discrimination is most comprehensively elaborated in the *UNHCR Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status*.¹ It states that if a person has experienced discrimination taken together with other adverse factors, this should be considered as persecution on “cumulative grounds”.² Carefully developed over the course of several decades, the ambiguous wording of this formulation in fact sometimes permits a more radical and even subversive meaning. Yet the contemporary agenda of powerful nation states is not to undermine this “radical” interpretation but to challenge the UN system of protection as a whole. This is most blatantly done through the practices of European countries relating to refugees and asylum seekers, both legally and institutionally, claiming that the recent changes in circumstances call for a new approach that surpasses the supposedly idealistic and naïve one fostered by the UN.

¹ *UNHCR Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status: Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, 2011.*

² “In addition, an applicant may have been subjected to various measures not in themselves amounting to persecution (e.g. discrimination in different forms), in some cases combined with other adverse factors (e.g. general atmosphere of insecurity in the country of origin). In such situations, the various elements involved may, if taken together, produce an effect on the mind of the applicant that can reasonably justify a claim to well-founded fear of persecution on “cumulative grounds”. Needless to say, it is not possible to lay down a general rule as to what cumulative reasons can give rise to a valid claim to refugee status. This will necessarily depend on all the circumstances, including the particular geographical, historical and ethnological context.”, *ibid* p. 13.

The designation of Serbia as a “safe country of origin” clearly promotes this tendency. Serbia is a country in which it is safe to say that there is continual institutional discrimination against Roma, which is in this case effectively ignored. Institutional discrimination not only discloses how deeply racism is ingrained in our society but it also undermines all the commitments made by the state to eliminate discriminative practices against Roma. Due to the brevity of this article I will only single out the issues that deserve the most attention so as to illustrate this disturbing state of affairs.

Educational segregation assumes two main forms: the segregation of Roma children into special schools for mentally disabled students and Roma-only mainstream schools.³ Both practices remain commonplace across Eastern Europe.⁴ There is no official data on the ethnic breakdown of students in special schools, but on the basis of several studies it is estimated that the overrepresentation of Roma students goes up to one third of all students.⁵ In addition, the number of Roma-only schools is increasing, especially in the south of Serbia where parents of children belonging to the majority population decide to enrol their children in a different school once they realize that the school is attended mostly by Roma. Both practices, expressing different forms of racial segregation, violate the right to education and equal treatment and highly diminish Roma children’s chances of receiving a quality education.⁶ Additionally, Roma children face many other

³ Gwendolyn Albert, Margareta Matache, Marius Taba, Adriána Zimová, *Segregation of Roma Children in Education – Successes and Challenges*, 2015.

⁴ Amnesty International, *Segregation, bullying and fear: The stunted education of Romani children in Europe*, 2015.

⁵ Open Society Institute, *Roma children in “special education” in Serbia: overrepresentation, underachievement, and impact on life*, 2010.

⁶ See: Roma Education Fund, *Advancing Roma Education in Serbia*, 2010.

obstacles in accessing their rights to education including: a lack of space, disparities in quality and systematic barriers in enrolling Roma children in pre-school education; insufficient support for inclusive education including the underemployment of Roma teaching assistants, a lack of quality teachers trained to work in a multicultural environment, a lack of preparatory language classes and free textbook provision, amongst others.

The majority of Roma dwell in Roma-only informal settlements, substandard settlements unlike any in which the majority population lives. While the state hardly makes any effort to fulfil its commitments and improve living conditions in these settlements⁷, this alone does not constitute an act of institutional racism. But unlike other citizens, their inhabitants are constantly in fear of arbitrary forced evictions⁸ which are carried out despite violating international human rights standards.⁹ After having been resettled, they are placed in newly developed Roma-only settlements on the outskirts of cities.

The Roma are one of the most frequent victims of hate crimes. Furthermore, because of their distrust of institutions and common secondary victimization¹⁰, Roma are often reluctant to report hate crimes. Human rights organizations in Serbia have altogether documented around ten hate crime cases¹¹

⁷ Ministry of Human and Minority Rights, *Strategy for Improvement of the Status of Roma in the Republic of Serbia*, 2010.

⁸ From 2009 to 2011, fifteen forced evictions affecting approximately 1,500 people have been documented by the Platform for Access to the Right to Adequate Housing in Belgrade alone, see: *Platforma za ostvarivanje prava na adekvatno stanovanje*.

⁹ Amnesty International, *After Belvil: Serbia Needs Laws against Forced Evictions*, 2012.

¹⁰ Secondary victimization is the retraumatization of a hate crime victim by any actor in the criminal justice system.

¹¹ OSCE ODIHR, *Hate Crime Reporting*.

against Roma annually, and even this reveals upsetting patterns. In addition to secondary victimization and discriminatory treatment at the police station, investigations often disregard the racist motives of the perpetrators. As a result, the prosecution almost never qualifies these acts as hate crimes. If the case ever reaches court, judgements are always under or around the legal minimum resulting in probation sentences only.

The legislative framework relating to protecting Roma rights is accompanied by a wide array of policy documents such as strategies and action plans, the two most notable being *the Strategy for the Social Inclusion of Roma*¹² and the *Strategy for the Prevention of and Protection from Discrimination*¹³. However, a disturbing gap exists between their adoption and implementation. It seems that both the Serbian political elites as well as European bureaucrats have been more satisfied with ticking boxes rather than with making real progress as regards improving the situation for Roma.

To give one example, the newly adopted *Strategy for Inclusion* treats the problems of Roma solely in terms of their poverty, and therefore separated from a deeper analysis of the causes of and overall political and economic conditions present in the European periphery, leaving out issues of discrimination, hate speech and hate crimes which are dealt with separately in the *Strategy for the Prevention of and Protection from Discrimination*. This reflects a deep ignorance of both the political elite and caste of experts, who reduce the problems of Roma to humanitarian ones, while continual violations of social and economic rights are never really questioned. This unaccountable and paternalistic approach which

¹² *Strategy for Social Inclusion of Roma*, adopted in March 2016 for a nine year period.

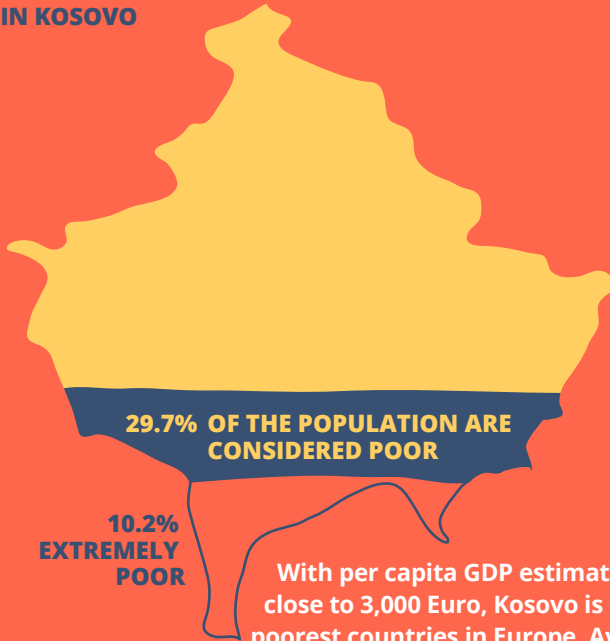
¹³ *Strategy for Prevention and Protection from Discrimination*, adopted in June 2013 for a five year period.

often blames Roma for their “unwillingness to integrate” seems to be widely accepted not only in Serbia but also across Europe.

The major incentive for improving the Roma’s situation still remains the external pressure and financial support provided by the European Union. Yet, if the Roma’s situation is ever to be addressed properly, this would entail first of all initiating changes in those areas which intersect with the wider political situation in Serbia, that is: housing, social welfare, health care, employment, hate crimes, etc. Unfortunately, measures tailored to address these areas in the case of the Roma population have been developed and implemented in a top-down manner and have been expensive to administer. At the same time, these costly projects and interventions have contributed to a distorted understanding of the real problems the Roma encounter and undermine the potential that Roma communities may themselves have for efficiently addressing these problems.

Jovana Vuković

IN KOSOVO



**10.2%
EXTREMELY
POOR**

With per capita GDP estimates of close to 3,000 Euro, Kosovo is one of the poorest countries in Europe. Average per capita income is about one-tenth that of EU levels. The rate of poverty among the RAE population is approximately three times higher than at the national level (approximately 88%).



Sources: World Bank, *Kosovo Country Snapshot*, April 2015; Republic of Kosovo, Office of the Prime Minister, *Roma community*, 2015; Trading Economics, *Kosovo Unemployment 2001-2016*.

WHY CAN'T KOSOVO BE CONSIDERED SAFE FOR ROMA?

Tens of thousands of Roma, Ashkali and Egyptians (RAE) were forced to flee Kosovo prior to, during, or in the aftermath of the conflict in 1999. Many of them are now in danger of being deported there following the declaration of Kosovo as being a safe country of origin. Although Kosovo's president Hashim Thaçi has claimed in the German media that "Kosovo is an absolutely safe country, and there is no reason to seek asylum"¹, numerous reports conducted by international institutions paint a different picture, one of persistent marginalization and of the systematic discrimination of RAE communities.

¹ Kosovo-Außenminister Hashim Thaci im BILD-Interview: „Unser Land ist sicher, Asylgründe gibt es nicht“, BILD 27.08.15.

Kosovo has been in a state of constant nationalist tensions for over four decades now.² Strained relations between Serbs and Albanians reached their peak in the late nineties, resulting in war, bombing, massive refugee flows and the internal displacement of people. It is estimated that at the time, there were around 100,000 to 150,000 Roma, Ashkali and Egyptians (RAE) living in Kosovo, who found themselves in the midst of a conflict with both sides either blaming them for being “collaborators” with the opposing side, or forcing them to take part in retaliatory actions. During the 1998-1999 operations and the NATO bombing, in addition to attacks and forced evictions from which they suffered as non-Serbs, the RAE were frequently forced by the Serbian army to perform all sorts of jobs, from digging graves for dead Albanians and KLA³ members, to raiding Albanian houses and properties.⁴ These activities only added to the Albanian population viewing Roma as collaborators with the Serbs, since the Socialist Party of Serbia – the Serbian ruling party at the time – used the Kosovar RAE community for their political gain for many years running.⁵ Immediately after the ceasefire in 1999 and the withdrawal of the Serbian army, around 800,000 Albanian refugees returned to Kosovo, and the remaining Serbs and RAE fell victim to massive retaliatory acts, even with the

2 For an extensive analysis of the political situation surrounding the Kosovo conflict see: Hannes Hofbauer, *Experiment Kosovo: Die Rückkehr des Kolonialismus*, 2008.

3 Kosovo Liberation Army, in Albanian: Ushtria Çlirimtare e Kosovës (UÇK).

4 ERRC, *Abandoned Minority: A Report by the European Roma Rights Centre*, 2011, p. 17; *Zloupotreba i nasilje nad kosovskim Romima 24. mart – 1. septembar 1999*, p. 3.

5 Claude Cahn and Tatjana Perić, *Roma and the Kosovo conflict*, ERRC, 15.7.99.

international community and KFOR present.⁶ As a result, almost 100,000 RAE fled Kosovo, more than half of them to Serbia, Montenegro, Macedonia, Bosnia and Herzegovina, while others tried to find refuge in Western Europe.⁷

According to the 2011 census, only around 35,000 Roma, Ashkali and Egyptians currently live in Kosovo.⁸ The majority of those who fled have not returned, but remain in the surrounding Balkan states or in Western Europe, often without a recognized refugee status. The lives of the RAE in Kosovo are very much conditioned by the persistent ethnic tensions, alongside harsh discrimination and the frequent violation of their basic human rights. The 2013 *First Agreement*⁹ between Serbia and Kosovo, which codified the complex relations of dual governance that have existed since 1999, is very much concentrated on divisions between the two conflicted ethnicities, leaving little room for the already excluded minorities.

To this day, the RAE are collectively labelled as collaborators with the Serb regime, and this label is used as a justification for their unequal treatment.¹⁰ Not a single person has been prosecuted for the evictions and the anti-Roma violence which took place in 1999.¹¹ Minorities such as the RAE report on prevailing feelings

⁶ ERRC, *Abandoned Minority: A Report by the European Roma Rights Centre*, 2011, p. 20.

⁷ *Ibid*, p. 21.

⁸ Available at: <http://unstats.un.org/unsd/censuskb20/KnowledgebaseArticle10700.aspx>.

⁹ *First Agreement of Principles Governing the Normalization of Relations*.

¹⁰ Society for Threatened Peoples, *Lost in transition, The forced migration circle of RAE from Kosovo*, 2015, p. 57.

¹¹ Boris Kanzleiter, *Die erste Kolonie der Europäischen Union. UN-Vermittler Martti Ahtisaari will im Kosovo ein ethnisch geteiltes, autoritär kontrolliertes Protektorat durchsetzen*, 26.02.07.

of insecurity that are fed by a large number of unresolved crimes committed against them, both in the past as well as more recently. The justice system is considered inadequate and weak, as well as being biased against the RAE. As a result, many cases of intimidation and anti-Roma violence go unreported and many Roma live in a constant state of insecurity and intimidation.¹²

As the UNHCR summarizes, RAE in Kosovo face severe limitations to their fundamental human rights, “including serious societal and sometimes administrative discrimination that would limit in particular their ability to exercise their political, social and economic rights”¹³. The systematic or cumulative discrimination the RAE encounter goes far beyond anti-Roma violence, rather including all areas of life. Such discrimination begins with the difficulties involved in obtaining proper personal documentation, which still is a basic obstacle for the RAE in Kosovo. Nearly 40% of the RAE are not registered as residents in Kosovo, which means they do not possess basic documents enabling access to public services like schools, hospitals and housing.¹⁴

The majority of RAE live in overcrowded, substandard housing in segregated neighborhoods, often informal settlements without access to basic infrastructure such as water, electricity, waste collection or public transport.¹⁵ Many of them still live in refugee camps as internally displaced persons (IDPs) - a direct result of the Kosovo conflict and post-war policies enacted since

¹² See footnote 6.

¹³ UNHCR, *Parliamentary Briefing to the Joint Committee on Statutory Instruments*, 09.02.10.

¹⁴ Government of the Republic of Kosovo, *Strategy for the integration of Roma, Ashkali and Egyptian communities in the Republic of Kosovo 2009-2015*, 2009, p. 99.

¹⁵ See footnote 6.

1999.¹⁶ RAE neighborhoods throughout Kosovo were destroyed and occupied by Albanians during and after the war, and their inhabitants were forced to flee.¹⁷ Lacking property or personal documentation, many RAE have not been able to reclaim their confiscated land and houses, or gain access to reconstruction assistance to this day.¹⁸

Kosovo has two separate educational systems, with Albanian students following the official Kosovo curriculum and Serbian students being educated according to the Serbian curriculum, which is taught in the Serbian language. In both of these systems the segregation of RAE students is present in various forms, including segregated classes, ethnic division within classes, or Roma-only schools.¹⁹ Consequently, but also due to the lack of financial means and several incidents of violence against RAE pupils, low registration and high dropout rates prevail.²⁰ Many of the high number of Roma families living in extreme poverty can't afford school-related costs such as notebooks, pencils and clothes. Young girls and women are in the most difficult situation, with only 1.2% of girls completing secondary school and only 0.4% obtaining a university degree.²¹

Kosovo is a country with one of the highest unemployment rates in Europe – more than 30% on average. However, unemployment amongst the RAE is much higher and estimated to

¹⁶ Jaqueline Bhabha, *Post-war Kosovo and Its Policies Towards the Roma, Ashkali, and Egyptian communities*, Harvard School of Public Health, 2014. p. 10.

¹⁷ See footnote 6, p. 49.

¹⁸ See footnote 10, pp. 63-66.

¹⁹ See footnote 10, p. 75.

²⁰ Ibid.

²¹ Kosovo Center for Gender Studies, *Position of Roma, Ashkali and Egyptian Women in Kosovo*, 2008, p. 9.

reach up to 98%.²² Many families are highly dependent on remittances from relatives in Western European countries and 52% of RAE report remittances as being their main source of income.²³ Thus, deportations of Roma from Germany and other EU countries have extremely negative effects on RAE communities in Kosovo, resulting in a massive deterioration in their living conditions, against which even the Council of Europe's Commissioner for Human Rights has warned.²⁴

Nevertheless, approximately 28,000 RAE were repatriated from Germany to Kosovo between 2004 and 2013.²⁵ Many of them were unable to complete the restitution of their properties and are therefore forced to live in refugee camps or informal settlements without access to basic infrastructure. Some of these camps were set up by the UN Mission in Kosovo (UNMIK) in lead-contaminated areas, therefore ruining the health of the RAE inhabitants, many of whom are children.²⁶ Taking all of this together, it comes as no surprise that most of the Roma who returned to Kosovo in recent years after losing their protected status in Western Europe, left the country once again soon afterwards. Although international institutions like the Council of Europe and UNHCR have been in agreement for years that there is no basis for the sustainable return of RAE to Kosovo, and have appealed to European governments to stop forced returns, both the number of deportations from Germany and of so-called voluntary returns increased

²² See footnote 16, p. 16.

²³ Kosovo Foundation for Open Society, *The Position of Roma, Ashkali and Egyptian Communities in Kosovo*, 2009.

²⁴ Council of Europe, *Report of the Council of Europe Commissioner for Human Rights' Special Mission to Kosovo*, 2009.

²⁵ See footnote 10, p. 24.

²⁶ *Roma in Kosovo: 'My children are poisoned by lead'*, Al Jazeera, 19.06.16.

substantially to almost 14,000 persons in 2015 following the declaration of Kosovo as being a “safe country of origin”.²⁷ Yet despite the billions of euros that first the UN, and later the EU spent on Kosovo, the living conditions and situation experienced by the RAE in Kosovo have not improved. On the contrary, although the EU bears a significant share of responsibility for the situation in Kosovo, the socio-economic situation of the Kosovar population in general, and of the RAE in particular, is distinctly worse than that in neighboring countries.

Wenke Christoph, Tamara Baković Jadžić & Vladan Jeremić

²⁷ Antwort der Bundesregierung auf die Kleine Anfrage der Fraktion DIE LINKE, *Bundestags-Drucksache 18/7588*, 2016.

In response to the large-scale migration of people from Kosovo, the *Society for Threatened Peoples* conducted a study visit, spending time with the two largest communities of Roma, Ashkali and Egyptians based in Kosovo, in Ferizaj/Dubrave and Fushë Kosove. In these communities, there are usually many people on the streets looking for work, but on this occasion we found none: stores were closed and very few kids could be found on the streets. Even on a market day in Ferizaj it was hard to find any people. A local Ashkali, S. Kopilji, told us that more than half of the village had left. “My sister and her husband went, my neighbor Sadri went, my relatives Fahri and Kenon went, everyone went. It would have been better if I had left, too, but I don’t have the money. The people here sold their furniture, their livestock, everything they had, and many of them sold their houses too. They did not negotiate a price, they just wanted to leave”, Kopilji explained in tears, adding that it used to be quite expensive to emigrate to EU countries, about 2,500-3,000 euros.

Upon having a skype conversation with a family who had left in November 2014 - N. M., his wife and seven children – they reported: “We came to Subotica (Serbia) by bus and at the bus station many taxi drivers already knew that most of us wanted to cross the border illegally. They took us to a place from where we could walk over the border, and we started walking with a group of thirty other people, most of whom were Albanian. We walked for two hours and came to a village where we asked local people to give us a ride to Budapest. Once you are in Budapest, you are free to travel anywhere. However, now I am in Germany and receive 1,200 euros per month. I have invited many other relatives to come here; Kosovo is not a country where we could plan our life. We deserve to live in a better place than this.”

Documented by Dzafer Buzoli

Recognition rates for asylum applications from Albania in 2015:



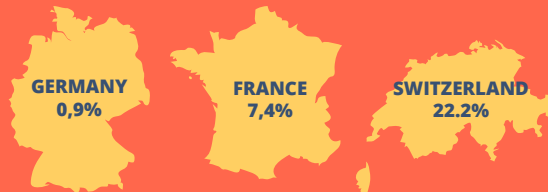
Recognition rates for asylum applications from Serbia in 2015:



Recognition rates for asylum applications from Kosovo in 2015:



Recognition rates for asylum applications from Macedonia in 2015:



Source: Eurostat, *Final decisions on applications by citizenship, age and sex. Annual data 2008-2015, 2016.*

HOW DOES THE LEGISLATION AFFECT ASYLUM APPLICANTS FROM “SAFE COUNTRIES OF ORIGIN”?

The decision to declare the Balkan countries as “safe” is just one of several actions undertaken so as to drastically tighten German asylum legislation from 2014 onwards. The so-called “Asylum Packages” of 2015 and 2016 introduced numerous changes to the scope of asylum laws and residence permit regulations, significantly tightening asylum rules in order to curb migration to Germany. These have had far-reaching implications for asylum applicants and long-term residents from “safe countries of origin”: asylum applicants have had to live in reception centers for the entire duration of the asylum process. They have introduced employment bans, cuts in benefits and a move to non-cash benefits, as well as deportations without advance notice¹ and severe re-entry restrictions. The intended effect is to discourage migration to Germany and to make it easier to deport migrants from those countries deemed “safe”. These regulations do not only affect recent migrants, but have had and continue to have alarming consequences for Roma from the Balkans who have been living in Germany for many years as refugees from the 1990s wars in the former Yugoslavia. They can no longer count on being allowed to remain in Germany.

¹ Prospective deportees are no longer told the date of deportation (§ 59 para. 1 of the German Residence Act). They must expect to be deported at any time.

Many of the Roma living in Germany who now face the possibility of forced deportations are those who fled in the midst of the 1990s wars. The first wave of war migration happened during the Yugoslav wars in the 1990s. The second wave occurred when more than 100,000 members of the Roma, Ashkali and Egyptian (RAE) minorities were forced to leave their home towns and settlements during the 1998-1999 conflicts in Kosovo. Approximately 50,000 of them sought to find a new home in Germany, since many of them had existing family links with the country dating from a previous wave of labor migration from the former Yugoslavia.² Whereas the majority of refugees from the Kosovo conflict first gained refugee status, this status was revoked after the withdrawal of Serbian forces from Kosovo. Legally, former refugees were obliged to return to Kosovo, but this policy was not enforced for Roma and other ethnic minorities due to humanitarian reasons.³ Instead, they were granted a “tolerated” status (“*Duldung*”), which entailed the temporary suspension of their deportation.⁴ This system involves the issuing of a succession of temporary residence permits, which are typically renewed every one, three or six months. This prevents people from planning for the future and makes it hard to find jobs or vocational training. “Tolerated” refugees are not allowed to travel outside of their federal state of residence and in some cases even outside their administrative district. Many suffer as a result of the compulsory inactivity and welfare dependency that often persists for years. Furthermore, their children who have been brought up in Germany tend to regard Germany as their home, rather than their

² Reinhard Marx, *Roma in Deutschland aus ausländerrechtlicher Sicht*, APuZ 22-23/2011, p. 42.

³ *Ibid.*

⁴ § 60a para. 2 of the German Residence Act.

parents' country of origin – a place they have never visited.

For the vast majority of these “tolerated” Roma, as well as for more recent migrants from the Balkans, who have fled from conditions of extreme marginalization, racist violence and discrimination, there is no possibility of obtaining legal residence on the basis of the German Aliens and Residence Law.⁵ Yet worse is the fact that families who have lived in Germany for years - or even decades - are currently facing the threat of deportation because their countries of origin are now officially considered to be safe. Consequently, humanitarian reasons for the suspension of deportation are no longer applicable and even medical grounds are now subject to severe restrictions. Among many other cases, this situation has led to the attempt to deport a thirty-five year old single Roma mother from Göttingen back to Serbia after having lived for twenty-four years in Germany with her four children. The children were born and brought up in Germany and speak fluent German, as does their mother. Despite the mother being diagnosed with a severe mental illness, the higher administrative tribunal rejected an appeal.⁶ Deportation proceedings were already underway when the city authorities temporarily suspended her deportation on the grounds of her pregnancy.⁷

In 2015 the German Federal State of Bavaria announced plans to further tighten its deportation policy in response to the increasing number of refugees. With almost 4,200 deportations in 2015, Bavaria deported three times as many individuals as in 2014.⁸ The Bavarian Ministry of the Interior applies a

⁵ See footnote 2, p. 47.

⁶ Andreas Fuhrmann, *Geplante Abschiebung in Göttingen scheitert*, in: Göttinger Tageblatt, 17.03.16.

⁷ Michael Brakemeier, *Roma-Familie aus Göttingen droht Abschiebung*, in: Göttinger Tageblatt, 08.02.16.

⁸ *Zahl der Abschiebungen hat sich verdoppelt*, in: Migazin, 21.01.16.

rigid selection process to asylum applicants from safe countries of origin, whose applications are mainly seen as unfounded, in comparison to applicants from other countries. These applicants are supposed to live in the arrival and deportation centers in Manching, Ingolstadt and Bamberg for the entire duration of their asylum process. These camps have now also become hubs for an increasing number of deportations. The conditions at these centers are designed to persuade asylum seekers that they have no real prospect of being allowed to stay. Internees in Bamberg complain of insufficient food, and blankets that are too thin for cold nights. Children are not permitted to attend school, even those who previously went to school in Bamberg. Instead, there are two classes that provide students with a basic education, but they have no lessons in German. Such internment not only marginalizes refugees, it also cuts them off from receiving any help in dealing with the asylum procedure. There are no specialized lawyers close by and voluntary support is severely restricted.⁹ Asylum seekers are obliged to report to the on-site immigration office regularly, thus increasing the pressure on them, while they cannot contact specialist returnee advice agencies outside the camp.

Although politicians have been happy to see the Roma leave, a recent study by the Society for Threatened Peoples has confirmed that the majority of Roma who have been sent back to Kosovo from Germany in fact never actually returned there, or upon doing so, left it again.¹⁰ They have no access to jobs, education and housing. In addition, politicians in Kosovo are uninterested in their plight. Rather than being forced to live in their

⁹ Maximilian Pichl/Stephan Dünnwald, *Zwei-Klassen-Asylrecht? Abschreckung in ‚Besonderen Aufnahmezentren‘*, 01.06.16.

¹⁰ Society for Threatened Peoples, *Lost in Transition, The forced migration circle of Roma, Ashkali and Balkan Egyptians from Kosovo*, 2015.

“safe country of origin” many prospective deportees are choosing to go underground. According to the estimations of the German government, 75% of individuals served with a deportation notice remain in the country illegally.¹¹ Returnees leave Kosovo as soon as they are able to, earning a living collecting garbage items such as plastic bottles in the slums of Serbia, or crossing back into the EU as “illegals” without any access to legal protection, health care or education.

The German government has made very few attempts to combat the causes underlying the migration of Roma in the Balkans. The “Kosovo URA 2 Return Project”¹² of the German Federal Office for Migration and Refugees is a mere a drop in the ocean. The emergency relief measures and support for reintegration provided by this project fall a long way short of what is required to enable returnees to really reintegrate with the local community on a long-term basis. Many of the support measures are provided on a one-off basis and available only in cases of voluntary repatriation. Financial assistance is subject to restrictive conditions and available to returnees in only eight of the sixteen German federal states.

Nevertheless, more than 21,000 people were deported from Germany in 2015, twice as many as in the previous year.¹³ Approximately three quarters of these were to Western Balkan countries. This vicious circle of deportation and illegalization will lead to the existence of even more refugees, since the main source of income for most of the Roma living in the Western Balkans continues to be transfers of money from friends and rel-

¹¹ Ibid.

¹² See: <http://www.bamf.de/EN/Rueckkehrfoerderung/ProjektKosovo/projektkosovo-node.html>.

¹³ See footnote 8.

atives working in Western Europe. Increasing the number and speed of deportations without making any real efforts to pursue inclusion measures will prove ineffective and counterproductive in the long run, as well as being discriminatory, degrading and inhumane in the process.

Jasna Čaušević

Prior to the conflict in Yugoslavia around 150,000 Roma, Ashkali and Balkan Egyptians lived in Kosovo. According to the 2011 population census, 35,784 Roma, Ashkali and Egyptians reside in Kosovo.

16 years after the end of the conflict in Kosovo and seven years after Kosovo declared its independence, more than 100,000 Roma, Ashkali and Egyptians remain expelled from their homes.



Source: Society for Threatened Peoples, *Lost in Transition, The forced migration circle of Roma, Ashkali and Balkan Egyptians from Kosovo*, 2015.

HOW HAS PANIC OVER “FALSE ASYLUM SEEKERS” CONTRIBUTED TO FURTHER DISCRIMINATION?

Following the liberalization of the EU visa regime for Western Balkan countries in 2009 and 2010, the number of asylum seekers from these states, especially from Serbia, Macedonia and Albania, has increased. Conservative politicians and the media both in the EU and in the asylum seekers' countries of origin have reacted by claiming that applicants from the Western Balkans are “false asylum seekers” or “economic migrants” and that their countries of origin need to implement travel restrictions. This has been echoed by the recent declarations of these countries as being “safe countries of origin”, practically denying that there may be legitimate reasons why citizens from the Balkans seek asylum. Such statements and decisions simplify the political reality and fail to take into consideration the cumulative discrimination and deplorable socioeconomic conditions under which many Roma suffer in the Balkans. Even worse, these racist discourses and the political actions that have followed these statements – i.e. pressuring governments in the Balkans to introduce travel restrictions based on racial profiling – have further contributed to the discrimination of Roma.

The liberalization of the EU visa regime for Macedonia, Montenegro and Serbia in 2009, and for Albania and Bosnia and Herzegovina in 2010 made travel to the EU easier for most of the citizens of these countries. As a consequence, the number of migrants from Balkan countries seeking asylum in the EU has since increased steadily – from approximately 16,000 first time asylum applicants in 2009, before reaching a peak of more than 172,000 in 2015.¹ The declaration of these countries and Kosovo as “safe countries of origin” in 2014 and 2015 is the most recent measure implemented by Germany and certain other EU countries in order to curb the number of migrants from these states. Immediately after the number of asylum applications had started to rise, EU representatives started to exert pressure on governments in the Balkan countries to develop measures designed to restrict the migration of some of their citizens to the EU. In the case of Serbia and Macedonia, these measures and accompanying public campaigns which denounced “false asylum seekers” first and foremost targeted the Roma and Albanian population.

Among the politicians putting pressure on the Balkan governments was the Bavarian Minister of the Interior, Joachim Herrmann, who claimed that: “we will not accept this obvious abuse of our right to asylum. ... If nothing changes, it should be made very clear: the visa freedoms currently granted to Serbia and Macedonia are in danger.”² Similarly, EU representatives, such as the Commissioner for EU Enlargement, Štefan Füle, and

¹ Eurostat, *Asylum and first time asylum applicants by citizenship, age and sex. Annual data 2008-2015*, 2016.

² Bayrisches Staatsministerium des Inneren, *Pressemitteilung Nr. 383/10: Asylbewerberzahlen aus Serbien und Mazedonien sprunghaft angestiegen – Joachim Herrmann: „Visafreiheit steht auf dem Spiel – keine staatlichen Mittel für Asylbetrüger“*, 19.10.11.

EU Commissioner for Home Affairs, Cecilia Malmström,³ warned about possible negative impacts and demanded that the authorities of both countries “take all necessary measures to reduce the influx of asylum seekers without any delay.”⁴

Striving for the goal of EU integration, the governments of Serbia and Macedonia acted accordingly and decided to implement border controls in order to protect the EU visa liberalization regime. The Serbian Prime Minister and Minister of the Interior, Ivica Dačić, confirmed that Serbia would be “very cooperative” as regards the readmission of rejected asylum seekers in order to make sure that this issue “would not jeopardize visa liberalization with the EU countries”.⁵ Since 2011, pre-departure checks on travelers have been implemented on Serbian borders. Persons leaving the country have to justify the purpose of their travel and prove they have sufficient means of subsistence. Passengers suspected of traveling to the EU to apply for asylum are asked to show a letter of invitation, return ticket, travel insurance, credit cards or enough assets in cash in order to be allowed to continue their journey. In practice, this has led to ethnic profiling at the borders, since it is mostly Roma and Albanian travelers that undergo the checks and who are placed under general suspicion. In addition, around 20,000 posters in the Romani and Albanian languages were printed and distributed at Serbian border crossings, warning that abuse of the liberalization of the visa regime is punishable by law. The posters stated: “false asylum seekers risk everything.

³ European Stability Initiative, *Freedom of movement in a populist age: Why Balkan visa liberalisation is (still) a success*, Brussels, 30.06.11.

⁴ EU Observer, *Asylum rise puts Balkan visa-free scheme in danger*, 21.10.10.

⁵ Chachipe, *Serbia: Visa Liberalization at any Price?* in: Vladan Jeremić (Ed.), *From Migration to Deportation*, Rosa Luxemburg Stiftung Southeast Europe, Belgrade, 2012, p. 81.

They will lose financial assistance. They will be deported back to the country [Serbia]. They will be banned from travelling to the European Union for a specific length of time”.⁶

In Macedonia ethnic profiling practically resulted in the closing of the borders for Roma travelers. Among other measures, Roma citizens’ passports were marked by the authorities with two lines as a sign that their right to leave the country had been suspended. The European Roma Rights Centre (ERRC) reported more than two hundred cases of border officials preventing Roma from leaving the country and even more cases of Roma individuals having their passports revoked or confiscated after having been deported from EU countries and labelled as “false asylum seekers”.⁷ An investigation by the Helsinki Committee for Human Rights of the Republic of Macedonia showed that only Roma test travelers were stopped and prevented from traveling. The ERRC documents show that 60% of Roma who had been refused the right to leave the country had been told that the border officials had been instructed to restrict the rights of Roma to do so. This systemic, racist treatment of the Roma population at borders is the subject of an ongoing lawsuit against the Macedonian Ministry of the Interior.⁸

These cases show how Roma in particular have once again become objects of ethnic discrimination as a direct result of the EU’s and Germany’s policy of restricting migration from the Balkans. Nevertheless, the harsh realities Roma people face in South-eastern Europe are forcing them to migrate and to seek asylum. Reducing the humanity of Roma by ascribing them derogatory

⁶ Ibid, p. 90-91.

⁷ European Roma Rights Centre, *Written Comments by the European Roma Rights Centre*, for Consideration by the European Commission concerning Roma Inclusion in the Western Balkans Progress Report 2016, ERRC, p. 8.

⁸ Migrotija, Vesnik na Solidarnosta, No.1, Solidarnost, Skopje, p. 16.

terms such as “poverty migrants”, “social (benefits) tourists” or “fake refugees” both ignores and delegitimizes the complex reasons for their migration. It implies that they have freely decided to migrate only with the aim of improving their financial situation, or in other words, for their own personal benefit. Yet worse are xenophobic accusations made that economic migrants move in order to ‘steal’ jobs or social benefits in their destination countries.

Although the economic situation of Roma is usually very bad, it is far from the only reason why many Roma migrate and seek asylum. Many face widespread and often violent anti-gypsyism every day, along with systematic exclusion from and discrimination in education, housing, healthcare, legal support and employment, all of which combine to make the Roma the biggest losers of the so-called economic post-socialist transition in Southeastern Europe. Following the deep economic crisis which has hit the European periphery hard the Roma have been pushed even further aside. Moreover, Roma refugees from Bosnia and Kosovo, so-called internally displaced persons (IDPs), face specific systemic discrimination given that many of them will not be able to gain citizenship for a long time, while they have never received restitution or compensation for their property in Kosovo.⁹ They have limited access to public services and the labor market, while experiencing residential segregation and exclusion from political decision-making, all of which reproduces a cycle of extreme poverty in which many Roma live. In addition, the Roma are subjected to physical and verbal abuse by the police and the general public, whilst far-right groups attack Roma and produce an atmosphere of fear in which most attacks and abuse go unpunished.¹⁰

⁹ Society for Threatened Peoples, *Lost in Transition, The forced migration circle of Roma, Ashkali and Balkan Egyptians from Kosovo*, 2015.

¹⁰ Belgrade Centre for Human Rights, *Human Rights in Serbia 2011*, Belgrade, 2012.

Consequently, the reasons why many Roma leave their Balkan countries of origin and seek asylum in the EU are complex and interconnect with one other. However, the inaccurate dichotomy asserted between “economic migrants” and refugees gives the misleading impression that only refugees have and deserve legal protection and rights. In the case of Roma asylum applicants from the Balkan countries the German authorities completely ignore that they may also have little or no choice but to move in order to survive. Likewise, cumulative discrimination and the violation of social human rights – such as exclusion from education, employment and other basic social rights – are in fact justified reasons for asylum recognized by international and EU law.¹¹

Instead, statements similar to those of the European Parliament’s rapporteur on Serbia, David McAllister (CDU), who asserted that asylum law is only applicable to cases of state, political or religious persecution, and cannot be applied to victims of socio-economic marginalization like the Roma,¹² further reinforce stereotypes of “worthy” and “unworthy” migrants and deny the existence of grounds for asylum based on, for example, the particular vulnerability and discrimination which minorities such as the Roma face. In practice, this leads to incredibly low asylum recognition rates for refugees from the Balkans. Whereas the recognition rate for asylum applications from all Balkan countries was less than 1% in Germany in 2015, this was not universally the case in all other EU countries: According to Eurostat, 14.9% of asylum applicants from Albania were granted asylum in

¹¹ See more: *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, 1979 (1992) & Art. 9 EU Qualification Directive 2011/95/EU.*

¹² *Keine Chance auf Asyl: McAllister fordert klares Signal an den Balkan*, FOCUS Online, 12.08.15.

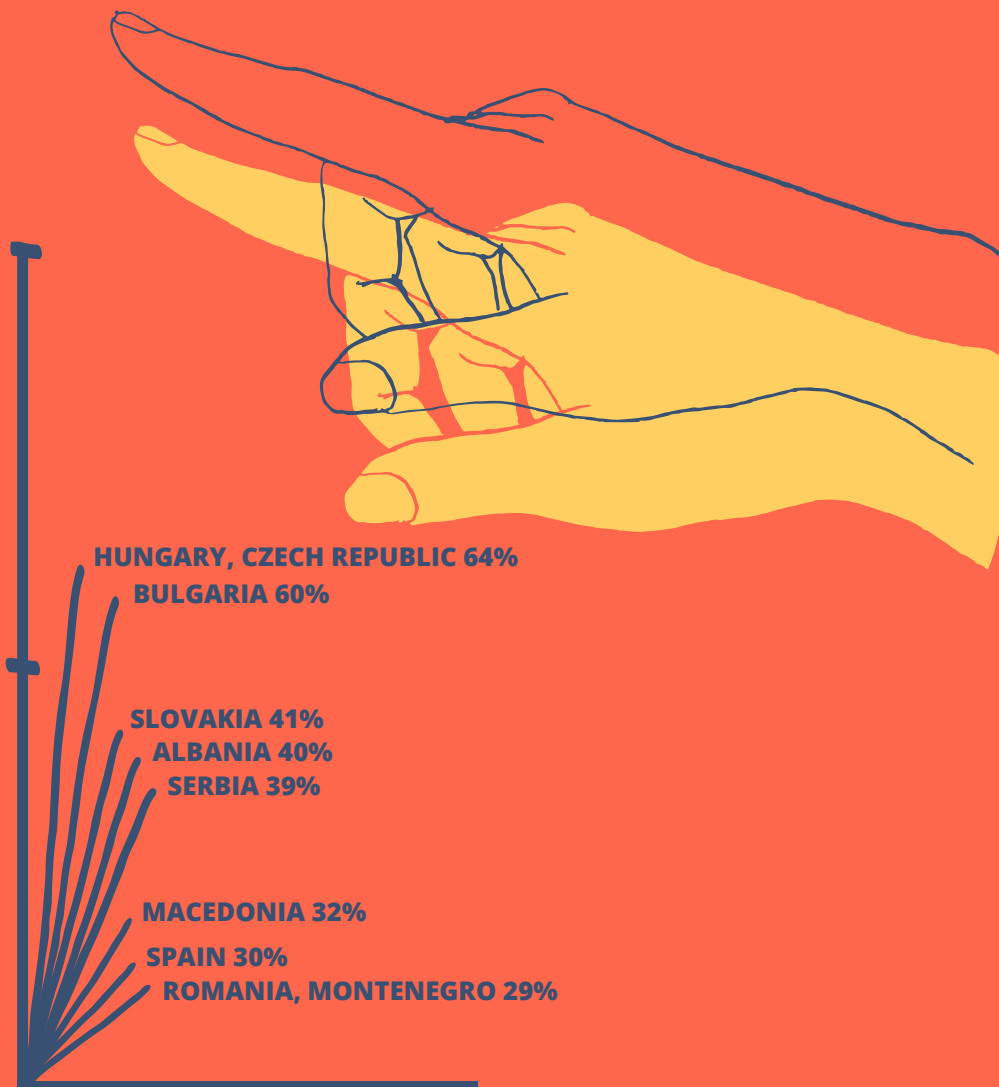
France in 2015, while in the UK the figure was as high as 36.4%. Similarly, 19.4% of Serbian and 14.8% of Kosovar asylum seekers were granted asylum in France, while in Sweden 9.9% of Serbian applications were successful and in the UK a total of 18.9% Kosovar applications.¹³ These comparisons show how obviously politically motivated the low recognition rates for asylum seekers from the Balkans in Germany were even before the introduction of the safe countries list. Yet instead of changing such discriminatory practices, the low recognition rates were used to justify defining Balkan states as “safe countries of origin”, thus further institutionalizing these injustices.

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¹³ Eurostat, *Final decisions on applications by citizenship, age and sex*, Annual data 2008-2015, 2016.

DISCRIMINATION EXPERIENCE:

People who have personally felt discriminated against because they are Roma - according to the Roma Inclusion Index (2014)



Source: Decade of Roma Inclusion Secretariat Foundation, *Roma Inclusion Index 2015*.

WHY DON'T ROMA INCLUSION PROGRAMS IMPROVE THE LIVING CONDITIONS OF ROMA?

Those who support the “safe country of origin” legislation often point out that it would be much better to focus on improving the living conditions of Roma in their countries of origin. Rather than having to deal with many, often unsuccessful, asylum applications that lead to costly asylum processing and deportations, Roma inclusion projects and programs are presented as solutions. However, the existing inclusion programs have not had any real impact on the living conditions of the Roma – this is even stated in the documents of the funding agencies. One reason for this is that these programs do not tackle the roots of inequality and social injustice, but rather ignore the overall socio-economic conditions within which the Roma are subjected to discrimination and persecution. In addition, the persistent marginalization of Roma communities, despite money being spent on various inclusion programs, continues to feed right-wing claims that the Roma are simply never going to be able to integrate, no matter what level of material support is provided.

Improving living conditions in migrants' countries of origin has once again become a fashionable approach. In 2016, the European Commission pledged to mobilize 31 billion euros to tackle the root causes of migration in a new *Partnership for Migration*.¹ Understandably, policy-makers consider this a particularly highly recommended course of action when it comes to Roma migrants from the Balkans for two reasons. First, containing migration is not a sustainable option in Europe's immediate neighborhood, where reintroducing travel restrictions would significantly damage economic integration. Second, a key factor motivating migration among the Roma in the Balkans is poverty – induced by the all-encompassing discrimination prevalent. This discrimination exists in EU member states, too. If politicians defined discrimination as a form of persecution according to the Refugee Convention they would then have to admit their failure in guaranteeing the fundamental rights of six million Roma within the EU.

What then, are the EU and national governments doing to advance the economic and social inclusion of Roma in Europe, both in the EU and in accession countries? The first major initiative was the *Decade for Roma Inclusion*, which ran from 2005 to 2015. In 2005, nine European governments jointly pledged to “work toward eliminating discrimination and closing the unacceptable gaps between Roma and the rest of society”. When the Roma Decade ended in 2015, the European Commission – along with the Open Society Foundation and the Regional Cooperation Council (RCC) – established an initiative called *Roma Integra-*

¹ European Commission, *Communication from the Commission to the European Parliament, the European Council, the Council and the European Investment Bank on establishing a new Partnership Framework with third countries under the European Agenda on Migration*, 2016, COM(2016) 385 final.

tion 2020. The participants include all countries of the Western Balkans, and Turkey. This new initiative aims to assist national governments in integrating Roma in mainstream socio-economic policies, and in national budget planning.

EU countries are not included in this latter initiative. Instead, from 2011 onwards, they have been included in the *EU Framework for National Roma Integration Strategies up to 2020*. The EU Roma Framework mirrors the Decade in its thematic structure but also in establishing ministerial contact points in each country. The EU Framework monitors national measures, but like the Decade it doesn't have the means to enforce them.

What the Decade and the EU Roma Framework have in common is that they have not achieved tangible results. The Roma Inclusion Index 2015, prepared by the Decade Secretariat, notes only minor progress regarding the education of young Roma and no improvements in other areas.² Furthermore, the anticipation that accompanied the EU Framework in its early years has given way to widespread disappointment. In its latest assessment in June 2016 the European Commission remarked that - despite some positive trends in governmental coordination - the “efforts [made] could not prevent further deterioration of the living conditions of Roma and the widespread hostility of majority societies. Serious bottlenecks have been identified in fighting anti-Roma discrimination, especially residential and educational segregation and the prevention of forced evictions”.³

Promising international initiatives consistently continue

² Decade of Roma Inclusion Secretariat Foundation, *Roma Inclusion Index 2015*, 2016, p. 15.

³ European Commission, *Assessing the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on Effective Roma integration measures in the Member States 2016*, p. 16.

to fail due to a lack of political will on the part of the governments involved. Roma-related measures are not discussed at a high-level or in the context of mainstream policies. Instead, international efforts have involuntarily fostered the establishment of a self-perpetuating niche policy track: governments have formally set up structures for coordinating and reporting activities. Yet, these are only used for ad-hoc or short-term measures with little pressure to yield results. Governments are barely allocating any of their own funds to work on these issues. Where EU funds are used to promote the inclusion of Roma, project objectives are often achieved but these objectives do not relate to the Roma.⁴

The superficial measures, which led the EU to call upon governments to “ensure a political recommitment to Roma integration”⁵, only tell one side of the story. The other side relates to the actions of populist politicians who make political and economic gains by threatening the Roma minority. International initiatives, with their narrow focus on measures *within* the Roma community, have allowed politicians to commit themselves officially to Roma inclusion while continuing their agendas of nationalism and anti-gypsyism. It is only recently that the European Commission has started pressuring governments to include measures in their strategies aimed at the majority population to prevent and overcome hostile attitudes to the minority.

Another challenge that often remains little considered is the more general challenge of social inequality and poverty in Central and Southeastern Europe. The deterioration in the living conditions of the Roma in this region is partly a consequence of wider

⁴ European Court of Auditors, *Special Report. EU policy initiatives and financial support for Roma integration: significant progress made over the last decade, but additional efforts needed on the ground*, 2016, p. 9.

⁵ See footnote 3.

reductions in public investments and social security, which international institutions demanded since the 1990s. Even the most well-designed projects for improving the lives of Roma cannot overcome the overall lack of social security in the Western Balkans today. If the Roma are to have their fair share in the delivery of public services, these services need to be there in the first place. The provision of assistance to families and pensioners, the creation of safety nets for unemployed people, good preschool education, investments in job creation and social housing all reach out to the most vulnerable parts of society first of all. They can build an economic basis on which the Roma can look towards the future again, seeking a future without emigration.

Within a relatively stable region and for a Roma minority of just one million people, such a base can still be created over the next decade, provided that the EU takes a different approach to both Roma-related and mainstream policies. The European Commission has a higher leverage in EU accession countries than within the EU itself. The EU enlargement commissioner Johannes Hahn could start by using this leverage to send out a clear message to Western Balkan governments in the 2016 progress reports. These governments must know that the rights of Roma are at the top of the EU's enlargement agenda and that IPA funds⁶ must be used accordingly. The *European Instrument for Democracy and Human Rights* could be used to strengthen independent Roma civil society organizations. In this manner, the EU would help them to ensure the rigorous monitoring of how funds are spent, and also demand that governments deliver on policy reform, including on the urgent issue of personal documents.

At the launch of *Roma Integration 2020*, the ministers and

⁶ Instrument for Pre-accession Assistance (IPA) is the means by which the EU supports reforms in the accession countries financially and technically.

state secretaries of all the governments in the Western Balkans made the same vows as their predecessors a decade before. If they were serious they might be able to set an example to EU countries.⁷ If not, EU governments cannot shy away from their responsibility towards those who cannot wait another decade.

Anna Striethorst

⁷ Aleksandra Eriksson, *Soros: Western Balkans could 'set example' on Roma integration*, in: EU Observer, 10.6.16.

**Number of people
deported from Germany:**

2012:	7,651
2013:	10,198
2014:	10,844
2015:	20,888
First half of 2016:	13,743



Sources: Statista.de, *Anzahl der Abschiebungen aus Deutschland von 2000 bis 2015*, 2016; ZEIT Online, *Deutschland weist immer mehr Menschen ab*, 09.08.16.

CONCLUSION: WHAT IS THE ALTERNATIVE?

Looking at the number of asylum applications from the Balkans in Germany and the EU, one can easily reach the conclusion that the existing travel restrictions, the restrictive interpretation of the asylum laws, and finally the declaration of the Balkan countries as “safe”, have all led to a certain planned result: whereas approximately 120,000 first time applicants from these countries were registered in Germany in 2015 - the highest number since the 1990s wars - the first six months of 2016 evidence a significant drop in new applications made, to around 15,000. Right-wing parties such as the CSU and the AfD are already celebrating this drop as a success and demanding that even more countries be declared as safe in order to stop the so-called “wave of refugees”.¹ Although the numbers do show an evident drop in asylum applicants, this does not mean that the number of people trying to, or actually crossing the borders, is significantly decreasing.

¹ CSU, *Erfolg der CSU: Mehr Sichere Herkunftsstaaten*, 13.05.16; AfD, *Thesepapier Asyl*, 2015.

The expected sequel to the “safe country of origin” story occurred in May 2016, when the German Bundestag voted to include Algeria, Morocco and Tunisia on the list of safe countries of origin. The governing coalition made this decision despite strong criticism from human rights organizations: in all three of these countries freedom of speech and assembly are severely restricted, homosexuals are prosecuted, women are discriminated against and there are documented cases of torture by state authorities. In Morocco, public criticism of the state religion - Islam, the monarchy or the Moroccan occupation of the West Sahara is forbidden.

Furthermore, the German government is one of the key drivers behind the European Commission’s initiative to introduce a common list of safe countries of origin for the entire EU. At the moment only twelve of twenty-eight member states even have such a list, and there is not one single country which appears on all lists. The Commission argues that the countries on this list, Albania, Bosnia and Hercegovina, Macedonia, Montenegro, Serbia, Kosovo and Turkey, are safe since they are EU candidates. For a country to be granted candidate status, it must satisfy the Copenhagen criteria, which include democratic governance, human rights and certain economic indicators. But how relevant are factors such as the formal existence of democracy and the economic performance of a country in relation to a person’s likelihood of being persecuted? Such an approach remains rather dubious, particularly if one considers the rapid loss of democracy and the rise of repression happening in Turkey at present, combined with the fact that the recognition rate for asylum applicants from Turkey was as high as 14.7% in the EU in 2015 – before the coup attempt in July 2016 and the subsequent waves of repression.²

² Eurostat, *Final decisions on applications by citizenship, age and sex, Annual data 2008-2015*, 2016.

Safe countries of origin lists may serve the purpose of restricting the right to asylum – even to the point of contradicting international refugee law. However, they most likely will not be successful in deterring migration. On the contrary, more people will only continue to migrate to the core countries of the EU, because of globally growing inequalities, wars, climate change and the uneven development present between the countries in the core and on the periphery of capitalism. Nevertheless, the current migration and border policies of the EU are moving even further towards restricting and controlling entry into the EU both for “irregular migrants” and refugees. Neighboring countries such as the Balkan states are pushed into a role of being “buffers”, used to keep illegal migrants outside of the EU’s borders, and as “dumping grounds” for unwanted migrants who have crossed the EU’s borders. Acting as so-called “safe third countries” for asylum seekers, they implement EU migration and border management instruments and far-reaching readmission agreements that cover not only nationals but also migrants who have only crossed through their territory.³ This externalization of the EU border regime and its massive militarization are the EU’s answers to the growing refugee movements, which resulted in almost 3,200 deaths in the Mediterranean alone from January to July 2016.⁴

As regards the Balkan states, notwithstanding the recent decline in asylum applications from the region in EU countries, an exodus has been taking place in most of these countries over the last two decades, which has far from only included Roma.

³ Laure Delcour, *The European Union: Shaping Migration Patterns in its Neighborhood ... and Beyond?* In: D. Kochenov/F. Amtenbrink (eds.), *European Union’s Shaping of the International Legal Order*, 2013.

⁴ IOM Missing Migrants Project, *Mediterranean Update. Migration Flows Europe: Arrivals and Fatalities*, 9.8.16.

The fact that so many people have been willing to pass through all of these obstacles and difficulties, for just a few months of decent life with basic public services provided, is a strong indicator of the increasing poverty and inequality. Unemployment rates range from 17% (Albania) to 42% (Bosnia and Herzegovina), and the region still hasn't reached Yugoslavia's GDP level of 1989.⁵ EU integration and the closely linked structural adjustment policies that the IMF and the World Bank impose aggressively on countries in the accession process need to be taken into account when discussing the causes underlying migration. These not only include austerity measures, but also the comprehensive privatization of the public sector and services, raising the price of food and public services, subsidizing investments, promoting the rights of foreign investors ahead of national law, etc. All of these policies have had a devastating impact on the vast majority of the population, but first and foremost they hit hard already marginalized groups, such as Roma communities. The irony is that many of these reforms which have been implemented as a condition for the further integration of Balkan countries into the EU, are what make people leave their homes in the first place.

In the face of racist discrimination and anti-gypsyism, militarized borders and ethnic profiling, deportations and so forth, we are reminded of migrant and refugee mobilizations, such as the "March of Hope" from Budapest's Keleti train station that led to the temporary opening of borders to refugees along the Balkan route in 2015, and also of other struggles such as the ongoing "Alle bleiben!" (Everyone Stay!) campaign against deportations, and for Roma migrants' right to remain in Germany. The mobilization of Roma and non-Roma organizations around the issues addressed

⁵ The Balkans in Europe Advisory Group, *Policy Brief: The migrant crisis: a catalyst for EU enlargement?*, 2016; <http://de.tradingeconomics.com/>.

in this brochure may contribute to the formation and/or strengthening of broader solidarities and alliances, beyond identity politics and existing institutional limitations, thus foregrounding alternatives to the current inhuman migration policies.

One important element to such campaigning would be for German asylum law and practices to recognize cumulative discrimination, exclusion from social human rights and anti-gypsyism as reasons for asylum. Thus, the German authorities would finally comply with international and EU law instead of sacrificing the right to asylum for migration policy goals. Human dignity shall not be relativized by migration policies, as the German Federal Constitutional Court has stated.⁶ At the very least, a country should be listed as safe only after thorough and independent research into the actual human rights situation in that country has been conducted, including research into the specific situation of minorities and vulnerable groups alongside reliable monitoring mechanisms. At best, safe country lists should not be used at all, so as to guarantee fair asylum procedures for everyone, no matter where an applicant comes from.

An additional measure would be to explicitly include low-skilled workers in the existing legal labor migration schemes of the EU and Germany. This would open up possibilities for migrant workers from the Balkans, including Roma, to support their families through secure and legal employment. It is very important to note that, while there is no consensus, or proof for that matter, that immigration in recipient countries results in lower wages and higher unemployment rates, the unrecognized legal status of immigrants actually does have these effects. Illegalization, and with it, the criminalization of migrant workers

⁶ „Die in Art. 1 Abs. 1 GG garantierte Menschenwürde ist migrationspolitisch nicht zu relativieren.“ BVerfG, *Urteil des Ersten Senats vom 18. Juli 2012* - 1 BvL 10/10 - Rn. (1-140).

leads to further inequalities and divisions amongst the working class, and more importantly, not having a legal status removes them from political participation and from possible solidarities present within organized labor.⁷

Even more importantly, the EU and Germany need to use their considerable influence regarding the Western Balkan countries, all of which are negotiating their EU accession, to improve the living conditions of Roma in the Balkans. Instead of urging the authorities to implement racist border controls for Roma, there is a need for financial and practical support, and also for political pressure to fight the massive exclusion and marginalization of Roma in their home countries. Going even further, we need alternative economic and social policies in Europe that finally reject austerity and instead develop and ensure common social rights and living conditions for all Europeans.

At the very least, the demand of human rights organizations and even of the Head of the Federal Office for Migration and Refugees, Frank-Jürgen Weise, to offer long-term residents with the “tolerated” status and their families the possibility to apply for residence permits needs to be implemented.⁸ Up to 160,000 people, among them several thousand Roma, that have been prohibited from employment, education and integration into German society up until the present moment, could finally be able to build a future for their families in the country where they have been living for years.

This struggle to end the regime of exclusion and inhuman treatment should not be a task undertaken only by a few Roma activists, it also needs to become an important aspect of the

⁷ Bob Sutcliffe, *Crossing the Borders in the new imperialism* in: *Socialist Register 2004: The New Imperial Challenge*, vol. 40, p. 274.

⁸ *Weise will Bleiberecht für geduldete Ausländer*, in: *Tagesschau*, 21.5.16.

work of trade-unions, political parties and other civil society organizations and activists.

If you want to learn more, get involved and connect with existing activities and networks, take a look at the following links:

- The Campaign *Alle Bleiben!* (<http://www.alle-bleiben.info/>)
- The Forum *Roma of Serbia* (<http://www.frs.org.rs/>)
- The European Roma Rights Centre (<http://www.errc.org/>)
- The Society for Threatened Peoples (<https://www.gfbv.de/en/information/countries-regions-and-peoples/peoples/roma/>)
- Pro Asyl (<https://www.proasyl.de/thema/von-wegen-sicher/>)

Wenke Christoph, Tamara Baković Jadžić & Vladan Jeremić

GLOSSARY

Anti-Gypsyism refers to the hatred, marginalization and persecution of Roma people all over the world. Anti-gypsyism has been defined by the Council of Europe as “a specific form of racism, an ideology founded on racial superiority, a form of dehumanization and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatization and the most blatant kind of discrimination”.

The Balkans is a Southeastern European region that encompasses Romania, Albania, Greece, Bulgaria as well as the former Yugoslav republics. In this brochure the term is used for the former Yugoslav republics and Albania that are not currently members of the European Union: Macedonia, Montenegro, Serbia, Kosovo, and Bosnia and Herzegovina. The term Western Balkans similarly refers to the former Yugoslav republics, “minus Slovenia, plus Albania” and was developed in 2004 in the context of the planned integration of the region into the EU.

Duldung (“Tolerated” Status) is defined in German residency laws as a “temporary suspension of deportation”. It relates to foreign nationals whose asylum application has been denied but who cannot be deported due to legal, humanitarian, medical or other issues. It is therefore not a status granting legal residency, but only a confirmation of registration with the authorities, which is re-examined every one, three or six months. Persons with this status are subject to severe restrictions, e.g. they are not allowed to work and can’t move freely beyond the federal state in which they are registered.

EU Framework for National Roma Integration Strategies (NRIS) is an EU framework program which was introduced in 2011. It requires EU member states and to a lesser extent accession candidates to develop a national strategy regarding Roma inclusion. These strategies should focus on the areas of healthcare, housing, education and employment, and their formulation and implementation is monitored annually. To date, no substantial improvements in these areas have been documented and anti-gypsyism remains pervasive.

Informal Roma Settlements are segregated entities present in almost every large city in the Balkans, often with very poor living conditions and unresolved ownership status as concerns land and/or buildings. These Roma settlements lack basic modern facilities such as municipal infrastructure, access to tap water, a sewage system, an electrical power system, heating and other basic provisions. Such settlements are a consequence of the social exclusion of Roma in the Balkans and living conditions are below minimal basic modern provisions, therefore lacking human dignity. Roma settlements within urban areas are often subject to forced evictions and their inhabitants are often resettled in temporary housing in the urban periphery, which makes their living conditions even more precarious.

Internally Displaced People (IDPs) are considered to be people who are forced to leave their place or residence due to an act of persecution, armed conflict or violence, but who remain within the borders of their own country. The legal status of IDPs differs to that of refugees. While the UNHCR gives a descriptive identification of IDPs, there is no international legal instrument specifically designed to protect them, such as the 1951 Refugee Convention. Nevertheless, their status is

covered by general human rights conventions. The problem is that people often live for years with this status, even if they do not live within the borders of their own country anymore, and this state of affairs contributes to their structural, institutional and social exclusion.

Readmission Agreements are bilateral or joint agreements aiming to readmit a person residing in a country without authorization. At the beginning of the 2000s, several bilateral readmission agreements between the Balkan countries and the EU member states were signed, while in 2007 a joint readmission agreement between the countries of the Western Balkans and the EU was concluded. One consequence of these readmission agreements is the systematic forcible deportation of migrants from EU member states. A large share of those deported to the Balkans under these agreements are Roma following unsuccessful asylum applications.

Roma is used generically in this publication to refer to all Roma communities (not only) coming from Balkan countries. Of course, these communities differ amongst themselves on the basis of religion, language and origin. The term Roma is most frequently used to denote all groups sharing a common Indian origin (Roma, Sinti, Kale), and also communities from the Balkans and Eastern Europe as well as other places the world over, who refer to themselves as Roma.

Roma, Ashkali and Egyptians (RAE) are three different ethnic categories recognized by state authorities in Kosovo. All three groups are considered to be Roma however, from the point of view of the Albanian majority. Nevertheless, the Ashkali and Egyptians are Albanian speaking, Muslim communities which do

not self-identify as Romani. According to the last census in 2011, the RAE community altogether counts around 37,000 people among its members. There is still a very large number of RAE living as internally displaced persons (IDPs) within Kosovo, Serbia and Western European countries, and it is estimated that RAE IDPs, constitute approximately 25% of the whole IDP population.

The Roma Decade or more precisely, the Decade of Roma Inclusion 2005-2015, is a multinational project launched by the Open Society Institute, the World Bank, the Council of Europe and other human rights international organizations with the intention of eliminating discrimination, influencing the improvement of the overall socio-economic conditions in which the Roma live, and bringing about the integration of excluded and marginalized Roma communities. Twelve countries, in which there exists a high number of Roma minorities, participated in this project: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Hungary, Macedonia, Montenegro, Romania, Serbia, Slovakia and Spain. The Decade officially finished in mid-September, 2015. However, due to what were clearly poor outcomes, a new project was launched in 2016 named Roma Integration 2020.

Safe Countries of Origin refers to a controversial concept present in EU asylum legislation that is used to divide asylum seekers into different categories with nationals of certain countries being subject to an accelerated and less favorable examination of their asylum claims. Countries are designated as safe, according to the EU Asylum Procedures Directive, when a general and consistent absence of persecution or serious harm may be assumed. The legal presumption asserted is that asylum claims from these countries are unfounded.

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In the shadow of the “summer of migration” in 2015, new restrictive migration and border policies were introduced at the national and EU levels aimed at containing migration. German parliament decided to designate a number of “safe countries of origin”, above all, countries from the Balkans. Asylum applications from these countries are thus presumed unfounded, although the majority of applicants from the Balkans are Roma who are subject to persecution, marginalization and social exclusion. They are now severely disadvantaged in the asylum process and regarded only as “economic migrants”. Moreover, this legislation affects migrants who have been living in Germany for decades with unrecognized refugee status. This brochure discusses the consequences of this restriction of the right to asylum, as well as the socio-economic causes of migration in the Balkan countries.

