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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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Roma asylum seekers in Council of Europe member states

Motion for a recommendation
tabled by Ms Nursuna MEMECAN and other members of the Assembly

This motion has not been discussed in the Assembly and commits only those who have signed it

Over the last two decades, Roma and related groups – often described as Europe's forgotten people – have left their countries in Eastern and Central Europe to seek asylum in other parts of Europe and the world. Due to the Yugoslav wars in the 1990s, many tens of thousands of Roma left their countries. As a result of the conflict in Kosovo about 120 000 Roma had to leave Kosovo.[1] Recently, a wave of violence against Roma entailing eight deaths and many injured have swept the Czech Republic, Hungary and Slovakia. Many hundred of Roma from the Czech Republic have been granted asylum in Canada as a result. Those who have sought asylum in European Union member states have, however, been denied protection. The EU Qualification Directive provides that EU member states shall be regarded as "safe countries of origin" with regard to claims of persecution. The Assembly should propose action aimed at dealing with the issue of Roma asylum seekers. All action must be prepared and undertaken in consultation and cooperation with the Roma themselves.

Many thousands of Roma asylum seekers from Kosovo are still living in neighbouring countries or in Western Europe either with some form of protection or as "tolerated". They are now threatened by return. The UNHCR has stated that it is not safe to return Roma and related groups to Kosovo. The reason is that there are lingering adverse feelings among the majority population vis-à-vis Roma, who normally speak Serbian and who are often accused of having collaborated with the Serbian forces. Moreover, both in Kosovo and Serbia proper, the social situation for Roma is such that returns cannot be expected to be sustainable. The Council of Europe and its member states should work to find a durable solution for these Roma whose security and human dignity would be threatened if returned to Kosovo or Serbia proper.

Over the last few years, Roma in the Czech Republic, Hungary and Slovakia have been the targets of racist violence. Many of the attacks have been aimed at families and children and have included firebombing, shooting, stabbing and beating. During 2007-2009 eight Roma have been killed through this form of racist violence in the countries mentioned six of whom in Hungary alone. This wave of violence has led to a climate of fear which has forced many Roma to leave their countries in order to apply for asylum in other countries, some of which are member states of the European Union (EU).

EU legislation provides that all EU member states shall be considered "safe countries of origin" in respect of each other in asylum matters. Consequently, a citizen of one EU member state may not be granted refugee protection, or complementary protection, in another EU member state. Whereas Roma from Hungary have been refused asylum in France, Roma from the Czech Republic and Hungary have sought and been granted asylum in Canada. In 2008, 860 Roma from the Czech Republic applied for asylum in Canada. 40% of them

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

were granted refugee status. For the first half of 2009, the number of asylum applications lodged by Czech Roma in Canada had already exceeded 1 000. Also around 1 000 Hungarian Roma have sought protection in Canada during 2008 and 2009.

To simply use their right to movement within the EU is not an option for many Roma. The so-called EU Citizen Directive sets out that every EU-citizen has the right to reside in any EU member state during a period of three months without any other requirement than a valid passport. For longer periods of stay, the person concerned must be able to show that he or she has certain financial resources or employment. A majority of Roma asylum seekers cannot fulfill these requirements. Roma who are forced to flee their home country therefore find themselves in a state of limbo with the remaining options being to seek asylum in a country outside the EU, to become irregular migrants, or to go back and face persecution.

The wave of violence which now threatens life and limb and property of many Roma is closely connected to social exclusion, discrimination and racism that they continue to face in Europe and while much has been written and is being written on this including by the Parliamentary Assembly, there is not up to date current analysis of the situation of Roma asylum seekers in Europe.

In view of the above, the Parliamentary Assembly of the Council of Europe should:

i. urge Council of Europe member states to ensure that they honour their obligations under the European Convention on Human Rights, in particular its Article 3, and the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol with regard to Roma asylum seekers;

ii. recommend the Committee of Ministers of the Council of Europe to set up a working group with the task of urgently addressing the issue of Roma asylum seekers, including from Czech Republic, Hungary and Slovakia, with a view to propose an action plan for immediate implementation;

iii. urge the EU to urgently revise its rules on asylum seekers that are citizens of one EU member state and who lodge their asylum applications in another, to ensure that they have the possibility to rebut the presumption of safety that applies in respect of EU member states to save them from a situation of limbo in which they might find themselves under current rules;

iv. recommend the EU to revisit the criteria, set out in its so-called Citizens Directive, on the right to residence for EU-citizens in EU member state other than that of their nationality;

v. urge Council of Europe member states to seek ways in which to accommodate Roma from Kosovo whose asylum applications in a member state have been rejected and who are facing expulsion to Kosovo or to Serbia proper and not to return them until the UNHCR considers it safe to do so;

vi. urge Council of Europe member states to eradicate all forms of racism against Roma and the violence that follows in its footsteps, and, in order to abide by the rule of law, ensure that impunity is never a possibility for perpetrators;

vii. urge Council of Europe member states to enhance understanding and communication between Roma and non-Roma, ensure that media is not used for the dissemination of hate speech and step up work to address the poverty, exclusion and discrimination of Roma.

Signed (see overleaf)

Signed[2]*:*

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2. ALDE: Alliance of Liberals and Democrats for Europe
EDG: European Democrat Group
EPP/CD: Group of the European People's Party
SOC: Socialist Group
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