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Roma asylum seekers in Europe

Reply to Recommendation[1]: Recommendation 1941 (2010)
Committee of Ministers

1. The Committee of Ministers has examined Parliamentary Assembly Recommendation 1941 (2010) on "Roma asylum seekers in Europe". It has been brought to the attention of the member states' governments and to the relevant Council of Europe bodies,[2] the comments of which have been taken into account in this reply.

2. The Committee of Ministers shares the overall concern expressed by the Parliamentary Assembly with regard to the situation in some member states concerning racist violence targeting Roma. On a general note, the Assembly will be aware that addressing the situation of Roma is a high political priority for the Organisation. Since the high level meeting on Roma which took place in October 2010, and in line with the Strasbourg Declaration on Roma, a number of initiatives are being taken with a view to improving the conditions for Roma populations across the continent, including from Kosovo.[3] In this respect, the Committee of Ministers would refer to the first progress report (November 2010 – April 2011) by the Secretary General of the Council of Europe on the follow-up to the Strasbourg Declaration. It would in particular inform the Assembly that in connection with the European Roma Mediators Training Programme (ROMED), Kosovo is amongst those beneficiaries in which training sessions have successfully been launched. There are also plans to launch the Dosta! Campaign in Kosovo in 2011.

3. Regarding the particular situation of Roma asylum seekers from Kosovo, the Committee of Ministers would refer to the updated opinion of the MG-S-ROM on the Return of Roma to Kosovo and South-Eastern Europe, which it took note of on 1 July 2009 and the thrust of which it endorses. It would also refer to its replies to relevant Parliamentary Assembly Recommendations 1633 (2003) on "Forced returns of Roma from the Former Federal Republic of Yugoslavia, including Kosovo, to Serbia and Montenegro from Council of Europe member states", 1708 (2005) on "The current situation in Kosovo", and to Recommendation 1889 (2009) on "Improving the quality and consistency of asylum decisions in the Council of Europe member states". It would also underline the pertinence of the "Twenty Guidelines on forced return" adopted by the Committee of Ministers on 4 May 2005.

4. Regarding the specific proposal that the Ad hoc Committee of Experts on Roma Issues (CAHROM) examine measures necessary to create durable solutions for Roma from Kosovo (paragraph 6.1), the Committee of Ministers can inform the Assembly that the CAHROM – its overall priorities and workload permitting – intends to take up this matter at one of its next meetings taking into consideration recent developments, as well as national practices (including on the basis of EU rules) concerning Roma asylum seekers and returnees to Kosovo. A number of written contributions on the subject have already been submitted to the Committee.

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1. adopted at the 1118th meeting of the Ministers' Deputies (6 July 2011)
2. Ad hoc Committee of Experts on Roma Issues (CAHROM) (successor to MG-S-ROM), the Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM), the Steering Committee on the Media and New Communication Services (CDMC), the European Committee on Legal Co-operation (CDCJ), the Steering Committee for Human Rights (CDDH) and the Steering Committee for Education (CDED).
3. All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

5. As regards the recommendation contained in paragraph 6.2, the Assembly is informed that the Advisory Committee on the Framework Convention for the Protection of National Minorities has been examining, in the context of its monitoring activities and in the light of the Framework Convention, the legal and factual consequences of measures related to the return of Roma to Kosovo. In this context, the Assembly is referred to the Committee's second opinion on Kosovo, adopted on 5 November 2009,[4] and in particular paragraphs 21 and 80 to 92 on issues related to the freedom of movement and the return process. The Committee of Ministers would also emphasise that the Advisory Committee's observations regarding the situation of Roma in Kosovo generally include those persons belonging to the Roma community that were previously returned to Kosovo. This allows for an assessment of developments with regard to their rights and security situation over time as part of the ongoing monitoring activities.

6. With reference to paragraph 6.3, the Committee of Ministers reaffirms the need to prevent the dissemination of hate speech in the media, including against Roma, while observing the fundamental right of freedom of expression, as provided for in Article 10 of the European Convention on Human Rights. The Committee of Ministers would also signal the relevance of its Recommendations Rec(97)20 on hate speech and Rec(97)21 on the media and the promotion of a culture of tolerance and also draw attention to the Council of Europe "Living Together" handbook (2009) on standards on the media's contribution to social cohesion, intercultural dialogue, understanding, tolerance and democratic participation. It would also recall that States party to the European Convention on Transfrontier Television are legally bound not to disseminate programme content that is likely to incite racial hatred. Moreover, states bound by the provisions of the European Union Audiovisual Media Services Directive have a similar obligation to prohibit hate speech. The Committee of Ministers would also refer to the relevance of the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

7. Regarding the specific recommendation to "instruct the Steering Committee on Mass Media to assess the media situation in member states, as regards the dissemination of hate speech, racist ideas and prejudice against Roma, including Roma migrants and asylum seekers, and to propose relevant action as necessary", the Committee of Ministers considers that this would not be feasible at present in view of the human and financial resources that such an undertaking would require.

8. However, it would recall that the CDMC's current mandate includes "monitoring the implementation by member states of non-binding instruments prepared under its authority". This task allows for contributions to be made to the objective outlined by the Assembly.

4. Cf. document ACFC/OP/II(2009)004.