



Resolution 1768 (2010)¹

Final version

Roma asylum seekers in Europe

Parliamentary Assembly

1. In the last few years, Roma in a number of member states of the Council of Europe have been the target of racist attacks resulting in at least nine deaths, many injuries and the destruction of property. This wave of violence follows an upsurge in the visibility and activity of neo-Nazi groups.
2. The Parliamentary Assembly is concerned to note that the perpetrators have rarely been brought to justice and is particularly worried by the fact that, due to fear, threats and the lack of adequate reaction by the authorities, several thousand Roma have left their countries to seek asylum.
3. Whereas hundreds of Roma from the Czech Republic and Hungary have been granted refugee status in Canada, applications for asylum in European Union countries have automatically been rejected on the basis of European Union legislation, which provides that all European Union member states shall be considered “safe countries of origin” with regard to asylum applications from citizens of these countries.
4. If a citizen of a member state of the European Union wishes to stay in the territory of another European Union member state for longer than three months, he or she is obliged to show proof of having sufficient financial means or having a job in the country. Since many Roma from European Union countries cannot satisfy these requirements, they can neither claim asylum in another European Union country nor reside longer than three months in another member state. Their remaining options are to seek asylum in a country outside the European Union, become irregular migrants or go back to their country of origin and risk persecution. All these options are highly undesirable.
5. There are also a large number of Roma asylum seekers living in Council of Europe member states who have been displaced for a number of years following the conflicts in the Balkans and who are now facing forced return to Kosovo². As a result of the conflict in Kosovo about 120 000 Roma were forced to leave Kosovo and apply for asylum in other European countries. Many applications were rejected, but approximately 50 000 Roma from Kosovo still live in western European countries, and another 50 000 in neighbouring countries, where they have some form of temporary protection or are simply “tolerated”.
6. Member states have taken steps preparing for the return of sizeable numbers of these Roma, despite strong warnings by the Council of Europe Commissioner for Human Rights that these people will face an unsustainable social situation with little chance of reintegration upon return, as well as serious threats to their personal security. Many of these Roma have children who were born, or have lived all their lives, in the countries from which they are being returned. As at May 2010, in Germany alone, around 10 000 Roma from Kosovo were facing return. Half of this group consists of people under the age of 18.

1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 12 November 2010 (see [Doc. 12393](#), report of the Committee on Migration, Refugees and Population, rapporteur: Mr Pupovac). See also [Recommendation 1941 \(2010\)](#).*

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



7. The Council of Europe Commissioner for Human Rights has stated that of those Roma forcibly returned to Kosovo, between 70% and 75% have been unable to reintegrate and have undertaken secondary movement or gone back to the deporting countries. Enforcing returns is thus not only producing great human suffering, but is also wasting economic resources.
8. Returning countries should realise that Kosovo will not be able to reintegrate a large number of returnees. Such a situation may lead to social unrest, which will hit Roma first and hardest. Kosovo is still fragile and the authorities lack sufficient resources.
9. Furthermore, the Assembly rejects the view that Roma and related groups need to be returned to Kosovo in order to achieve or to reinstate ethnic pluralism. Whereas ethnic pluralism may be in itself something positive, which should be promoted by giving Roma originating from Kosovo a real and sustainable possibility to return, it is best achieved on a voluntary basis, or not at all if it jeopardises the security and human rights of the individuals concerned.
10. In order to successfully address the issue of Roma from Kosovo in Council of Europe member states, a holistic approach will be necessary, taking into account the rights and responsibilities of the Roma, involving all the countries in the region, the European Union, the Council of Europe and civil society. It will also be necessary to have a common strategy at European Union and Council of Europe levels. Civil society should be invited to play a greater role in the reintegration process.
11. It is promising that the authorities in the countries of the former Yugoslavia are co-operating in order to find durable solutions for displaced Roma and to ensure that they have effective access to adequate personal documents, so as to clarify their status and gain access to their rights and benefits, and also, where relevant, apply for long-term residence or citizenship. The Assembly supports this process, in which Kosovo should be included, and encourages the countries of the former Yugoslavia to continue addressing these issues until satisfactory solutions have been found. It urges them not to return Roma to Kosovo until and unless genuine durable solutions have been found.
12. Against the backdrop of these issues, and drawing attention to its [Resolution 1740 \(2010\)](#) on the situation of Roma in Europe and relevant activities of the Council of Europe, the Assembly urges the member states of the Council of Europe to:
 - 12.1. ensure that all asylum applications are considered on the basis of their individual merits according to fair and efficient refugee status determination procedures;
 - 12.2. consider the plight of Roma sympathetically and seek ways in which to accommodate those who are citizens of one European Union member state and who are refused asylum in another European Union member state;
 - 12.3. comply fully with their obligations under international human rights law, including the European Convention on Human Rights (ETS No. 5), by preventing attacks on Roma, and eradicating practical impunity by effectively and promptly investigating all crimes against Roma. This includes examining whether the crimes have racist motivations, bringing the perpetrators to justice and, if found guilty, punishing them;
 - 12.4. improve the safety and security of Roma and do their utmost to eradicate racism and xenophobia by working actively and persistently at national and local levels in order to enhance understanding and communication between Roma and non-Roma in society. To do this, member states should use, *inter alia*, the toolkit of the Council of Europe Dosta! Campaign “Dosta! Enough! Go beyond prejudice, discover the Roma!”;
 - 12.5. ensure that, within the limits of the right to freedom of expression enshrined in Article 10 of the European Convention on Human Rights, as interpreted by the European Court of Human Rights, the media refrain from disseminating hate speech or from the demonisation of Roma migrants or asylum seekers.
13. The Assembly calls upon all politicians in member states to strongly and publicly condemn all forms of racism and stigmatisation of Roma.
14. The Assembly calls on the European Union to reconsider its rules on asylum seekers who are citizens of one European Union member state and who lodge their applications in another, and to ensure that the legislation and practice in its member states provide for the opportunity to rebut the presumption of safety, also in cases of flight within the European Union, in order to ensure that Roma asylum seekers and other asylum seekers from European Union member states do not find themselves in a state of limbo.

15. Recalling its [Recommendation 1923 \(2010\)](#) on the situation in Kosovo and the role of the Council of Europe, the Assembly furthermore calls on member states to:
 - 15.1. reconsider their return policies with regard to rejected Roma asylum seekers from Kosovo and to consider offering them the possibility of local integration, including naturalisation options, taking into account their ties with their host country and the duration of their displacement;
 - 15.2. respond sensitively to the return of Roma to Kosovo, in order to ensure that their human rights are fully safeguarded, that the return is staged in a sustainable way and that the merits of each individual case are examined, including the ties which have been established with the host country.
16. As and when returns of Roma to Kosovo take place, the Assembly urges the authorities of member states and organisations involved in the returns to take all appropriate measures to ensure that:
 - 16.1. all concerned have an effective opportunity to have their international protection needs assessed prior to return;
 - 16.2. returns are conducted in an orderly, gradual and dignified manner, and in co-operation with the relevant authorities;
 - 16.3. returns are co-ordinated to avoid problems of capacity for reception and integration and that information on vulnerable returnees is provided to the authorities in Kosovo;
 - 16.4. where returns of Roma to Kosovo are enforced on the basis of readmission agreements, these are conducted with transparency and in compliance with international refugee law and human rights standards;
 - 16.5. the Council of Europe's 20 guidelines on forced return are complied with.
17. The Assembly calls on the authorities in Kosovo and the international stakeholders to step up their efforts to fully integrate Roma who are returned to Kosovo, to ensure that their human rights are respected and protected, and that they have access to justice.
18. The Assembly invites the Commissioner for Human Rights to continue monitoring the situation of racist violence against Roma in Council of Europe member states, as well as the problems associated with Roma returns to Kosovo and the compatibility of such returns with relevant Council of Europe standards.
19. The Assembly invites the European Commission against Racism and Intolerance to:
 - 19.1. give priority attention in its country-by-country work to the issue of racist violence causing Roma to go abroad and claim asylum;
 - 19.2. make policy recommendations to member states on how to deal with anti-Gypsyism.