



Helplessness

**Roma, Ashkalia and Egyptian Forced Returnees
in Kosovo**

By Milena Tmava and Adem Beha

**RAD Centre, Prishtina
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Helplessness: RAE Forced Returnees in Kosovo

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Roma and Ashkalia Documentation Centre

The Roma and Ashkalia Documentation Centre (RADC) is a local community-based NGO situated in Prishtina/Pristina. It was established in July 2004; since then its multi-ethnic team has engaged in improving the living conditions and integrating Roma, Ashkalia, and Egyptian minority communities in the mainstream of Kosovo institutions and Kosovo society.

From 2007 onward, RADC has worked and addressed the very structural problems which RAE communities face in Kosovo.

RADC has already implemented these programs:

- *RAE Civil Registration Campaign in partnership with UNHCR and CRP/K*
- *Anti-Discrimination Capacitation for civil society, lawyers, judges and prosecutors, in partnership with the European Roma Rights Center*
- *Minority Rights Advocacy in the EU Accession Process, in partnership with Minority Rights Group International*
- *Advocacy for the Forcibly Repatriated RAE communities members from Western Europe, supported by CCFD*

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Cover: "Man at the market in Fushe Kosova", taken by Enis Miftaria (17), returnee from Blomberg (GER) (www.blickzurueck.de)

Annotation: Names in this report tagged with two asterisks (**) were altered by the authors in order to ensure data privacy.

Abbreviation List

ARC	American Refugee Council
CommDH	Commissaire aux droits de l'homme - Commissioner for Human Rights
DRC	Danish Refugee Council
ECLO	European Commission Liaison Office
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
e.g.	for example
i.e.	which means
ICO	International Civilian Office
IO	International Organization
IOM	International Organization for Migration
K - (...)	Kosovo - (...)
MCR	Ministry for Communities and Return
MLSW	Ministry for Labor and Social Welfare
MoIA	Ministry of Internal Affairs
MOR	Municipal Offices for Returns
MoU	Memorandum of Understanding
NGO	Non-governmental organization
PISG	Provisional Institutions of Self-Government
RADC	Roma and Ashkalia Documentation Center
RAE	Roma, Ashkalia and Egyptians
RRK	Return and Reintegration in Kosovo (an ECLO programme)
SPARK	Sustainable Partnerships for Returns in Kosovo (a UNDP programme)
UN	United Nations
UDHR	Universal Declaration of Human Rights (1948)
UNDP	United Nations Development Program
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Interim Administration Mission in Kosovo
UNSCR	United Nations Security Council Resolution
URA 1/ 2	Albanian: "The Bridge" – German returnee Programs

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1) Introduction

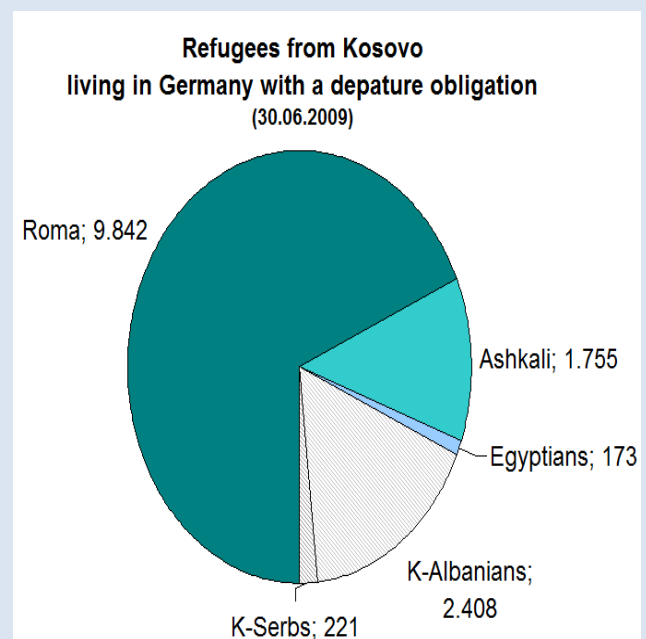
Facing the current developments in the field of returning RAE community members from western countries to Kosovo, the RAD Center publishes this report in order to analyze the precarious circumstances and living conditions of RAE returnees and to emphasize the need for change in the readmission policies of Germany and other European countries.

In this regard, RADC conducted field research in 2008, which included personal data and stressed the most emergency needs of the people, who had been returned to Kosovo. So far, more than 200 people are registered in the data base, which had been established on the material collected during the interviews. One of the results of this survey was that in 70% of all cases, the urgent needs which have been expressed were: a) housing; b) food; and c) education. In this report, these needs and other significant problems (property rights - ownership/registration, the security situation/discrimination and psychological consequences of deportations) will be analyzed and illustrated with specific cases.

In addition to the survey, RAD Center contacted and interviewed representatives of the Kosovo government, representatives of embassies of western countries in Prishtina, municipal office employees, RAE local leaders, the IOM, and some national and international organizations/projects, which also deal with minority communities and returnees.

Besides all empirical observations about the returnees themselves, one central finding of our analysis was the lack of a well coordinated system offering sustainable assistance, which might more effectively address the problem of repatriations. RAE civil society organizations and their political representatives at the Kosovo Assembly do neither have power nor influence to bring this issue on the agenda, and make Kosovo government responsible for designing and implementing re-integration programs for RAE minority community members, who are forcibly returned. The RADC wants to address this problem through this report.

In respect to this, the report will evaluate the current living conditions for RAE returnees in the Republic of Kosovo and will emphasize their precarious situation. We conclude that returning members of RAE communities to Kosovo at this point of time is unpredictable and non-sustainable [\[2\]](#) and can effect a ma-



major setback for Kosovo society, affecting all Kosovo's citizens.

a) Terminology

The term "Forced return" is used to describe "the return of persons who have not granted their consent, and who may be subjected to the use of force in connection to their departure".

The term "Voluntary repatriation" is used to describe the return of refugees and persons holding a temporary or permanent residence permit who, after reviewing all available information about the conditions in his/her country of origin, decide to leave the host country and go home." [7]

2) RAE communities in Kosovo and RAE returnees

Among Kosovo's diverse communities, Roma Ashkalia and Egyptian (hereafter RAE) are the most vulnerable and excluded groups [3], suffering from different disadvantages in comparison to the Serbs and other ethnic groups in Kosovo. The number of RAE community members, who live in Kosovo, is estimated between 35.000 and 40.000, while it is further estimated that 70.000 to 100.000 RAEs live abroad, after having left the country either during the early 90's or during and after the armed conflict in 1999. [4] The majority of refugees fled to Germany, where the number of registered failed asylum seekers is 35.000; the number of registered refugees in other Western European countries amounts ca. 15.000-20.000. [5]

In distinction to RAE refugees who are currently hosted by Germany within the so-called status "Duldung", (which in German language means "toleration status",) between 45.000 and 50.000 people continue to be hosted by the Serbian government within the so-called status "Internally Displaced Persons" (IDP), and around 10.000 still remain in Montenegro with IDP status.

Since Kosovo declared its independence in 2008, the Kosovo government does not consider these communities as IDPs any longer, because, according to the government, they are not "internally" displaced, but "externally" displaced as refugees in the states of Serbia and Montenegro. On the other side, Serbia continues to treat them as IDPs. However, beyond this non-effective discourse, it should be noted that the repatriation process of RAE minority communities in Kosovo is not sustainable, because of the lack of re-integration programs.

a) Latest developments

The Republic of Kosovo declared its independence on 17th of February 2008. The legal framework is one of the most advanced in Europe - but, unfortunately, still many of the key laws have not been implemented. For instance, the Law on Anti-Discrimination which was adopted in 2004, has been valued by Minority Rights Group International as a good law, but remains unimplemented until today. On the other side, there are some positive indicators which show that the security situation in Kosovo has improved since the end of the armed conflicts and the March events of 2004. [7] However the socio-economic situation, especially for RAE communities in

Kosovo, is still distressing, with around 40% of them living in extreme poverty with less than one USD per day.

Despite many efforts, Kosovo is so far not able to provide basic living standard to its (minority) citizens and the scale of dependence on international support in general is still high. Consequently, without international donors and the presence of the European Union and the United Nations, Kosovo would not be able to exercise effective state control, and have full capacity in meeting its citizens' needs. On the other hand, there are some opinions in Kosovo, like "Levizja Vetevendosje" (Self-determination Movement), which argues that the presence of EULEX and UNMIK in Kosovo is caused by the fact that Kosovo has not real full sovereignty.. The administrative system of Kosovo and governmental activities in the field of assisting returnees can be seen as insufficient. Adequate support cannot be secured neither in legal, nor in social respects, which is why "the return process remains a key challenge for the Kosovo authorities."[\[8\]](#)

As mentioned above, many people from the RAE minority communities of Kosovo have a very insecure legal status abroad (tolerated status), which leads to uncertainty and anxiety about the future. There is a huge number of people, who are waiting to be forcibly returned, if they will not immediately start planning to leave the host country voluntarily. Returning those people back to Kosovo forcibly, who have been living in western countries for more than ten years and who are sometimes very well integrated into their new societies, is in many regards and because of humanitarian reasons unacceptable.

Nevertheless, Kosovo's government wants to prove that it is able and capable to handle those 'problems' related to repatriation, in order to demonstrate its strength to the international community and the European Union. However, it is not so clear whether the Kosovo government is able or not to deal with the RAE minority communities members, who will be forcibly returned in the near future, and it remains questionable, if Kosovo really has the resources and capacities to offer a minimum standard of living to those RAE returnees who continue to have miserable living conditions.

In regard to assisting returnees from western countries one can distinguish between two groups: On the one hand, there are the people who returned to Kosovo voluntarily, and who are supported by several institutions and organizations (e.g. URA, IOM) financially and / or materially. There can be many reasons why people return voluntarily to their home country, e.g., because they have saved enough money during their time abroad, or because they still have a close connection to the country and a well established social network within it, which will assist them during the time of reintegration. On the other hand, there are the people, who do not want to return to their country of origin, and who are deported to it as a consequence. The term used here, "Forced return means the return of persons who have not granted their consent, and who may be subject to the use of force in connection with their departure."[\[9\]](#)

Those forcibly returned people in many cases have neither an accommodation nor property in Kosovo, nor can they rely on a social network, wherefore they decide to stay, letting things happen. Often those people, living on tolerated status abroad, are not able realize their situa-

tion. Unfortunately, this is not the best way to avoid negative consequences, because those returnees will in many cases not get any support by any organization or institution. Whereas voluntary returns will receive some institutional support, forced returnees normally receive no assistance whatsoever.

b) Readmission Agreements

The readmission policy for Kosovo was drafted in 2007, based on international human rights and EU standards, and following UNHCR recommendations. It was approved by UNMIK in November 2007 and contains a strategy of repatriating people to Kosovo. In January 2008, UNMIK transferred readmission competencies, to the Kosovo Ministry of Internal Affairs (MoIA), which “will have the responsibility to closely follow/coordinate readmission procedures and to ensure that vulnerable groups receive sufficient assistance throughout the readmission process. The MoIA will also be responsible for especially linking such cases to reintegration mechanisms and informing all relevant actors such as, Ministry of Labour and Social Welfare (MLSW), Ministry of Local Government Administration (MLGA) and municipalities, in order to facilitate reintegration of these persons in the place of return.” [\[10\]](#)

UNMIK has reached agreements on returns with several countries and the Kosovo government is subsequently negotiating bilaterally on new updated readmission agreements with many western countries (e.g. Germany, Switzerland, Sweden, and Austria) at the moment. These MoUs may allow those countries to repatriate all people from RAE communities to Kosovo. Some of those agreements are already in force, without having been signed by all parties and published.

Whether those agreements will bring any change in the repatriation policies of the western countries will have to be seen. The German government has indicated that they were not in-

tending to increase the number of returns during the next year, and in fact expect to return no more than 1.000 to 2.000 Roma, Ashkalia and Egyptians per year, over a period of up to the next eight years. This process of forced repatriation will happen slowly but progressively and as one officer from the German interior ministry pointed out, the “repatriation program would probably take about ten years to complete”. [\[11\]](#)

But the Government of Kosovo expects approximately alone 5000 Roma deportees per year, which is, in total, too much for Kosovo, being in the very early stages of its development.

Figures of returnees from Germany to Kosovo

Year	Voluntary Returns	Repatriations
1999	18.199	1
2000	58.932	6.547
2001	7.938	4.529
2002	2.138	3.355
2003	1.854	1.005
2004	1.095	1.819
2005	907	1.517
2006	485	1.379
2007	305	781
2008	219	597
2009 (until 31.08.09)	168	322
Total	92.240	21.852

3) Documentation

The repatriation issue is not addressed properly, neither at the level of Kosovo institutions nor at the level of civil society. The terms “forced repatriation” or “deportation” are rarely used, in order to avoid the negative connotations, such as the perceived violation of human rights. Therefore, instead of using the term “forced return”, different policy makers in Kosovo prefer calling it “voluntarily return”, trying to assert that this process is legitimate and does not violate human rights standards. As a result, there is a lack of information and statistics as for the phenomenon of forced repatriation. There are “voluntary returns” in which people who are aware of impending deportation agree to “voluntary return”, a return that may be seen as both voluntary and coerced.

Since finding official statistics on the phenomenon of forced repatriation is very difficult, the identification and articulation of the problems of forcibly returned people have not been raised or analyzed. Neither state authorities, nor international NGOs publish detailed reliable statistics on forced returns, despite the fact that during interviews they accept the existence of the phenomenon of forced repatriation and the problems connected to that issue. Moreover, statistics are often not detailed enough to give a comprehensive picture of the situation, and sometimes you even do not find a breakdown of ethnicities. This makes it difficult to analyze the developments and to evaluate the efforts made for returnees.

As a result of the lack of data and information about the process of forced repatriations, especially of RAE minority communities, no non-governmental actor (NGOs etc.) is able to provide short-period strategies/plans/policies to meet the forced returnees’ most immediate needs. While governmental institutions do not fulfill their task to take responsibility for this group of persons, the public is not informed and civil society organizations are not prepared to pursue a pro-active policy in addressing and articulating the problems and needs of people who are forcibly returned.

Overall returns to Kosovo Minority Groups [12]			
2007		2008	
Voluntary returns	Forced returns	Voluntary returns	Forced returns
1918	432	714	416

4) Legal Framework

Particular implementation is what really matters. (...) The basic minority rights framework in Kosovo is now in place and generally is of a high standard. (...) The greatest challenge is to make these standards relevant in every person’s ordinary life. [13]

Unfortunately, laws do not implement themselves; time and money have to be invested to for laws to actually change reality. In this chapter we will review laws, which are directly binding for the Republic of Kosovo and analyze their implementation.

a) National

The Kosovar legal framework, especially the “Fundamental Rights and Freedoms” (Constitution of the Republic of Kosovo, Chapter II) and the Chapter III for “Rights of Communities and Their

Members” in the Kosovo Constitution, which is without a doubt one of the most modern and one of the best worked out Constitutions in Europe, guarantees human rights, and the rights of communities and their members in particular.

But is this the case with Roma, Ashkalia and Egyptian minority community in Kosovo?

Article 25 of Kosovo Constitution guarantees the Right to Life. But hundreds of Roma, Ashkalia and Egyptians live in lead-polluted camps in Mitrovica, permanently life-threatened, living in a legal vacuum, many without civil registration. The RAE minority communities in the northern part of Mitrovica are living within a lead poisoned area, where the lead contamination is very high. The US Center for Disease Control and Prevention (CDC), in cooperation with the World Health Organization and the United Nations International Children’s Emergency Fund stressed that Cesmin Lug (camp) is the most contaminated area and should be closed immediately, while showing that between 2005 and 2007, in their last three blood tests “on average, 30% of children tested had capillary blood lead levels > 45µg/dL, the level which CDC recommends chelation therapy”. In this regard, it is important to mention that some forced return RAE families found space to live in these camps because there was nowhere else for them to go.

Moreover, people who are forcibly returned often lack documentation, especially birth certificates, marriage certificates and ownership documents. Therefore, the possibility of returnees in having access to the local institutions for social assistance, health care, or education system is limited. However, RAD Center in cooperation with CRP/Kosovo is supporting RAE community members who are forcibly returned by identifying cases on civil registration and addressing this problem towards local municipal authorities constantly.

Article 29 of Kosovo Constitution points out that ““Everyone is guaranteed the right to liberty and security”. In northern Mitrovica, there are Ashkalia Albanian speakers, who have been threatened because of speaking their own language. While there are Roma, in the southern part of Kosovo, who used to be threatened because they do not speak Albanian. Though the overall security situation has improved, incidents continue to be reported in different parts of Kosovo.

Article 58 of Kosovo Constitution ensures “appropriate conditions enabling communities, and their members to preserve, protect and develop their identities“. The implementation of this article, as for almost the whole legal framework of Kosovo, needs to be questioned. The Roma minority community does not have an access to education in its own language. The Law on Language points out that those communities with a proportion of 5% percent of the municipality “the language of the community shall have the status of an official language in the municipality and shall be in equal use with the official languages.” This is not the case for the Roma community as an incompact group. And, in many cases, whenever they are a homogeneous group they do not represent five percent of the municipal population. This quota, in fact, does not contribute to the protection and preservation of Roma identities, but vice versa.

On the other side, RAD Centre has identified cases in which some Ashkalia people (but not the majority of them) feel discriminated against or threatened if leaving their village. RADC interviewed an Ashkalia woman, who said that she was afraid of leaving her village on her own or going to the swimming pool with her baby. Moreover, in some cases, RAE children are not attending school, where they could learn and figure out more about their identity. Kosovo institutions are obliged to ensure that “all necessary measures to protect” them will be taken, whenever RAE people are subjects to threats or acts of discrimination and violence because of their “national, ethnic, cultural or religious identity”. It is not only the right of RAE communities to enjoy and preserve their identities, but it is also Kosovo institutions’ responsibility to enable and ensure that these rights will be met. However, Kosovo institutions, especially the Government of Kosovo, is willing to address the manifold problems of RAE minority communities in Kosovo, but the situation on the ground still remains very grim.

The “**Strategy for the Integration of Roma, Ashkalia and Egyptian Communities in the Republic of Kosovo**” was adopted on December 24th, 2008 and is in force. Yet there is no completed Action Plan which could map the path through which the concrete action would take place.^[14] There is a draft action plan for 2009-2015, which still needs to be adopted. The strategy stresses that the Government of Kosovo is aware of the precarious situation of the RAE minority groups and that it was committed to do everything in its power to create proper conditions for those communities, so that they can enjoy equal rights with all other ethnic communities in Kosovo without any form of discrimination. What does everything in its power mean? What are the means of measuring or supervising these efforts? If there is no clear statement in the document, how will the situation then be improved? An Action Plan is only meaningful if there is commitment to implement, and a budget adequate for the commitment. Neither commitment nor budget is yet certain.

Furthermore, it is important to note that in this document it is stated that “Kosovo has not developed a poverty reduction strategy yet.” Poverty is the most demanding problem facing the RAE minority communities in Kosovo. Since there is no strategy which would address realistically how to reduce the poverty rate among RAE minority communities, there would not be any significant improvement in this regard.

The Government of Kosovo is not able to handle the problems of the people who will be forcibly returned under the new readmission agreements. Therefore, the Kosovo government in cooperation with western countries which are returning the Kosovars, have to jointly take measures in solving immediate problems by having clear and funded re-integration programs for them.

Article 156 of the Kosovo Constitution is about dignified return. “The Republic of Kosovo shall promote and facilitate the safe and dignified return of refugees (...) and assist them in recovering their property and possessions.” Neither a safe return nor assistance in regard to recovering property and possessions are promoted adequately.

Besides this article the **“Revised Manual for Sustainable Return”** also refers directly to returns. This manual was developed by UNMIK and the Provisional Institutions of Self Government (PISG, as the Kosovo government was called at that time) and published in 2006. Three years later, unfortunately, not all municipalities are even informed about that manual; as a consequence, some have not established a steering group or municipal office for returnees based on that manual. (The MOR of Ferizaj was, e.g., much better informed about that manual than any other municipal office.)

This Manual would, if used, offer very clear instructions, which could make the process of returning former refugees and IDPs sustainable. It is based on the **“Right to Sustainable Return”**, which was articulated by UNMIK in May 2002, and updated and promulgated in 2006 by the PISG.

The guiding principles of this manual, in order to make return sustainable, are:

- Rights based (e.g. the return should be based on free and informed decisions)
- Return to place of origin
- Sustainability (e.g. social and economical sustainability should be considered)
- Engaging the entire community

Furthermore, these guidelines should be accompanied by efforts to guarantee security and freedom of movement, access to public services and accommodation/housing and economic viability in terms of fair and equal access to employment. Unfortunately, a minority of officials interviewed mentioned this very important manual. Moreover, we believe that neither the Kosovo governments, nor any of the Western European countries, have brought their respective policies into line with these principles - principles often neither respected nor fulfilled.

The last national document which needs to be taken into review is the **“Strategy for Reintegration of Repatriated Persons”**. This strategy was approved in 2007 and seeks “to ensure sustainable and durable solutions for forcibly returned persons in the *areas of health, education, employment, legal reintegration, social welfare, housing and property* related issues. It also addresses the needs of vulnerable sections of society and minority communities. The Strategy has yet to be implemented. An action plan for the implementation of the reintegration strategy was finalized in April 2008.”[\[15\]](#)

Though there is an action plan on this strategy, local leaders, as well as employees of the municipal offices, criticized a lack of effective implementation sharply. Xhevahire Dervishi-Rexhepi, Ferizaj Municipal Returns Officer, told RADC during an interview that there was no action plan or any specific information for the municipal offices in dealing directly with the refugee issues, and that “it had been ignored to create a joint group, which included the municipalities”.[\[16\]](#)

An inter-ministerial coordination board was planned to be established to provide an efficient implementation of the strategy for reintegration of repatriated persons, but this board has never functioned, as the strategy has never been implemented. In short, there is no general action plan to implement the strategy at all.

b) International

Kosovo is a new state recognized by 62 out of 192 United Nation countries. As not all United Nation states in the world have already recognized Kosovo as an independent state, after it declared its independence on 17th February 2008, Kosovo is not yet a member of either the European Union, or the United Nations. Despite this, Kosovo has endeavored to make the standards within the Constitution of Kosovo appear in an exemplary manner. The Constitution of Kosovo mentions in Article 22 “that the following international agreements and instruments are guaranteed” [17], and are binding treaties within Kosovo’s legal framework:

- Universal Declaration of Human Rights (UDHR)
- European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols
- International Convent on Civil and Political Rights and its Protocols
- Council of Europe Framework Convention for the Protection of National Minorities
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

In the following paragraphs the report will take into regard the most important articles of these international legal documents, referring directly to the problems, which returnees have to face after being repatriated to Kosovo:

Universal Declaration of Human Rights

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

- (1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

Article 25

- (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, and housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Article 26

- (1) Everyone has the right to education. (...)

International Convention on the Elimination of All Forms of Racial Discrimination

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- (e) *Economic, social and cultural rights, in particular:*
 - i The rights to work, (...)
 - iii The right to housing;
 - iv The right to public health, medical care, social security and social services;
 - v The right to education and training;

Bearing these articles in mind, this report will analyze the General Conditions of RAE returnees in the next chapters of this report.

5) The overall conditions of RAE returnees

a) General Living Conditions

“For those people, who return to Kosovo it would be the best to go to jail. The living conditions for our prisoners here are better than for most of the members of RAE communities.” [18]

RAE minority communities are the most vulnerable minority in Kosovo. The living conditions of RAE communities in the Republic of Kosovo are more precarious than for K-Serbs and K-Albanians. The situation for RAE minority groups has not been improved after Kosovo declared its independence in 2008. [19] According to statistical data from the UNDP, 36.7% of RAE community members still have to live under extreme poverty (less than 1 USD per day). The unemployment rate among these communities is between 95 and 100% and the illiteracy rate is higher than 16%. [20]

In regard to the integration of RAE communities, not much improvement has been made and the “population of Kosovo remains deeply divided along ethnic lines, as reflected by recurring incidents of inter-ethnic violence and a climate of intolerance among ethnic communities in Kosovo” [21].

In particular, RAE returnees from western countries have to face various problems, when they arrive in Kosovo. One of the key aspects to be mentioned hereafter is the way how RAE minority communities are returned to Kosovo, since the respect for human dignity is one of the most essential standards of human rights. RAD Center has identified that this standard has been widely violated in the case of returning RAE minority community members from different western countries. Often those people, who are returned, have been threaten by the police forces of the host countries, or have been psychologically pressured in order to leave the country themselves. RAD Center has noted that not enough time is given to the forcibly returned people to pack their bags and prepare themselves to come back in Kosovo. In many cases, forcibly returned people have therefore no more things with them than the clothes they were wearing

during their repatriation. Furthermore, they are, in most of the cases, not assisted or supported by any IO or governmental institution or local Kosovo authorities.

In fact, the continuous return of RAE refugees increases the number of persons depending on social assistance dramatically, which is already very high among RAE communities in Kosovo. It can be assumed that in this regard approximately 50,000 refugees (or ca. 10,000 families), who return, will depend on social assistance, which is between 35 € and 65 € a month per family, irrespective of the number of children. It is widely acknowledged that a family, even in Kosovo, cannot survive with this sum of money. Calculated on an average amount of 50 € per month, the Kosovo government would have to provide a budget of 500.000€ per month or 6.0 Million € per year just for social assistance of returnees – and these costs would not include the provision of accommodation and other issues. [\[22\]](#)

The situation of RAE communities is reminiscent of a vicious circle of poverty and exclusion, which is why the number of people leaving Kosovo will not decrease during the coming years.

b) Accommodation

One of the first problems, which returnees have to face after their arrival in Kosovo, is the lack of accommodation. Many of the returnees find themselves homeless, without a place to go after they had been left by the police at the airport of Prishtina.

There are plenty of reasons why they are homeless, but three of them are more important to this report in explaining why the forced returnees have not a home address: (1) The returnees sold their property before they left Kosovo, (2) their houses had been destroyed during the war or, (3) their houses had been occupied by other community members, Serbs or Albanians. Most of the returnees do not have another choice and ask their relatives or former friends/neighbors for shelter, especially if reasons (1) and (2) are the case.

However, for the Constitution of Kosovo the **International Convention on the Elimination of All Forms of Racial Discrimination** is a binding internal document. In **Article 5 (e) iii ()** of this international treaty, it is pointed out that everyone has the right to housing. Notwithstanding, many of those people who were returned forcibly, are, unfortunately, not assisted at all by Kosovar authorities in regards to solving the problem of housing. [\[23\]](#) Housing at one's relatives' house cannot be the final and ideal solution for returnees. Many of those returned families will remain fully dependent on these relatives for years and often the houses/flats are much too small to offer all inhabitants an even minimum standard. In Gjakova, for example, RADC interviewed a person belonging to the Egyptian community, who lived together with seven family members in a barrack, which had just 20-25m². Another interviewed family from the Ashkalia community in Fushe Kosova shared a 70m² 3-room-house with 12 people.

Despite the fact that it is publicly stressed by Kosovo local and central institutions that they would like to build new accommodations for returnees, they continue to argue that there is currently neither enough budget for plans like that, nor do the municipalities own enough land

to build such houses.^[24] However, the Kosovo government in cooperation with their donors should tackle these problems actively and seriously, instead of having public statements and pretending good will to support these people.

c) Property Rights

The problem of property rights is closely linked to the accommodation issue: Even if it does not seem so obvious, the third case of being homeless as a returnee, mentioned above, can cause several problems for the returnees and the occupiers. The latter do not want to leave their 'new' homes, because if they did so, they would also be homeless. They, therefore, often state that they had bought the property before/during the war and then it has to be proved in very complex legal proceedings, to which the property actually belongs.

Qerim Gara, a leader of the Ashkalia community in Fushe Kosova explains the problem as follows:

“70% of people from RAE communities in Fushe Kosova bought land from Serbs before the war, without having any documentation for it. Now these Serbs either moved away, or they already died. The returnee from the RAE communities would like to move in his/her house, but nobody can prove the property status for him/her. If the returnee wanted to legalize his/her land and the possession of his/her houses, they would need evidence, that the Serbian families sold it to them. If the returnee has finally found the family, which sold the house to him/her, often those Serbs want to profit from these circumstances and again demand money.”^[25]

d) Employment

Employment and income generating opportunities in Kosovo are still very limited and make economic reintegration of returnees extremely difficult. In respect to this, “economy and employment are the greatest challenges in sustainability in returns project”^[26]. With the unemployment rate estimated over 90 % among RAE communities it is very concerning.^[27]

To be more explicit, returnees “have no reasonable chance in finding a job. The unemployment rate is too high – in all throughout Kosovo”^[28] and, of course, these returnees will not be able to secure their living without being dependent on social welfare or relatives, who still live abroad.

In 2007, The Humanitarian Law Centre (HLC) addressed the issue of implementation of Kosovo laws. The HLC has identified that there is a lack of implementation, especially of the law on Anti-discrimination regarding employment of RAE minority community members. The HLC report highlights that members of RAE minority communities do not

Public Enterprises	Total number	RAE
Kosovo Electricity Company - KEK	7654	3
Kosovo Railways Company	389	2
Post and Telecommunication of Kosovo	2484	14

enjoy equal opportunities when it comes to employment in public enterprises, as proclaimed and especially mentioned in the Anti-discrimination law. Only three out of 7654 (0.04%) ployees at the Kosovo Energy Corporation are from RAE minority communities. [29]

For the RAE minority communities' discrimination in the labor market is very evident, and their possibilities to be employed in Kosovo's private or public institutions are very limited. However, some RAE families have been supported by their relatives, who live in western countries, which has diminished their grim living conditions.

In an interview Danush Ademi, the Ashkalia deputy of the Kosovo Assembly, mentioned this source of income for RAE minority communities living in Kosovo. According to Ademi it was a common source of income to receive money from relatives living abroad as asylum seekers or former refugees. He explained to RADC that at this time those relatives living in western countries were the only hope for many RAE community members, who still lived in Kosovo. If those people would be returned to Kosovo as well, this would have a disastrous impact on the RAE communities..

It is seen that even people who learned a trade in Germany are unable to find a job in Kosovo. Some interviewees, reported about inequality on the labor market - racial discrimination, which they argue, had been made possible by the privatization of all kinds of industries in Kosovo. According to their statements, the majority of Albanian employers are not willing to hire members of RAE communities because of racial prejudice. If an interviewee worked from time to time, they mostly stressed that either the Albanian employers would 'use' them for very hard physical work, or they were paid less money than their Albanian colleagues for the same work, which is, according to the Article 23 of the UDHR and other legally binding documents illegal in Kosovo (see articles printed above).

e) Health Care

"If a poor person falls ill in Kosovo, she/he will have to take out a loan in order to buy medicine, and in some cases it is better for this person to die than to suffer!" [30]

In Kosovo there is no public health care system and patients have to pay their medicine on their own, without having health insurance in most cases. Especially returnees, who suffer from serious diseases, are not able to find a sufficient and affordable way of ensuring their health care and medicine supply.

In order to illustrate this, RADC presents the case of Shemsi Miftari, an Ashkali returnee in the municipality of Fushe Kosova. Mr. Miftari reported that he is insulin-dependent, because of his diabetes and besides the insulin, he also needs further medicine, which he could not afford. In total he would need approximately 110 EUR per month to buy all the medicine on which he depends. During the interview Miftari's wife showed us a picture of him, which had been taken a few years ago – and we were shocked: The slender skinny person sitting in front of us used to be a sturdy stout man! Alas, the Miftaris also have another problem: two of their children are dumb and deaf. Both, a girl, who is 12 years old, and a son, who is 6 years old, would have to go

to a special school for hearing-impaired students in Prizren, but the family would not have the money to pay for the transportation to school. How could they spend 4 Euros a day for transportation, if they would not even be able to guarantee regular meals for their children? The Miftaris were told to leave Germany in 2007 and they decided to return voluntarily in order to get some assistance from different organizations, but after having left Germany, they realized that they had been misled:

Mr. Miftari said to RAD Center:

“We had been promised so many things, but, in the end, nobody gave us anything. For example, they said that I would get 700 € for the medicine, I needed here in Kosovo - in order to bridge the first period of time after arriving here. But in fact, I just got 350€! I would really like to know what had happened to the rest of that sum, but nobody could tell me!”

In Germany even the poorest people receive good health care, because the state guarantees for meeting the basic needs. In contrast to this in Kosovo the returnees often live at the poverty line, without being supported in this respect by any institution. Pharmacies and doctors have to be paid privately and in cash, which is frequently a big obstacle for returnees, since their economical circumstances are mostly very bad.

Mehmet Jashari, the leader of the Ashkali community in Ferizaj reported that there were often very serious cases, in which much money would be needed to deliver adequate health care to all of the people in need. Nevertheless, the municipality of Ferizaj has just a very limited budget to support those people and, therefore, is only able to distribute 200 Euro in total per month among those, which is, as we already saw in Mr Miftari's case, not sufficient at all.

In Dubrave, a village of Ferizaj municipality, Basri Rexhepaj, the officer for the Ashkali Community of Dubrave told RADC, that this has another serious problem regarding health care. The village would have difficulties in stemming diseases such as Tuberculosis.

“Here in Dubrave the hygienic circumstances are very bad. Many cases of TBC are caused by unclean conditions and bad food. A particular problem is that we do not have a sewer system. Nobody is giving any money for that, and no one delivers medicine for the people, who suffer.”[\[32\]](#)

Unfortunately, this does not seem to be an isolated case, since the numbers of TBC-cases in Kosovo “are increasing at a faster rate than in any other country in Europe,” Skender Bacaj, a specialist in pulmonary disease from the University Central Clinic in Kosovo, said. [\[33\]](#) Health care is a serious problem throughout Kosovo. Though access to it is secured legally for all ethnic groups, in reality it is often an individual catastrophe, if a person becomes dependent on this kind of care. Isn't this actually a threat to the Right to Life? Especially while keeping in mind that those cases will also cause an inability to work – and if the head of the family gets ill, who used to work at least from time to time, this circumstance would be a socio-economic catastrophe as

well. This, in fact, shows that RAE community members, who were forcibly returned and who have health problems, are threatened continuously to new diseases such as TBC in Dubrava, or lead poisoning in Mitrovica, after their arrival in Kosovo. However, when countries expel refugees who are already suffering with serious or life threatening medical conditions to countries where they cannot care for those health problems or where discrimination would actively prevent them from even the potential for livelihood to meet their needs, then we argue, the host country is in violation of international conventions and Kosovo is likewise in violation for acquiescing in the returns.

f) Security and Discrimination

"I am afraid of leaving my neighborhood alone." [34]

Though that the general security situation in Kosovo has improved during the last years, almost every interviewed person could report about a case in which a member of his or her community had been abused or discriminated against. The rights to security, life and non-discrimination are basic human rights, and it is Kosovo's duty according to international law to guarantee these rights to the domiciled population first, before accepting additional returnees.

In August 2009 *Chachipe a.s.b.l.* (www.romarights.wordpress.com) published a report on the security situation of Roma in Kosovo, named "Whose responsibility? Reporting on ethnically motivated crime against Roma in Kosovo – A case study". This paper stated that the institutions of Kosovo would regularly fail to properly investigate and report on assaults on Roma, which is one reason why western foreign authorities are reflecting a distorted image about the security situation for RAE in Kosovo.

On 7 September 2009 Amnesty International reported about different attacks on Roma which occurred in August and September. "These incidents underscore how vulnerable the Roma in Kosovo remain," said Wanda Troszczyńska-van Genderen, Western Balkans researcher at Human Rights Watch. And "The only way to stop these attacks is for both Kosovo and international police and prosecutors to make it clear that they will bring the perpetrators to justice (...)", which does not seem to be possible at this point of time.

Furthermore, the UNHCR's Position on the Continued International Protection Needs of Individuals from Kosovo (June 2006) points out that the returning of Ashkalia and Egyptian community members should happen on a voluntary basis. UNHCR Germany confirmed this position in a letter to Chachipe.de, which states that there would still be ethnic strains, political instability and a climate of intolerance, which made it difficult to secure safety to all inhabitants. According to this statement especially Roma would still be in need of protection by their host countries and the repatriation of minority members, not in dire need of protection, should be exercised carefully, in order to not destabilize the Republic of Kosovo. [35]

On the other side, Kosovo local authorities, especially the minority community officer at the municipal level, have articulated the similar position of the UNHCR, while stressing that the security situation has improved, but the security for the Roma community in the Albanian domi-

nant areas is still a problem, as it is the same problem of security for Ashkalia community living in areas, dominated by Serbs.

Discrimination

Shpresa **, a 22 years old woman, who returned to Kosovo with her family in 2005, after having spent 14 years in Germany, told us about one case of discrimination, she had witnessed a few years ago:

“I was at this basketball court with some other Ashkalia girls and boys, when an Albanian boy came there and beat a boy from our group up. Children were coming and calling us names and they shouted “Gypsies, gypsies!”. I was so afraid. And the Albanian boy did not even know the person he was cutting into pieces!”

Depending on the region, even grown men reported feeling themselves insecure in different situations and about the impression of being treated differently than the majority population. Moreover, particularly parents often expressed their concerns and anxieties towards sending their children to school where they would be at the mercy of cruelty and bullying by the Albanian students on the one hand, and the goodwill or the arbitrariness of their Albanian teachers on the other hand.

Discrimination can be found in every area of life, be it in the education or the employment sector, or in unequal treatment at the municipalities, which is why RAE community members, who return from western countries, very often have difficulties to reintegrate in the society. According to the Amnesty International country report about Serbia (including Kosovo), the law on languages is implemented only insufficiently, and the law against discrimination from 2004 has not been implemented yet.

g) Education

Education among RAE children is still a key problem, not least due to the bad economic circumstances and the security situation.

Education-related data for RAEs in Kosovo [\[36\]](#)

Adult illiteracy rate: 16%

Children attending primary education: 75%

Children attending secondary education: 25%

Attending or finished high school: 1.4%.

Kosovo's authorities are aware of these circumstances, as this data, can be found in the Strategy for the Integration of Roma, Ashkali and Egyptians in Kosovo. There are local municipal strategies as well. In the Municipal Returns Strategy of 2009 of the MOR Ferizaj it is pointed out that the “Integration of returnees in educational system of Kosovo is one of the greatest obstacles to attract displaced youth and children to return to their municipalities. Unfortunately, not much success was achieved in this direction in previous years.”[\[37\]](#)

In Fushe Kosova, RAD Center met a 17-years-old girl, who had to leave “her home country” - Germany - with her family in 2003, after having spent her whole life there. She reported to RADC about the RAE situation regarding education in Kosovo: . When RADC asked her what she would miss most about Germany, she immediately answered “School!”, but after she had left school in Germany (in the 6th class), she has never attended school again. After having been asked why she pointed out that she would not go to school because the classes at school would not separate the Ashkali children from the Albanian ones. But why would a young girl like her wish to have separated classes? She responded that she was afraid of the Albanian pupils, because there would be so many stories about violence against Ashkali students, that she would not feel safe in class and rather preferred to stay at home. As a further obstacle she mentioned the lack of adequate Albanian language skills. [38]

Many RAE children, who were or will be repatriated, were born in their host countries and attended school there. Since their infant development and their linguistic development took place abroad, they are not able to speak their “mother tongue”, which is often Albanian, Roma or Serbian. This makes it an obstacle for them to continue school in Kosovo, because they just have basic skills in the languages, in which lessons are held. Often they speak and write in dialect and have bad marks at school, which demotivate them and finally lead to an absence from school.

Unfortunately, there is a lack of affordable or free language courses for young returnees, and even projects as “URA” restrict their offer sharply to the federal states, which they are in charge of. In fact, both reasons – language difficulties and security concerns - seem to be very strong. In our research RAD Center found out that even if children from RAE communities went to school in western countries, a big majority are not attending school in Kosovo because of these reasons.

h) Psychological Consequences of a Deportation

“We had been detained like prisoners. And we did not even have enough time to pack our bags.” [39]

While a forced return can be experienced as unproblematic by some returnees, others will feel deeply humiliated by the tools which authorities and the police use while deporting them to their country of origin. In some cases, these instruments, used for repatriations, are often similar to those of torture, since the returnees are put under both mental and physical pressure. Frequently returnees complained about being treated as detainees - without being actually guilty for anything. Often the police appeared in the returnees’ homes in the middle of the night, in order to make sure, that every family member is at home. In this way the privacy has been endangered and the feeling of being secure in the own home is often damaged lastingly.

Especially for children and persons in the transitional period between puberty and adulthood, such occurrences can have serious consequences, as they are one of the most vulnerable and

sensitive groups in the population. Without being prepared for it, they are deported from a familiar situation, into a new unknown surrounding. As children are not able to understand the whole (legal) context of such a deportation, it will automatically cause a feeling of insecurity and desperation - in which the parents can often not be seen as supportive. They are forced to react to the instructions of the police force and many times the parents are emotionally neither calmer nor more collected than their children, being able to foresee the unintended return to their country of origin and the long-term consequences.

Bashkim Kurti, an employee of the municipal office of Gjakova with a focus on education, pointed out those children who had lived in western countries, usually thought that they would be on vacation in Kosovo. After having realized that they would never be able to go back to their schools and friends, they would often be disillusioned and shocked.

During the process of deportation, adults find themselves in a very inferior position towards the police, and they are often not informed about the next steps of their repatriation, which drastically hampers the realization of the situation. The proceedings of a forced return can differ very much. Sometimes the people are brought to the airport directly, but in some cases the whole family is first being taken in custody pending deportation, in order to bridge the timeframe between the detention and the flight to their home country.

The countries' methods to repatriate people can also differ. Switzerland, e.g., gives returnees the chance to fly by commercial flights - as opposed to Austria and Germany, which both repatriate people in charter flights.

Unfortunately, there are a number of cases, in which families are separated through a deportation. In Dubrave RADC met a young man from the Ashkalia community who reported that he had not seen his parents since 2001, and he almost started to cry, telling us in perfect German language that he avoids talking to his mother on the phone, since she suffers from deep depressions and a sleep disorder, because of his absence. Separating family members like this can easily be seen as an instrument of psychological pressure to encourage the rest of the family to return back to Kosovo voluntarily. Margarethe Misselwitz wrote her Masters thesis about the consequences of deportations from Germany to Kosovo for the youth of minority groups ("Abgeschobene jugendliche Minderheitenangehörige aus Deutschland im Kosovo", Berlin, 2006).

Misselwitz, in total, interviewed fourteen young persons from different municipalities for this thesis, and summed up the psychological consequences of forced returns as follows:

- Deportations were experienced as a traumatizing occurrence by the majority of the interviewees.
- Four interviewed persons had stated that the deportation was the most terrible experience in their lives.
- The overuse of police force was very often seen as extraordinarily humiliating.
- The traumatizing experience of the deportation often hampers the re-integration.

“Look at our house, look at the children in shabby clothes playing in the streets and look at the barracks, that we call houses...How could we feel good in such circumstances?” [40]

Pavao Hudik, a psychologist from Südost-Europa Kultur e.V., a organisation in Berlin which aids refugees from the former Yugoslavia, says that most of these young returnees leave behind societies in which they have become well integrated. “What is officially called ‘return’ they see as exile,” he says. “Serbia, or any other country in the Balkans, is a foreign country to them.” [41] It should also be taken into consideration that especially the social position of young girls and women is not the same as in western societies. Female RAE community members often face gender-based discrimination and find it difficult to reintegrate into the village communities. Often there is a perceived prevalent feeling of inferiority, and girls who used to go to school in their host countries are confronted with unequal treatment by teachers and male schoolmates in Kosovo. Despite the ongoing Westernisation in Kosovo social norms and moral values still differ very much between the western countries and Kosovo, and female RAE persons in particular report on social condemnation for behaviour which was seen as normal in their host countries.

6) The political position of the Kosovar Government regarding forced repatriation

In regard to urgent needs and general issues related to RAE in Kosovo the Kosovar government is aware of many problems and serious deficits, for example in the fields of employment, education, registration and documentation, as the Prime Minister’s Office acquainted RAD Centre within an electronic mail.*

The full *integration* and the *promotion* and *enforcement* of the rights of Roma, Ashkalia and Egyptian communities were, therefore, three of the Kosovar government’s key objectives in this respect. Equally, the government would support and encourage the work of NGOs and the co-operation with them in these aspects.

Kosovo ministries would also deal with the problems of forced repatriation, especially the MCR and the MLSW. There was, on the one hand, the Repatriation Action Plan from the MLSW, which, for example, warrants an admission service in the Customs points and in the Prishtina Airport. On the other hand, there were also long-term projects for the people affected by forced repatriation, which offer new houses to them (RRK1 project 2008 and SPARK 2009) and plans, which were established to reintegrate them into the domestic labour market.

Likewise, the Government of the Republic of Kosovo would made contiguous efforts to apply a suitable cooperation between the central (ministries) and local level (municipalities).

Regarding the readmission agreements with some European countries, the Kosovar government states that all agreements needed to be in a proportional way and not on a discriminating base, which had not been commented any further.

Unfortunately, the question regarding an evaluation of the implementation of the Strategy for the Reintegration of Repatriated Persons (September 2007) remained without comment, and it was just referred to other strategic documents, such as the Sectional Strategy of the MLSW 2009/2013 and the Strategy for Sustainable Employment 2009/2012.

7) The Political Position of Western Countries Regarding RAE Forced Repatriations

As mentioned above, several western countries (Germany, Austria, Switzerland and Sweden) are negotiating bilaterally with Kosovar authorities on readmission agreements, which allow them to repatriate RAE community members to their country of origin – Kosovo.

a) General Positions

aa) Austria

“In fact, it is Kosovo’s obligation to readmit its own nationals, if Kosovo wants to be treated as an equal state – That is why the Kosovo should assume this obligation.” [42]

The readmission agreement between Austria and Kosovo was initiated by the Kosovo government and will be signed in the next months. Mr. Andreas Pichler, the police attaché of the Austrian embassy in Prishtina, stated that Austria’s readmission policies would not be amended by this agreement and that number of returnees would not be increased. Austria has taking care in most of the cases for the UNHCR recommendations on repatriating people and had therefore repatriated Roma only in exceptional cases - and just a few Ashkalia, so far. In total, there is just one charter flight to Kosovo for forced returns per month (20-30 persons), and actually, there were always only very few people from RAE communities.

In regard to the security situation the representative referred to the Austria Safe Third Country agreement with Kosovo, which was signed by Austria on August 1st, 2009. (This agreement had been sharply criticized by the spokesperson of the UNHCR in Austria, Roland Schönbauer. [43]) Pichler also pointed out that the socio-economical situation for RAE communities in Kosovo was very difficult even before 1999 and that the employment rate was, at that point, very low as well, which is why it would not be possible to base the overall argumentation against the readmission agreement on these two factors. Anyway, Austria would have no serious problem with RAE returnees, since the number of RAE refused asylum seekers is not as big as in Germany. On the one hand, this would make it possible for Austrian foreign authorities to consider every case individually on the basis of the financial situation and further criteria. Asylum seekers or people without any permanent permission to stay are a financial problem for Austria too.

Furthermore, Pichler stated that Austria would handle cases, in which persons have stayed in Austria for more than five years, very sensibly and hesitantly, and that the reintegration of repatriated persons would therefore not be as complicated as for German deportees, who came back to Kosovo after ten to fifteen years. In respect to assisting forcibly returned people, Pichler argued that sustainable reintegration should be promoted, rather than building houses for people, who would sell them afterwards anyway.

During the interview Pichler also mentioned the problem of *diaspora* (K-citizens, who spend their holidays in Kosovo and demonstrate their economic prosperity in the form of expensive cars and other prestigious objects), which could be seen as one explanation for the increasing numbers of asylum seekers in Austria. This phenomenon would make persons, suffering from bad economic circumstances envy, and give them the (wrong) impression that they could easily obtain a better standard of living for themselves, if they fled to western countries illegally. Since this argument for applying for asylum is quite weak, the number of negative decisions on asylum would logically increase as well (Otherwise it would be impossible to justify refusing asylum seekers, fleeing from Africa or Afghanistan.)

bb) Switzerland

“It is not deniable that there is a lack of assistance for people, who are deported to Kosovo.”

In order to present the Swiss point of view on the readmission agreement between the Republic of Kosovo and Switzerland, RADC interviewed Mr. Crettaz, Migration Attaché of the Swiss Embassy in Prishtina. Mr. Crettaz told RADC that the readmission agreement was initiated by Switzerland and that the negotiations on it had already been finished. (The Safe Third country agreement with Kosovo was signed by the Swiss delegation on May 1st, 2009.) According to Mr. Crettaz, Switzerland does not plan to increase the number of deportees, after having signed the agreement. He also mentioned that Switzerland disregarded many times the UNHCR position, which points out that host countries should not repatriate persons from the Roma community to Kosovo, and therefore the Swiss readmission policies would not be changed by a new formal readmission agreement.

As with Austria, Switzerland would consider every case of asylum seekers individually on the basis of certain criteria, and the average duration of residence in Switzerland would not be as long as in German cases. Furthermore, Switzerland would be committed to be in contact with local community members and municipal offices, to evaluate the overall conditions of returnees before their potential return to Kosovo. Last year, Switzerland had repatriated 400 persons to Kosovo, of which 25% belonged to RAE communities – and the only assistance for those people had been pocket money in the amount of 150 € per person (which would, of course, not be enough for people, who do not have any accommodation/property in Kosovo). In concluding the interview, Mr. Crettaz contended that from his experience, as the migration attaché of the Swiss embassy, there was no urgent demand by the returned persons for assistance, but that it would be suggested that there should be a Kosovar authority dealing with the needs of forcibly returned people.

cc) Germany

Regrettably, the German Embassy in Kosovo responded to RADC’s request for an interview, that the representation of the Federal Republic of Germany “was *not able*” to give a statement on the issue. Today there are more than 11.700 community members from Kosovo living in Germany (according to official figures, issued by the Federal Ministry of the Interior from 30.06.2009: 9.843 Roma, 1.755 Ashkali and 173 Egyptians), who do not have any permanent

legal status and should be repatriated or return to Kosovo voluntarily as soon as possible, in order to unburden the German taxpayers.

The legal basis for repatriating members of minority groups (in first place Ashkalia and Egyptians, and after 2006 also criminal Roma) to Kosovo is a memorandum of understanding between UNMIK and the former German Minister of Interior, Otto Schily, which had been adopted six years ago (March 2003). This memorandum had been received and extended in 2005 and 2006, and in 2007, Germany was one of the first countries, which forcibly returned people to Kosovo.

b) The German Argument on the new Readmission Agreement with Kosovo

As the majority of RAE refugees live in Germany in this chapter will look at the German argument for the readmission agreement.

The readmission agreement between the Federal Republic of Germany and the Republic of Kosovo is not signed yet, but already in force (according to statements by several persons, such as Juergen Kaas from URA). Therefore signing this agreement is just a formality, in order to make the amendments to the readmission agreement between UNMIK and Germany of 2005 official.

German authorities have already returned people of Ashkali and Egyptian communities before, so the key amendment to the current German readmission policies would be the possibility for Germany to also start returning Roma to Kosovo forcibly, which had been restricted to criminals of the Roma communities from Kosovo so far. In the declaration of the MoIA of Baden-Wurttemberg (August 2009) on the readmission agreement, it is stated that the number of returnees in general will not be increased, in comparison to the figures of 2008, and that it will be avoided to repatriate old and ill people, as well as persons depending on care generally and mothers for now. Furthermore, it is said that since German authorities would not change their readmission practice drastically, no further administrative preparations were necessary.

The **argumentation in favor of the agreement** refers to the following points:

- Due to the responsibilities of UNMIK, it had been possible to repatriate people of all ethnicities to Kosovo even before the declaration of independence.
- The enforcement of the “Readmission Policy” at January 1st, 2008 UNMIK explicitly referred to the legal obligations according to international law of the readmission of a Kosovo’s own nationals.
- During the negotiations on the new readmission agreement the Kosovar delegation had declared its will to fulfill this obligation.
- In regard to the security situation of minorities it is stated that there had been improvements, and that
- The repatriation will, according to a UNHCR paper of May 2009, be performed carefully and reasonably limited. [Annotation: This UNHCR paper says that Roma from Kosovo

still are in need of international protection (by their host countries), therefore their returnees should only happen on a voluntary basis.]

- Moreover, the Republic of Kosovo would guarantee the rights stated in the European Convention for the Protection of Human Rights and Fundamental Freedoms, and
- Germany would finance the returnee project “URA 2”.

According to these arguments there would be no need seen by the MoIA of Baden-Württemberg, not to repatriate Roma to Kosovo. There is also a statement by the German government, which is a response to an inquiry by Ulla Jelpke, Sevim Dagdelen, Kersten Naumann, Jörn Wunderlich and the German faction of the party of the left, that supports this argumentation, and also additionally refers to the support for returnees on a voluntary basis (REAG and GARP, implemented by IOM).

c) Counter-Arguments

The Republic of Kosovo is a young nation, whose effective state control is still in the possession of the international community, especially in the hands of EULEX, UNMIK, KFOR and ICO. From this it follows that Kosovo, at this point of time has not the ability to guarantee its repatriated citizens of the most vulnerable groups an effective system, which deals with their most urgent needs. Before this system, which should secure return and sustainable reintegration, will be established by the Kosovo institutions, the lack of programs and projects, assisting deported persons, has to be assumed by the western countries. It is the western countries' obligation according to the UN Charter to secure stability and peace for territories, whose peoples have not yet attained a full measure of self-government. (UN Charter, Article 73)

We have shown that the general situation for RAE community members in Kosovo is precarious. This is an even deeper concern for forced returnees, especially regarding accommodation, property rights, employment, health care, the security situation, discrimination, psychological impact, and education. This report has emphasized that the security situation is not yet 100% stable, and that basic human rights of RAE communities are still jeopardized in different regions of Kosovo. In some cases returnees have to face discrimination and threats after their return to Kosovo, without being able to seek or have confidence in police protection. Last but not least, persistent readmissions of RAE persons will inevitably mar the development policies in Kosovo and exacerbate the situation for the domestic RAE communities.

8) Assistance for RAE deportees

The scale and the efforts made on the assistance for RAE deportees is more than unsatisfactory. Neither the western countries, nor the Kosovar authorities meet the requirements of people, who are returned to Kosovo forcibly; even if it would be obviously in their field of duties to support those persons.

Alas, even IOs and international institutions do not want to deal with people affected by the phenomenon of repatriation, and UNHCR and IOM are both refusing assistance to those who

are in dire need. The focus of assistance is clearly set in the support for people, who returned to Kosovo on a voluntary basis. (See projects from IOM, ARC, DRC, CARE International, etc.) There are some specific programs in existence, e.g. “URA 2” or the Employment Assistance Program by Switzerland, which are funded by the western countries’ governments, offering limited assistance to persons, who had been repatriated.

“URA 2” is a project, funded by the German government, for which returnees from three federal states of the Republic of Germany (North Rhein-Westphalia, Baden-Wurttemberg and Lower Saxony) can apply for financial support on the one hand, and mental/psychological help on the other hand. Unfortunately, the representative of “URA 2” in Prishtina, Juergen Kaas, reported that there would be no opportunity to assist people from other federal states in Germany, for financial reasons.

According to the **“Strategy for Reintegration of Repatriated Persons”** (September 2007), the responsibilities of Kosovo’s ministries on this issue are shared by the MoIA, the MLSW and the MCR. These institutions should provide brochures, transport from the airport to the municipalities, etc. Regrettably, none of these ministries has answered any of RADC’s requests for interviews, and even the questionnaires, which we sent to the Public Relations Offices within these ministries, remained unanswered.

However, it must be recorded that none of the interviewees was assisted by the Kosovo government, though there are some small projects like the RRK, which are also supported by the European Council and the UNDP. The homepage of the MCR indicated that the focus of its work is also the reintegration of K-Serb, or RAE, who returned to Kosovo voluntarily.

To sum up, in reality, the deportees are forced to get along on their own after their arrival in Kosovo. Besides a reliable social network (of relatives and former neighbours/friends) and financial resources, they need a pragmatic sense for reality to tackle all the problems they are confronted with.

9) Conclusions and Recommendations

a) Summary – Kosovo’s Problems

From RADC’s analysis, the following problems can be seen as main obstacles to continued repatriating RAE community members to Kosovo:

1. There is virtually no assistance for forcibly repatriated people from either the Kosovo government or institutions, or IOs.
2. There is a lack of cooperation in respect to the issue on three levels:
 - a. Between the western countries and Kosovo;
 - b. Between western countries and local/international NGOs; and
 - c. Between Kosovo’s ministries and municipal offices.
3. There is a gap between legally binding laws, strategies, action plans and the implementation of these laws, strategies and action plans.

4. The funding for assisting forcibly returned people is unsatisfactory to non-existent.
5. Kosovo is under political pressure to accept the readmission agreements with the western countries, without having in place the budget or the capacity to receive these returnees in dignity and security. [\[44\]](#)
6. Returning people from western countries makes the situation for the domestic RAE population worse and jeopardizes the stability of Kosovo.
7. Further repatriations could hamper development projects which are already in existence.
8. The security situation is still very fragile.
9. Since Kosovo's administrative system is not effective yet, it could be an additional obstacle for the Kosovar government to handle the problem of repatriated persons.

b) Recommendations

The Danish Refugee Council and the Bayerischer Flüchtlingsrat published a study named "Recommendations for the Return and Reintegration of Rejected Asylum Seekers - Lessons Learned from Returns to Kosovo" in May 2008. In this report the key practices were presented, which have to be applied in order to achieve a dignified and sustainable return and reintegration generally. RAD Centre is convinced that these practices, when implemented properly, can improve conditions for all returnees to Kosovo. [\[45\]](#)

In order to stabilize Kosovo as a country it should be in the interest of both Kosovo and the western countries to support K-minorities and RAE returnees, who are in need. Only by guaranteeing their basic rights Kosovo can progress from a transition country to an equal member of the international community, and, later on, become a member of the European Union.

RADC therefore recommends:

- 1) The Ministries of Kosovo should immediately set their focus on assisting forced returns from RAE communities and rectify the lack of cooperation between the central and the municipal level, especially in regard to sharing information, in order to ensure transparency and accountability.
- 2) Kosovo ministries should enforce a clear obligation and division of duties in dealing with repatriated persons, in cooperation with other stakeholders.
- 3) Local and national governmental authorities should extend the cooperation with non-governmental actors, at least in the field of documentation of the RAE persons, who are or will be returned forcibly.
- 4) UNHCR, UNDP, UNMIK, the Kosovar Institutions and EULEX should create a specific joint strategy related to persons, who are forcibly returned, which includes, but is not limited to these components: a) housing; b) food; c) education; d) employment; and e) health care, including psychological impact of repatriation. This strategy should have a clear and measurable action plan, and a realistic budget.
- 5) Western countries should provide all the necessary documentation on repatriated persons to local and international NGOs in Kosovo to support and enable them to help those people.

- 6) The MCR should involve all stakeholders, particularly NGOs, in its work and decision making processes, in order to establish cooperation between the central institutions and civil society.
- 7) Efforts, to establish an effective administrative system in Kosovo, which is adequately funded and able to secure humane living conditions for all communities, should be intensified.
- 8) Efforts, to strengthen reconciliation and confidence-building between the communities in Kosovo, should be intensified.
- 9) In respect to the problems related to education, programs and projects will have to be established to achieve a higher rate enrollment rate in secondary school and universities, in order to ensure a sustainable improvement of the minority situation in Kosovo. There is a need to construct a suitable surrounding and a comfortable atmosphere to learn for all pupils, and to monitor equal treatment, as well as the security situation for every child attending school. The position of RAE girls and young women needs to be strengthened, since the illiteracy rate among those is, according to the **“Strategy for the Integration of Roma, Ashkali and Egyptians in Kosovo”**, about 10% higher than among males and most of the female young returnees do not attend school in Kosovo. More efforts have to be made to promote free language courses for returnees’ children and to facilitate their individual development.

10) Endnotes

- [1] Remarks of Ambassador Werner Wnendt on civil registration of Roma, Ashkalia and Egyptian communities, Ferizaj 2007
- [2] "Recommendations for the Return and Reintegration of Rejected Asylum Seekers. Lessons Learned from Returns to Kosovo", DRC and Bayerischer Flüchtlingsrat, May 2008, p. 13, available at: http://www.fluechtlingsrat-bayern.de/tl_files/PDF-Dokumente/08-05-07_Recommendations_Return_and_Reintegration.pdf: "As described by Bimal Ghosh, 'sustainable return is achieved when returnees are able to reintegrate in the community of return, often through a productive role as members of such communities, without immediate inducement to leave again'. Sustainable return therefore implies the successful reintegration of returnees, and prerequisites the availability of the receiving community to receive and accept the returnee as well as social and physical stability in the area of return."
- [3] Political Pasties and Minority Participation: Case of Roma, Ashkalia and Egyptians in Kosovo; Gezim Visola (p. 153); CommDH (2009)23, Strasbourg 2009, VI. 6.3 No. 128
- [4] CommDH (2009)23, Strasbourg 2009, VI. 6.4 No. 130
- [5] Kosovo Roma & Ashkali Forum – Our Position 2006, p.10, available at: http://194.8.63.155/documents/odihr/2006/12/23321_en.pdf
- [6] http://www.ulla-jelpke.de/uploads2/20091009_123606_Abschiebungen_Kosovo_vorab.pdf p. 8
In comparison, the following number of persons from Kosovo were obliged to leave Germany (ausreisepflichtige Personen): Roma (24.351), Ashkali (8.197), Egyptians (1.883), in March 2005; Source: Bundesamt für Migration und Flüchtlinge Deutschland, Informationszentrum Asyl und Migration, Serbien und Montenegro/Kosovo. Erkenntnisse des Bundesamtes Berichtsraum Dezember 2004 – März 2005. Stand März 2005.
- [7] See statements on the security situation in Kosovo by diverse European Ministries for Foreign Affairs
- [8] "Recommendations for the Return and Reintegration of Rejected Asylum Seekers. Lessons Learned from Returns to Kosovo", DRC and Bayerischer Flüchtlingsrat, May 2008, p. 13
- [9] see footnote 8
- [10] UN Interim Administration Mission in Kosovo (UNMIK), *Readmission Policy*, p.8, 28 November 2007, available at: <http://www.unhcr.org/refworld/docid/49997afb1f.html>
- [11] gb/dpa/AP/AFP/Reuters, available at: <http://www.dw-world.de/dw/article/0,,4789691,00.html>
- [12] STATISTICAL OVERVIEW, Updated at end of December 2008, UNHCR OCM Pristina 1, 06.02.09
- [13] "Address on Minority Rights in Kosovo", Knut Vollebaeck, Sep. 2008
- [14] CommDH (2009)23, Strasbourg 2009, VI. 6.4 No. 133
- [15] CommDH (2009)23, Strasbourg 2009, VII. No. 155
- [16] Xhevahire Dervishi – Rexhepi, the Municipal Return Officer of Ferizaj, 21.08.2009 (Ferizaj)
- [17] CommDH (2009)23, Strasbourg 2009, VII. No. 162
- [18] Xhevat Salihaj, employee at the municipality of Shtime, 11.08.2009 (Shtime)
- [19] Vedran Džihčić and Helmut Kramer, "Der Kosovo nach der Unabhängigkeit - Hehre Ziele, enttäuschte Hoffnungen und die Rolle der internationalen Gemeinschaft", 2008, p. 10, available at: http://www.fes-prishtina.org/pdf/Kosovo%20after%20Independence_FES.pdf
- [20] Data: UNDP, Human Development Report Kosovo 2004. Pristina 2004.
- [21] United Nations Committee on Economic, Social and Cultural Rights, Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant, Concluding Observations of the Committee on Economic, Social and Cultural Rights, E/C.12/UNK/CO/1, 19 November 2008.
- [22] CommDH (2009)23, Strasbourg 2009, VII. No. 158
- [23] Available at: http://194.8.63.155/documents/odihr/2006/12/23321_en.pdf

- [24] See footnote 16
- [25] Qerim Gara, Leader of the Ashkalia Community in Fushe Kosova, 13.08.2009 (Fushe Kosova)
- [26] Municipal Returns Strategy 2009, Municipality of Ferizaj/Uroševac
- [27] See footnote 16, In Fushe Kosova 33 out of 8.800 RAE community members have a steady job – with an average salary of 125 EUR per month (See footnote 16 – interview)
- [28] Halil Qerimi, Representative of the Municipal Office for Minority-Communities (Ashkali), 13.08.2009 (Fushe Kosova)
- [29] Humanitarian Law Centre. 2007. Zbatimi i Ligjit kunder Diskriminimit dhe Ligjit mbi perdorimin e Gjuheve ne ndermarrjet publike, p. 3
- [30] See footnote 18
- [31] Mrs Miftari, an Ashkali returnee, who returned to Kosovo with her family in 2007, after having spent 15 years in Germany, 18.08.2009 (Fushe Kosova)
- [32] Basri Rexhepaj, officer for the Ashkali Community in Dubrave, 21.08.2009 (Dubrave – Ferizaj)
- [33] Tuberculosis on Rise in Kosovo, Pristina, 14 May 2009, available at: <http://www.balkaninsight.com/en/main/news/18884/>
- [34] Shpresa **, 22 years old woman, who returned to Kosovo in 2005 after having spent 14 years in Baden-Baden - Germany, 21.08.2009 (Ferizaj)
- [35] Statement in German available at: <http://romarights.files.wordpress.com/2009/10/unhcr-reply-260809.pdf>
- [36] UNDP, Human Development Report Kosovo 2004. Pristina 2004 available at: http://hdr.undp.org/en/reports/nationalreports/europethecis/kosovo/kosovo_2004_en.pdf
- [37] See footnote 26
- [38] Besa**, app. 17 years old, 13.08.2009 (Fushe Kosova)
- [39] Ilir**, app. 18 years old, 13.08.2009 (Fushe Kosova)
- [40] See footnote 38
- [41] available at: <http://www.balkaninsight.com/en/main/news/23050/>
- [42] Andreas Pichler, Polie attaché of the Austrian Embassy, 26.08.2009 (Prishtina)
- [43] In an interview Roland Schönbauer criticised the decision of the Austrian government, to consider the countries of the former Yugoslavia as “safe third countries”. Schönbauer said that it was difficult to understand the decision of the Austrian government and therefore he pointed out that Roma and other minorities continue to face “difficult human rights situations” in Kosovo and Serbia; available at: <http://romarights.wordpress.com/2009/06/19/human-rights-situation-of-roma-in-kosovo-difficult-unhcr-says/>
- [44] CommDH (2009)23, Strasbourg 2009, VII. No. 157
- [45] “Recommendations for the Return and Reintegration of Rejected Asylum Seekers. Lessons Learned from Returns to Kosovo”, DRC and Bayerischer Flüchtlingsrat, May 2008, p. 15

