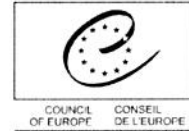




COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



Ref: CommHR/LH/sf 201-2010

Dr. Thomas DE MAIZIÈRE
Federal Minister of the Interior

Strasbourg, 15 November 2010

Dear Minister,

Further to my visit to Berlin on 27 October 2010, I should like to take this opportunity to follow up on the useful discussion I had with the Parliamentary State Secretary, Dr. Ole Schröder, on two issues: forced returns to Kosovo* and mechanism for complaints against the police.

I shared with State Secretary Schröder my concern regarding forced returns, especially of Roma, to Kosovo. As I noted in my letter sent to Chancellor Angela Merkel on 25 November 2009, Kosovo is still trying to cope with the difficult task of rebuilding a war-torn society. Currently, the infrastructure and resources available are not adequate for the sustainable return and integration of refugees.

In an information paper distributed during the last meeting of the Council of Europe Committee of Experts on Roma and Travelers (25-26 March 2010), the German government referred to my report on Kosovo dated 2 July 2009, stating that my view is that the security situation in general has improved. However, a comprehensive reading of my report and continuous monitoring by my Office make clear that the current socio-political situation in Kosovo can not justify the forced return of social groups at risk of persecution, including Roma.

A research-based report published last July by UNICEF documents the harsh conditions that forced returnees face in Kosovo. Roma, Ashkali and Egyptian families with children have been particularly affected. Many of them have lived in Germany for years, their children have grown up there and many were also born in Germany. In Kosovo they regularly experience discrimination and marginalisation and fear for their safety. I have met several returned children who have no prospect of building a new life there. They have problems in school due to language barriers. Many are unregistered and have no civil status documents.

I remain seriously concerned about the lead-contaminated camps in northern Mitrovica. Even if the camp in Cesmin Lug was recently closed and some Roma families have moved to the Mahalla, the Osterode and Leposavic camps have still not been evacuated and remain places where some returnees from western European countries end up. There are reports indicating that several Roma families continue to live in the remaining camps, being unable to move to the Mahalla because of their believed collaboration with the Serbian army.

Recalling the Council of Europe member states' undertakings contained in the *Strasbourg Declaration on Roma* of 20 October 2010, I reiterate my call addressed to the German government to look into the above serious humanitarian issue and adopt all necessary measures in order to prevent any further forced returns, particularly of Roma people, to Kosovo,

* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 (1999) and without prejudice to the status of Kosovo.

as long as the situation on the ground provides reason to believe that these returns put the returnees' lives and personal security at risk.

The second issue which I discussed with State Secretary Schröder was the conduct of law enforcement officers. I understand that each region (*Land*) has adopted a specific approach, ranging from investigations of complaints by officers from a district (*Kreis*) or region different from that in which originate the police officers at issue, to the creation of special, permanent investigation units.

In my view, any approach is useful as long as it fully and effectively ensures the independence and impartiality of the investigators. Nonetheless, in my experience, an Independent Police Complaints Body in charge of the investigative process is crucial for ensuring accountability and enhancing the public's trust in the police. I suggest that the German authorities consider the development of the existing police complaints mechanism by introducing an independent police complaints body. Perhaps my *Opinion concerning Independent and Effective Determination of Complaints against the Police* (CommDH (2009)4, 12 March 2009) may provide useful guidance. Its translation into German is forthcoming.

In addition, I am aware that the Public Prosecutors Offices are required since January 2009 to collect data about criminal investigations against police officers for alleged killings, bodily harm and other serious crimes. I believe that accurate and public data on these investigations, and in particular on the outcome of such investigations, is of utmost importance.

During the meeting with State Secretary Schröder we also discussed the need to identify individual police officers, especially when their equipment and uniform conceals their faces or makes them otherwise unidentifiable. My understanding is that the current approach is for members of the police forces to wear a numerical identity tag. I would be interested in receiving information on whether this reflects common law and practice for all the regional and federal police forces in Germany.

Looking very much forward to receiving your reply and continuing a constructive dialogue, I remain,

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Thomas Hammarberg', with a stylized, cursive script.

Thomas Hammarberg