



ROMA, ASHKALI AND EGYPTIANS IN KOSOVO

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ABBREVIATIONS AND ACRONYMS

ÇOHU	Organisation for Democracy, Anticorruption and Dignity
CRD	Civil Rights Defenders
DRRP	Department for the Reintegration of Repatriated People
EC	European Commission
ERRC	European Roma Rights Center
EU	European Union
EULEX	European Union Rule of Law Mission
HLC	Humanitarian Law Center Kosovo
KPA	Kosovo Property Agency
KPCVA	Kosovo Property Comparison and Verification Agency
MICS	Multiple Indicator Cluster Survey
MIA	Ministry of Internal Affairs
MLSW	Ministry of Labour and Social Welfare
NGO	Non governmental organisation
OCA	Office for Community Affairs
OSCE	Organisation for Security and Co-operation in Europe
PCK	Press Council of Kosovo
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations International Children's Emergency Fund
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Mission in Kosovo
YIHR	Youth Initiative for Human Rights Kosovo



PHOTO: KUSHTRIM TERNAVA, KOSOVO

1. ROMA, ASHKALI AND EGYPTIANS IN KOSOVO: OVERVIEW

1.1. DEMOGRAPHICS

According to the 2011 population census, 35,784 Roma, Ashkali and Egyptians (8,824 Roma, 15,436 Ashkali and 11,524 Egyptians) reside in Kosovo. However, it is difficult to assess their actual number. On the one hand, the experience shows that many Roma, Ashkali and Egyptians do not disclose their identity in census taking; on the other hand, many have left Kosovo since 2011 through ongoing migration.

Any description or analysis of their situation has to take into account the repercussions of the war in Kosovo in 1998/1999. Prior to the war, it is estimated that at least 150,000 Roma, Ashkali and Egyptians lived in Kosovo. In the midst of the war and the conflict in the past, the Roma, Ashkali and Egyptians were caught between the lines, since none of the conflicting sides (the Albanians, the Serbs or the Serbian regime respectively) fought for the rights of Roma, Ashkali and Egyptians. The three communities, however, had to opt for one of the conflicting sides or to leave Kosovo.¹ However, the majority was expelled after the war when they were attacked by Kosovo Albanians and more than 80 of their settlements were destroyed.

Today, one can find large communities with a few thousand persons in Gjakovë/Djakovica (primarily Egyptians), Fushë Kosovë/Kosovo Polje (primarily Ashkali), Ferizaj/Urosevac (primarily Ashkali), Prizren (primarily Roma), Gracanica/Gracanice (primarily Roma) and Pejë/Pec (primarily Egyptians and Roma).

In larger towns such as Prishtinë/Priština, Gjilan/Gnjilane or Mitrovicë/Mitrovica, which had large communities prior to the conflict, only a very small percentage of the pre-conflict population has remained due to their expulsion in the post-war period.

1.2. ANTI-GYPSYISM AND DISCRIMINATION

Anti-Gypsyism, cumulative discrimination, prejudice and wrong perceptions of Roma, Ashkali and Egyptians still prevail in Kosovo as in rest of the countries in Europe. Anti-Gypsyism and cumulative and systematic discrimination constitute the root-causes for their social exclusion while the symptoms of their situation are visible in high unemployment rates, low education enrolment ratio and attainment rates and the deplorable living conditions of the majority.² The

¹ Europeana Roma Rights Centre, *Abandoned Minority, Roma Rights in Kosovo*, Budapest 2011; Stephan Müller, *Zur Situation der Roma in Kosovo in: Südosteuropa* 9-10/1999

² For a discussion of Anti-Gypsyism and cumulative discrimination, see the overview of the paper *Roma in the Western Balkans* 2017

repercussions of the war, in particular the crimes committed against them during and after the war, the expulsion of ten thousands of Roma, Ashkali and Egyptians from Kosovo and their forced return further aggravate the situation.

Though discrimination takes place in institutions, in public or private life, only a few court proceedings have been initiated. This brought about not only the sense of impunity, but also the acceptance of Roma discrimination.

1.3. GENERAL LEGAL AND POLICY FRAMEWORK

The Constitution of Kosovo recognises Roma, Ashkali and Egyptians as three distinct ethnic communities living in Kosovo. The Constitution guarantees the enjoyment of both individual and collective rights in line with the international and domestic standards of human and minority rights.

The Law on Protection and Promotion of the Rights of Communities (Art. 9.2) in this Article specifically refers to Roma, Ashkali and Egyptians and advocates “special consideration” for Roma, Ashkali and Egyptians.³

Many other national laws, strategies, policy documents and international obligations determine the situation of Roma, Ashkali and Egyptians in Kosovo and the policy towards them. In addition to more general documents such as the Law on the Protection from Discrimination,⁴ the relevant sectoral laws and policies (e.g. in areas of education or employment), there are also Roma-specific policies, in particular the Government Strategy for the Inclusion of Roma and Ashkali, adopted in 2017.⁵ The first government strategy was designed for Roma, Ashkali and Egyptians, and during the development process of the new strategy the Egyptians stayed included. However, following the insistence of the political leadership of the Egyptians in Kosovo, they are not anymore included in the new strategy.

The Government Strategy has five priority sectors – education, employment, health, housing and social security – with a number of cross-cutting issues. It contains a number of general provisions that are relevant for all sectors. It emphasises the need for an advanced anti-discrimination policy, allows for the introduction of (temporary) affirmative measures and assigns an important role to the local authorities for the implementation.⁶

2. SECURITY AND FREEDOM FROM TORTURE

2.1. LAW AND POLICY REVIEW

The Criminal Code contains criminal offences which include a biased element, e.g. “Inciting national, racial, religious or ethnic hatred, discord or intolerance” (Art. 147). Concerning the aggravating circumstances, in Article 74, the law states, *inter alia*: “If the criminal offence is committed against a person, group of persons or property because of ethnicity or national origin, nationality, language, religious beliefs or lack of religious beliefs, colour, gender, sexual orientation, or because of their affinity with persons who have the aforementioned characteristics”.⁷

Observers, however, point out to certain limitation. Article 74 is considered a general provision and as such does not provide a legal basis for a criminal offence, but can only extend a sentence due to aggravating circumstances.⁸

According to the Law on the Protection from Discrimination, discrimination on any ground is unlawful.⁹ The Law hereby refers to direct and indirect discrimination (including segregation) and explicitly entitles all (ethnic) communities to a fair representation in public institutions.

3 Law No. 04/L-020. Retrieved on March 30, 2017 from <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20amend%20the%20law%20on%20protection%20the%20rights%20of%20the%20communities.pdf>

4 Law No 05/L-21. Retrieved on March 30, 2017 from the Official Gazette of the Republic of Kosovo: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=10924>

5 Strategy for the Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017-2021. Retrieved on July 6, 2017 from: http://www.kryeministri-ks.net/repository/docs/ANG-STRATEGJIA_PËR_PËRFSHIRJEN_E_KOMUNITETEVE_ROM_DHE_ASHKALI_NË_SHOQËRINË_KOSOVARE_2017-2021.pdf

6 Strategy for the Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017-2021. Retrieved on July 6, 2017 from: http://www.kryeministri-ks.net/repository/docs/ANG-STRATEGJIA_PËR_PËRFSHIRJEN_E_KOMUNITETEVE_ROM_DHE_ASHKALI_NË_SHOQËRINË_KOSOVARE_2017-2021.pdf

7 Assembly of Kosovo, Code No. 04/L-082 Criminal Code of the Republic of Kosovo. Retrieved on June 28, 2017 from: <http://www.kuvendikosoves.org/common/docs/ligjet/Criminal%20Code.pdf>

8 ERAC Coalition, Potentially ethnically motivated incidents: challenges in defining and reporting. Pristina 2016. Retrieved from <http://equalrightsforallcoalition.com/wp-content/uploads/2016/10/English.pdf>

9 Assembly of Kosovo, Law No. 05/L-021 on the Protection from Discrimination. Retrieved on March 30, 2017 from <http://www.kuvendikosoves.org/common/docs/ligjet/05-L-021%20a.pdf>

Moreover, the Law reaches out to the private sphere, including access to goods and services and employment.

The Independent Media Commission is responsible for overseeing and controlling broadcast media throughout Kosovo.¹⁰ A self-regulatory body, the Press Council of Kosovo is tasked with overseeing adherence to the Code of Ethics by the press, and online media.

2.2. CURRENT SITUATION

Roma, Ashkali and Egyptian communities remain the most vulnerable and discriminated-against groups in Kosovo. According to observers, the hate speech, against Roma too, has been increasing in a number of online media and portals.¹¹

Concerning the hate speech, in 2014/2015 the Press Council of Kosovo (PCK) reviewed and adjudicated in total 91 claims of hate speech against Roma in the online media which were submitted by the Youth Initiative for Human Rights Kosovo.¹²

One case received particular public attention when Members of the Parliament from the Democratic Party of Kosovo (PDK) used pejorative words when referring to Roma in a telephone conversation which was leaked to the public. Mr. Kujtim Pacaku, the Romani Member of Parliament, in his speech in the Kosovo Assembly demanded an apology. In consequence, the President of the Kosovo Assembly and the President of PDK publicly apologized to Mr. Pacaku and to members of Roma community.¹³

However, in general, only few cases are categorised by the authorities as hate crimes. The reasons might be that ethnic motivation of a crime is not always recognised or other circumstances are considered more important and

the crime is not registered as an ethnically motivated crime (a crime can be registered only under one motivation). Furthermore, the final categorisation is up to the Prosecutors Office or the judge who could oppose the assessment of the police.¹⁴

Moreover, Article 74 which, *inter alia*, introduces "ethnicity or national origin" as an aggravating circumstance, has never been used to prosecute a case.¹⁵

In 2015, the State Prosecutor registered eleven inter-ethnic cases under Article 74 with the state prosecutors. In 2016, the Judiciary received only six hate crime cases. Under Article 147 of the Criminal Code, only few cases were registered with the State Prosecutor, four in 2013 and six cases in both 2014 and 2015.¹⁶ Unfortunately, the details on cases referring to Roma were not made public.

The Organization for Democracy, Anticorruption and Dignity — ÇOHU that conducts monitoring of the courts provided slightly different numbers. According to ÇOHU the courts dealt with eleven cases in 2015 and fourteen cases in 2016.¹⁷

According to the draft of the new Government's Strategy on the Inclusion of Roma and Ashkali, there were no reported cases of the discrimination of individual Roma, Ashkali or Egyptians and no reported cases of the abuse or discrimination against Roma, Ashkali or Egyptians by the police.¹⁸

Data from the OSCE Mission, however, show a different picture than provided by the state authorities due to a more broad definition of inter-ethnic crimes. In total, 479 incidents were reported; 310 affecting Kosovo Serbs.¹⁹ Unfortunately, the details regarding the situation of Roma, Ashkali and Egyptians were not made public.

10 Assembly of Kosovo, Law No. 04/L-44 on the Independent Media Commission. Retrieved on June 29, 2017 from <http://www.kpm-ks.org/materiale/dokument/1335250709.2603.pdf>

11 Civil Rights Defenders, Country Report Kosovo. Retrieved on May 27, 2017 from: <https://www.civilrightsdefenders.org/files/Kosovo-Country-report-updated-May-2016-.pdf>

12 See [www. http://yibr-ks.org/en/](http://yibr-ks.org/en/)

13 <http://www.insajderi.com/pacaku-detyron-grabovcin-dhe-veselin-te-kerkojne-falje-per-fyerje-etnike/>

14 ERAC Coalition, Potentially ethnically motivated incidents: challenges in defining and reporting. Pristina 2016. Retrieved from <http://equalrightsforallcoalition.com/wp-content/uploads/2016/10/English.pdf>

15 ERAC Coalition, Potentially ethnically motivated incidents: challenges in defining and reporting. Pristina 2016. Retrieved from <http://equalrightsforallcoalition.com/wp-content/uploads/2016/10/English.pdf>

16 ERAC Coalition, Potentially ethnically motivated incidents: challenges in defining and reporting. Pristina 2016. Retrieved from <http://equalrightsforallcoalition.com/wp-content/uploads/2016/10/English.pdf>

17 Information provided by email by ÇOHU, on June 23, 2017

18 Strategy for the Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017-2021. Retrieved on July 6, 2017 from: http://www.kryeministri-ks.net/repository/docs/ANG-STRATEGJIA_PËR_PËRFSHIRJEN_E_KOMUNITETEVE_ROM_DHE_ASHKALI_NË_SHOQËRINË_KOSOVARE_2017-2021.pdf

19 OSCE Mission to Kosovo, Community Rights Assessment Report, 4th edition. Retrieved on June 28, 2017 from: <http://www.osce.org/kosovo/209956?download=true>



PHOTO: EDON MUHAXHERI, KOSOVO

3. PERSONAL DOCUMENTS

3.1. LEGAL AND POLICY REVIEW

In the light of the large number of diaspora and the repercussions of the war, the laws regulating citizenship are of the utmost importance in Kosovo. The Law on Citizenship of Kosovo includes provisions facilitating the acquisition of citizenship for refugees and stateless persons as well as safeguards against children being born into statelessness.²⁰

As early as in 2004, Kosovo adopted the Law on Civil Registries.²¹ In June 2011, Kosovo passed a new Law on Civil Status, which was accompanied by several administrative instructions of the Ministry of Internal Affairs and the Civil Registration Agency, two of these referring to subsequent registration and re-registration.²²

These two administrative instructions address obstacles facing unregistered people by simplifying procedures and requirements. Moreover, the administrative instruction on the subsequent-birth-registration introduced the possibility that persons who do not have civil status documentation and are unable to provide the required evidence to register their child may either submit the statements of two witnesses acknowledging the birth or to provide “other” evidence that could confirm the date, place of birth or identity of the parents. In particular, the latter provision allows for non-consistent application among the registry offices.²³

20 Law 04/L-215. Retrieved on March 30, 2017 from: <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20Citizenship%20of%20Kosovo.pdf>

21 Law 2004/46. Retrieved on March 30, 2017 from: http://www.kuvendikosoves.org/common/docs/ligjet/2004_46_en.pdf

22 Law on Civil Status, No. 04/L-003 (2011); Ministry of Internal Affairs, Administrative Instruction on Late Registration in the Civil Status Records, AI No.2/2012, Ministry of Internal Affairs, Administrative Instruction on Re-registrations, AI No. 3/2012. Law on Civil Status, retrieved on March 30, 2017 from: <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20civil%20status.pdf>

23 Access to Civil Documentation and Registration in South Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration. Report based on research conducted by Stephanie Woldenberg. Retrieved on February 17, 2017 from <http://www.refworld.org/pdfid/5280c5ab4.pdf>

Furthermore, in February 2012 the Ministry of Internal Affairs issued a circular allowing Roma, Ashkali and Egyptians to be exempted from paying the fee for late birth registration which was extended up to 2015.

In February 2013, the “birth extract” as a new form of civil documentation was introduced combining four separate previous documents (birth certificate, marital status certificate, residence certificate and citizenship certificate). The birth extract is the only document necessary to get an ID card. It is also the only document along with the parents’ ID card(s) required to register a birth. The birth extract can be issued from any registry office in Kosovo. This new document facilitates the acquisition of civil status documentation and promotes birth registration by reducing both the burden and the cost.²⁴

3.2. CURRENT SITUATION

Roma, as well as the other citizens of Kosovo, were affected by the fact that due to the conflict, many civil registration records were either destroyed or dislocated to Serbia. Only in 2011, an agreement was reached that EULEX can certify and transfer the registry books from Serbia to Pristina and since 2012 on the basis of the administrative instruction the scanned copies of the registry are recognised.²⁵

For children born abroad to parents from Kosovo, an official international birth certificate from the place of birth is required for registration in the Kosovo civil registry system. This certificate is required for children returned from Western Europe under readmission agreements and for children born in Montenegro or Macedonia to parents displaced during the Kosovo conflict.

The registration for unregistered children born to undocumented and displaced Roma originating from Kosovo but living in Montenegro is particularly difficult, as their parents need to obtain their own civil registration documents from Kosovo or from dislocated registries in Serbia to complete the birth registration procedure of the children born in Montenegro.

There is no institutionalised coordination only *ad hoc* co-ordination involving various stakeholders – international community, local NGOs and Civil Registration Agency of the Ministry of Internal Affairs.

In the past years, several outreach activities were initiated to facilitate registration. Within the framework of the Civil Rights Programme Kosovo (CRPK) from 2007 onwards around 16.000 Roma, Ashkali and Egyptians were assisted in obtaining personal documents²⁶. According to the Ministry of Internal Affairs as of August 2015, 618 Roma, Ashkali and Egyptians were “legally invisible” due to their inability to provide evidence of their birth in the country²⁷.

The Civil Registration Agency in cooperation with UNICEF and civil society organisations made use of SMS technology, identifying several hundred unregistered children. According to the MICS Survey of 2013/2014, 92.9% of the children under the age of five are registered.²⁸ However, only 80% of the children possess a birth certificate.²⁹ Despite these activities, the life of Roma in Kosovo is still affected by the lack of documents, since e.g. receiving social assistance is only possible if all family members obtain all necessary Kosovo documents.

24 Access to Civil Documentation and Registration in South Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration. Report based on research conducted by Stephanie Woldenberg. Retrieved on February 17, 2017 from <http://www.refworld.org/pdfid/5280c5ab4.pdf>

25 Ministry of Internal Affairs, Administrative Instruction on the use of certified copies of original civil status registers of Kosovo which were taken by the former Serbian regime prior to June 1999, AI No. 37/2012; Access to Civil Documentation and Registration in South Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration. Report based on research conducted by Stephanie Woldenberg. Retrieved on February 17, 2017 from <http://www.refworld.org/pdfid/5280c5ab4.pdf>

26 See <http://www.crpkosovo.org/en/What-we-do>

27 US Department of State, Kosovo 2016 human Rights Report, <https://www.state.gov/documents/organization/265648.pdf>

28 UNICEF, Roma, Ashkali and Egyptian Communities. Multiple Indicative Cluster Survey. Retrieved on March 01, 2017 from <http://microdata.worldbank.org/index.php/catalog/2537>

29 Strategy for the Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017-2021. Retrieved on July 6, 2017 from: http://www.kryeministri-ks.net/repository/docs/ANG-STRATEGJIA_PËR_PËRFSHIRJEN_E_KOMUNITETEVE_ROM_DHE_ASHKALI_NË_SHOQËRINË_KOSOVARE_2017-2021.pdf

4. EMPLOYMENT

4.1. LEGAL AND POLICY REVIEW

Art. 61 of the Constitution and several laws in Kosovo stipulate the special consideration of members of ethnic communities and even of Roma, Ashkali and Balkan-Egyptians, in particular in the public sector or in publicly owned enterprises.

The Law on Protection and Promotion of the Rights of Communities (Art. 9.2) even advocates “special consideration” for Roma, Ashkali and Balkan-Egyptians.³⁰

The Civil Service Law binds all public institutions in Kosovo to quotas for employment of non-majority civil servants, as well as to meet its positive obligation to implement certain active recruitment measures (Art. 4-11)³¹ According to Article 11.3 of the law, the minimum of 10% of positions at central level are reserved for “persons belonging to communities that are not majority in Kosovo” and at the municipal level the representation must be proportional to the demographic composition of the given municipality.

The authorities, however, do not adhere to their obligations deriving from the laws. The regular assessments of the Office for Community Affairs (OCA) within the Prime Minister’s Office on the employment situation of members of non-majority communities in the Kosovo civil service and publicly owned enterprises demonstrate the discrimination of Roma, Ashkali and Balkan-Egyptians within civil service.³²

The Government Strategy and Action Plan for Inclusion of Roma, Ashkali and Egyptian Communities in Kosovo Society 2016-2020 as well as the previous strategy provide for a number of measures to improve the participation of the three communities in the labour market, which however, are hardly implemented.

4.2. CURRENT SITUATION

Kosovo is the poorest country in the Balkans and one of the poorest in Europe in terms of GDP per capita. The GDP per capita of Kosovo is USD 3,553 while the GDP per capita of Serbia is USD 5,143 and the GDP of Germany is USD 41,129 (World Bank Data, n.d.).

According to the 2015 Labour Force Survey, the unemployment rate in 2015 was 32.9% and youth unemployment (15–24 year olds) is around 57.7%. Unfortunately, government institutions do not always include ethnically disaggregated data in their assessments or reporting (Labour Force Surveys, Annual Report on Employment of the Ministry of Labour and Social Welfare (MLSW)) though disaggregated data are indispensable for planning and monitoring employment policies.³³

However, there are a few available data:

Census 2011: Employed persons at the time of the census-taking³⁴

	Total employed	Albanian	Roma	Ashkali	Egyptian
Total	278,572	262,300	661	659	733
Man	213,076	201,039	500	587	606
Women	65,496	61,261	161	72	127

30 Law No. 04/L-020. Retrieved on March 30, 2017 from <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20amend%20the%20law%20on%20protection%20the%20rights%20of%20the%20communities.pdf>

31 Law No.03/L-149. Retrieved on March 30, 2017 from <http://www.kuvendikosoves.org/common/docs/ligjet/2010-149-eng.pdf>

32 Government of Kosovo, 2013, May

33 Government Strategy 2016

34 Strategy for the Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017-2021. Retrieved on July 6, 2017 from: http://www.kryeministri-ks.net/repository/docs/ANG-STRATEGJIA_PËR_PËRFSHIRJEN_E_KOMUNITETEVE_ROM_DHE_ASHKALI_NË_SHOQËRINË_KOSOVARE_2017-2021.pdf

Registered job-seekers³⁵

	Roma	Ashkali
Total	1645	2365
Man	928	1404
Women	717	961

The government estimates that the unemployment rate among Roma, Ashkali and Balkan Egyptians in certain areas is as high as 95% - 100%. According to UNDP the unemployment rate among Roma, Ashkali and Balkan-Egyptian youth is about 75%.

According to the Government Strategy, 10% of the participants in active labour market measures (ALMM) facilitated by MLSW in 2014 were members of the three communities (247 persons).

Kosovo's social welfare system is inadequate to compensate for the exclusion of Roma, Ashkali and Egyptians from the labour market. In the "Serb municipalities" in Kosovo, inhabitants can also access the social welfare system of Serbia which could provide more financial resources, but it is not enough even to make ends meet. Furthermore, due to several structural reasons, many Roma, though vulnerable, do not receive social assistance, and cannot rely on other benefit or support to the same extent as other groups (see also the table below).³⁶

Access to agriculture or gardening could improve the socio-economic situation, but only 19.1% of the Roma possess agricultural land while 21.1% own cattle.³⁷

The "main sources" of income are therefore, informal, temporary work on the grey market and remittances from family members living abroad.³⁸

The lack of income-generating perspectives due to structural discrimination is one of the major obstacles for the three communities in Kosovo.

The private sector is dominated by small and medium-sized enterprises whose employment practices are often determined by kinship relations and nepotism. Due to their exclusion from the overall society, the members of the three communities, in general, are not included in informal networks allowing for participation in economy.

The situation in the public sector is similar as nepotism and political affiliations determine the chances for employment. In addition, for years the public sector faces the challenge to reduce its' staff, which makes the employment of members of the three communities even more difficult, taking into account that this reduction of the number of employees can easily be used as a justification of not employing members of the three communities.

Despite the legal obligations, the authorities hardly ever employ Roma, Ashkali and Egyptians in public service. Regular assessments of the government demonstrate their underrepresentation and the situation has hardly improved in the last years which is particularly worrying taking into account that prior to the war many Roma, Ashkali and Egyptians were employed in the public sector or publicly owned enterprises.³⁹

The government assessment of 2013 reveals that only 7.7% of civil servants in central and local level institutions are from non-majority communities. Independent agencies and municipalities have the highest average rate of non-majority representation (8.9% and 8.8%, respectively). Publicly owned enterprises have the lowest rate (2%). Government institutions (ministries and representative

35 Strategy for the Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017-2021. Retrieved on July 6, 2017 from: http://www.kryeministri-ks.net/repository/docs/ANG-STRATEGJIA_PËR_PËRFSHIRJEN_E_KOMUNITETEVE_ROM_DHE_ASHKALI_NË_SHOQËRINË_KOSOVARE_2017-2021.pdf

36 See National Strategy

37 Data taken from KEEN, Towards a new Policy: Strategy for the Inclusion of Roma, Ashkali and Egyptian Communities in Kosovo 2016-2020. Retrieved on June 29, 2017 from: http://keen-ks.net/site/assets/files/1345/toward_a_new_policy.pdf

38 Society for Threatened People, Lost in Transition, Berne 2015. Retrieved on February 20, 2017 from: https://www.gfbv.ch/de/kampagnen___projekte/roma_im_kosovo___zuruckgeschickt_und_unerwünscht___cfm

39 Office of the Prime Minister, Office for Community Affairs, Assessment on the Employment of Members of Non-Majority Communities in the Kosovo Civil Service and Publicly Owned Enterprises, Pristina 2013.

institutions) and executive agencies have a relatively low rate of non-majority integration.⁴⁰

Among the non-majority population in civil service, Roma, Ashkali and Egyptians are highly underrepresented compared to their share of population. Out of 5000 civil servants employed at the central level, only three Ashkali,

two Egyptians and five Roma are employed. Furthermore, Roma, Ashkali and Egyptians are absent at the managerial level of public institutions.⁴¹

The new Strategy provides more information on the current situation, in particular, regarding the projected targets in employment:

Indicator	Baseline	Description
Employment rate (Target: 17%)	Missing data	Percentage of employed working-age individuals
Women employment rate (Target: 12%)	9%	Percentage of employed working-women
Inclusion in ALMM (Target: 10%)	6%	Percentage of persons benefiting from ALMM belonging to Roma, Ashkali and Egyptian communities
Inclusion of women in ALMM (Target: 25%)	12%	Percentage of women among the ALMM recipients belonging to the two communities
Representation in public sector employment (Target: 1%)	0.5%	Percentage of persons employed in the public sector belonging to Roma, Ashkali and Egyptian communities
Inclusion of poor families in social welfare schemes (Target: 80%)	54%	Percentage of poor families receiving social assistance (Categories I and II of social assistance)

40 Government of Kosovo, 2013, May

41 Government of Kosovo, 2013, May



PHOTO: ENIS ABDULLAHU, KOSOVO

5. EDUCATION

5.1 LEGAL AND POLICY REVIEW

The education system in Kosovo is governed by a variety of laws, prominently by the [Law on Pre-University Education in the Republic of Kosovo](#) (04/L-032), the [Law on Preschool Education](#) No. 02/L-52 and the [Law on Higher Education](#) (No. 04/L-037).⁴²

With regard to policies, in addition to the Government Strategy for Roma, Ashkali and Egyptians, the [Kosovo Education Strategic Plan](#) constitutes the most relevant document.⁴³ The Kosovo Education Strategy Plan 2017-2021 contains one result referring explicitly to the three communities (“Inclusion of children of Roma, Ashkali and Egyptian communities in primary education has increased by 10%, while in lower and upper secondary education it has increased by 20%”) and one referring to returning

children (“All repatriated children are included in the education system and strengthen the mechanisms for organising education in Diaspora”).

As for the children from the three communities the results should be achieved by:

- Harmonising Learning Centre programmes,
- Drafting regulations by municipalities to facilitate the enrolment and attendance conditions of Roma, Ashkali and Egyptian children in pre-school and secondary education level,
- Monitoring the implementation of mitigation measures for enrolment of children in pre-school and upper secondary level,

⁴² Law on Pre-University Education in the Republic of Kosovo: Law No. 04/L-032. Retrieved on March 30, 2017 from: <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20preuniversity%20education.pdf>

Law on Preschool Education: Law No. 02/L-52. Retrieved on March 30, 2017 from: http://www.kuvendikosoves.org/common/docs/ligjet/2006_02-L52_en.pdf

Law on Higher Education: Law No. 04/L-037. Retrieved on March 30, 2017 from: <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20higher%20education.pdf>

⁴³ Ministry of Education, Science and Technology, Kosovo Education Strategic Plan. Retrieved on March 01, 2017 from <http://masht.rks-gov.net/uploads/2017/02/20161006-kesp-2017-2021-1.pdf>

- Training of teachers for teaching Roma language,
- Organise activities to raise awareness of Roma, Ashkali and Egyptian communities on the importance of timely enrolment and school attendance, with special focus on girls.

Combatting discrimination and anti-Gypsyism is not explicitly mentioned as one of the activities or objectives of the Strategy Plan.⁴⁴

5.2. CURRENT SITUATION

In the last years, most stakeholders observed an improvement as regards the position of the three communities within the education system. However, most of them

attribute the improvement to the involvement of the civil society and of international organisations and less to the work of the responsible authorities.⁴⁵

There are still shortcomings in regard to accessing quality education, and they are disproportionately affected by non-enrolment, dropouts, high illiteracy and low education achievement.⁴⁶

However, it has to be emphasised that in Kosovo there is not prevalent practice of sending Romani children into special schools.

The table below demonstrates the gaps still prevailing between the three communities and the majority population.

Table 2: Selected data as regards the educational situation of the Roma, Ashkali and Egyptians in Kosovo (2013/2014)⁴⁷

Kosovo	Men		Women		Total	
	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma
Attendance to early childhood education	16%	14%	16%	14%	16%	14%
School readiness	51%	75%	56%	76%	53.9%	75.5%
Net intake rate in primary education	60%	90%	76%	93%	68.1%	91.6%
Primary school net attendance ratio	85%	98%	86%	98%	85.3%	98.0%
Secondary school net attendance ratio	N/A	N/A	N/A	N/A	53.4%	90.9%
Lower secondary school net attendance ratio	67%	96%	63%	95%	65.0%	95.9%
Upper secondary school net attendance ratio	34%	83%	27%	80%	30.3%	82%
Children entering last grade of primary school	84%	99%	87%	100%	85.4%	99.6%
Primary completion rate	88%	95%	73%	99%	80.5%	97.3%
Transition rate to lower secondary school	89%	100%	93%	100%	91.1%	99.8%
Transition rate to upper secondary school	70%	94%	70%	89%	69.9%	91.5%

More than 40 Learning Centres have been established across Kosovo by NGOs focusing on pre-school education, in particular for children from these three communities.⁴⁸

The number of children from the three communities in the education system decreased over the last years by more than 16%, dropping from 7260 students in 2012/2013 to 6086 children in 2015/2016.⁴⁹

44 Discrimination is mentioned once in the Strategy Plan: "The aim of inclusion is to minimise inequalities in the society, combat discrimination, avoid marginalisation and exclusion, as well as provide welfare to all members of the society. It is therefore necessary to implement educational policies and practices aiming at comprehensive processes, in particular in relation to the socially marginalised groups, such as persons with special educational needs, minority communities, the poor and some other social categories." Ministry of Education, Science and Technology, Kosovo Education Strategic Plan, page 40. Retrieved on March 01, 2017 from <http://masht.rks-gov.net/uploads/2017/02/20161006-kesp-2017-2021-1.pdf>

45 TACSO, Access to Education for Roma, Ashkali and Egyptian Communities in Kosovo*, Pristina 2015. Retrieved on March 01, 2017 from <http://www.tacso.org/doc/access%20to%20education.pdf>

46 OSCE Mission to Kosovo, Community Rights Assessment Report. 4th edition. Retrieved on June 28, 2017 from: <http://www.osce.org/kosovo/209956?download=true>

47 UNICEF, Roma, Ashkali and Egyptian Communities. Multiple Indicative Cluster Survey. Key Findings; Retrieved on March 01, 2017 from <http://microdata.worldbank.org/index.php/catalog/2537>; UNICEF, Kosovo*. Multiple Indicative Cluster Survey. Key Findings. Retrieved on March 01, 2017 from <http://microdata.worldbank.org/index.php/catalog/2536>

48 Ministry of Education, Science and Technology, Kosovo Education Strategic Plan. Retrieved on March 01, 2017 from: <http://masht.rks-gov.net/uploads/2017/02/20161006-kesp-2017-2021-1.pdf>

49 Strategy for the Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017-2021. Retrieved on July 6, 2017 from: http://www.kryeministri-ks.net/repository/docs/ANG-STRATEGJIA_PËR_PËRFSHIRJEN_E_KOMUNITETEVE_ROM_DHE_ASHKALI_NË_SHOQËRINË_KOSOVARE_2017-2021.pdf

Table: Number of Roma, Ashkali and Egyptian children in the education system

	2012/2013	2013/2014	2014/2015	2015/2016
Ashkali	4,068	4,210	4,177	3,529
Roma	1,996	2,059	1,918	1,853
Egyptians	1,196	788	772	704
Overall	7,260	7,057	6,867	6,086

In particular, the migration of many Roma, Ashkali and Egyptians in the last years, contribute to this decrease which is also confirmed by the Ministry of Education data, stating that between the school year 2013/2014 and the first semester 2015/2016, 665 children from the three communities dropped out of school.⁵⁰

SEGREGATED SCHOOLS

Segregated schools or classes for Romani children exist in Gjilan/Gnjilane, and North Mitrovica/e. It should be noted that both schools are under the supervision of the Ministry of Education of Serbia. In a school under Kosovo administration in Gjakovë/Đakovica segregated schooling for Romani and Egyptian children also existed and that is still the subject of a lawsuit against the municipality.

6. HOUSING

6.1. LEGAL AND POLICY FRAMEWORK

The Law on Financing Special Housing Programmes should facilitate assistance to housing for vulnerable persons, including social housing programmes.⁵² The provision of social housing is a responsibility of the municipalities, and the Ministry of Environment and Spatial Planning is responsible for monitoring the implementation of the Law. According to Art. 25, the municipalities should develop three-year programmes and projects for housing. However, according to the Strategy for Roma and Ashkali Communities, only fifteen municipalities drafted the three-year programmes, nine approved them and only four actually worked on specific projects.

ROMANI LANGUAGE AND ROMANI IDENTITY AND CULTURE

In 2014, the Ministry of Education published a first Romani language textbook. Classes in Romani, encompassing elements of Romani culture and history are provided in four schools in Prizren and with assistance of the Council of Europe, Romani classes will start also in Ferizaj/Uroševac, Fushë Kosovë/Kosovo Polje, Gjakovë/Đakovica, Obiliq/Obilić and Pejë/Peć. In Prizren, the municipality covers the teacher's salary while in other municipalities, the Ministry of Education covered the salaries until the end of 2015 and afterwards the municipalities assumed the responsibility.⁵¹

In order to provide for solutions to the many informal settlements inhabited by Roma, the Law on the Amendment of the Law on Spatial Planning from 2008 included the stipulation "informal settlements shall be included and treated, with the aim of their regularization".⁵³ However, the Law has never been implemented. In 2013, a new Law on Spatial Planning has been adopted which does not stipulate the regularisation anymore.⁵⁴

The Kosovo authorities also developed a Strategy for Regularisation of Informal Settlements 2011-2015,

50 Strategy for the Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017-2021. Retrieved on July 6, 2017 from: http://www.kryeministri-ks.net/repository/docs/ANG-STRATEGJIA_PËR_PËRFSHIRJEN_E_KOMUNITETEVE_ROM_DHE_ASHKALI_NË_SHOQËRINË_KOSOVARE_2017-2021.pdf. According to data from 2014-2015 Report of the Kosovo Agency for Statistics, the number of children from the three communities attending primary or lower secondary education was: 3,766 Ashkali, 1,785 Roma and 642 Egyptian students. Data taken from: KEEN, Towards a new Policy: Strategy for the Inclusion of Roma, Ashkali and Egyptian Communities in Kosovo 2016-2020. Retrieved on June 29, 2017 from: http://keen-ks.net/site/assets/files/1345/toward_a_new_policy.pdf

51 OSCE Mission to Kosovo, Community Rights Assessment Report. 4th edition. Retrieved on June 28, 2017 from: <http://www.osce.org/kosovo/209956?download=true>

52 Law No. 03L-164 on Financing of Special Housing Programmes. Retrieved on July 6, 2017 from: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2670>

53 Law No.03/L-106 on the Amendment of the Law on Spatial Planning. Retrieved on July 7, 2017 from: http://www.kuvendikosoves.org/common/docs/ligjet/2008_03-L-106_en.pdf; Law on Spatial Planning. Retrieved on July 17, 2017 from Official Gazette of the Republic of Kosovo: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8865>

54 UN Special Rapporteur Special Rapporteur on Adequate Housing; United Nations, Human Rights Council, 2016 OSCE Mission in Kosovo (2013).

however, it has never been approved.⁵⁵ The new Strategy for the Inclusion of Roma and Ashkali Communities in the Kosovo society 2017-2021 contains an activity “Implementation of programmes for treatment of informal settlements”, however, it does not explicitly stipulate the legalisation of these settlements.⁵⁶

6.2. CURRENT SITUATION

In the last years, with the support of international donors the government provided housing opportunities for a few hundred Romani families, however, many remained without adequate housing.⁵⁷

Nevertheless, when analysing the housing situation of Roma, one has to take into account the war in Kosovo in 1998/1999 and the aftermath of the war which led to the large-scale destruction or occupation of the houses of Roma. This affected the Roma who remained in Kosovo, but in particular the Roma who were expelled from Kosovo and were returned in the meantime.

More than 100,000 Roma, Ashkali and Balkan-Egyptians were expelled in 1999 and 2000, in particular. More than 80 of their settlements got destroyed and many houses were and are still illegally occupied.

Due to several reasons Roma, Ashkali and Balkan-Egyptians could not profit from international reconstruction assistance as could, for example, members of the Kosovo Albanian or Kosovo Serb communities.⁵⁸ Immediately after the war, when the large funds were available, Roma who stayed in Kosovo could not profit from the funds and the Roma who fled Kosovo could not return (Roma were not returned from Western Europe until 2009 due to the security concerns).

In the year 2000, 2% of all reconstructed houses in Kosovo (out of 24,000) were houses belonging to all non-Albanian ethnic groups. In 2001, 3.6% of the reconstructed houses were “minority houses” (however, only out of 8,000 houses).

The respective repercussions are still felt today: there is a tremendous lack of housing opportunities for Roma, Ashkali and Balkan-Egyptians.

According to an assessment of the UN Special Rapporteur on the Human Rights of Internal Displaced Persons, the vast majority of returnees without property belong to the Roma, Ashkali and Balkan-Egyptians and they find it increasingly difficult to be included in house reconstruction projects. About 30 per cent of Roma, Ashkali and Egyptian returnees end up in secondary displacement (United Nations, Human Rights Council, 2014).

THE ISSUE OF INFORMAL SETTLEMENTS

In her recent report on Kosovo, the UN Special Rapporteur on the Right to Adequate Housing stated that the housing conditions of the three communities are particularly inadequate. However, the Strategy for the Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017-2021 hardly refers to the issue of informal settlements which seems to be in the political line with the new Law on Spatial Planning (see above). According to the Strategy, there are 32 informal settlements of Roma, Ashkali and Egyptians.

However, other government documents reveal a different situation. The Kosovo National Strategy of Property Rights of December 2016 emphasises the need to “harmonize and implement the Strategy for Regularization of Informal Settlements 2011-2015 with provisions of the Law on Spatial Planning and procedures to regularize unpermitted constructions to provide comprehensive and sustainable solutions for 100 informal settlements primarily inhabited by members of the Roma, Ashkali, and Egyptian (RAE) communities”.⁵⁹ Furthermore, the documents state that the mentioned Strategy for Regularization of Informal Settlements 2011-2015 has never been approved and that the implementation of spatial plans which include informal settlements having been approved by municipalities is still pending.

55 See Government of Kosovo, Ministry of Justice, Kosovo National Strategy of Property Rights. Retrieved on July 7, 2017 from: http://www.kryeministri-ks.net/repository/docs/National_Strategy_and_Annexes_ENG.pdf

56 Activity 4.3.2. of the Strategy for the Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017-2021. Retrieved on July 6, 2017 from: http://www.kryeministri-ks.net/repository/docs/ANG-STRATEGJIA_PËR_PËRFSHIRJEN_E_KOMUNITETEVE_ROM_DHE_ASHKALI_NË_SHOQËRINË_KOSOVARE_2017-2021.pdf

57 Strategy for the Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017-2021. Retrieved on July 6, 2017 from: http://www.kryeministri-ks.net/repository/docs/ANG-STRATEGJIA_PËR_PËRFSHIRJEN_E_KOMUNITETEVE_ROM_DHE_ASHKALI_NË_SHOQËRINË_KOSOVARE_2017-2021.pdf

58 For more details see Society for Threatened People, Lost in Transition, Berne 2015.

59 Government of Kosovo, Ministry of Justice, Kosovo National Strategy of Property Rights. Retrieved on July 7, 2017 from: http://www.kryeministri-ks.net/repository/docs/National_Strategy_and_Annexes_ENG.pdf



7. ACCESS TO JUSTICE

7.1. LEGAL AND POLICY FRAMEWORK

In the framework of the anti-discrimination laws package (together with the Law on the Protection from Discrimination and Gender Equality Law), the Law on the Ombudsperson has been adopted in 2015.⁶⁰

The law aims to “establish legal mechanism for protection, supervision and promotion of fundamental rights and freedoms of natural and legal persons from illegal actions or failures to act and improper actions” of public authorities (Art. 1).

Art. 2 defines the Ombudsperson as a “mechanism of equality for promoting, monitoring and supporting equal treatment without discrimination on grounds protected by the Law on Gender Equality and the Anti-Discrimination Law”.

The Kosovo Constitution guarantees the right to free legal assistance which is regulated in the Law on Free Legal Aid.⁶¹ The law defines access and conditions to free legal aid. Furthermore, the law obliges the government to fund free legal aid clinics. The government operates clinics in five municipalities but has failed to fully fund them.

In accordance with the law, the Free Legal Aid Agency has been established.

Another policy document which outlines shortcomings is the Rule of Law Assistance Strategy in Kosovo 2016-2019 of the Ministry of Justice.⁶² It recognises that the legal aid system in Kosovo is still under development and needs further upgrading to ensure access to justice for all citizens of Kosovo.

60 Assembly of the Republic of Kosovo, Law No. 05/L -019 on Ombudsperson. Retrieved on June 22, 2017 from: <http://www.kuvendikosoves.org/common/docs/ligjet/05-L-019%20a.pdf>

61 Assembly of the Republic of Kosovo, Law No. 04/L-017 on Free Legal Aid. Retrieved on June 28, 2017 from: <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20free%20legal%20aid.pdf>

62 Government of Kosovo, Ministry of Justice, Rule of Law Assistance Strategy in Kosovo 2016-2019. Retrieved on June 28, 2017 from [http://www.kryeministri-ks.net/repository/docs/Rule_of_Law_Assistance_Strategy_in_Kosovo_2016-2019_\(Justice_and_Internal_Affairs\).pdf](http://www.kryeministri-ks.net/repository/docs/Rule_of_Law_Assistance_Strategy_in_Kosovo_2016-2019_(Justice_and_Internal_Affairs).pdf)

There are no ethnically disaggregated data available on Roma and access to justice.

7.2. CURRENT SITUATION

In general, among the non-Albanian population the trust in the judicial institutions in Kosovo is quite low. The 2014 OSCE public survey recorded 67% of non-Albanian respondents stating that lack of trust in Kosovo judicial institutions was a serious obstacle in realizing their rights. There is 42% of the non-Albanian surveyed who responded that in the last two years no action was taken on their legal cases, whereas only 19% of the Kosovo Albanian respondents claimed so.⁶³ In addition, 68% of respondents stated lack of equality in the justice system as a serious obstacle.

Another obstacle might be that only 5% of the lawyers registered in the Kosovo Bar Association belong to non-Albanian communities.

When analysing access to justice for Roma in Kosovo, one has to point at the overall weak performance of the justice system in Kosovo. In its 2016 Country Report Kosovo, Civil Rights Defenders states that “despite some positive improvements in last several years, the judiciary system remains weak, non-transparent and unaccountable. The high level of corruption and political pressure, backlog of cases, high number of cases lapsed due to statute of limitations, and slow enforcement of decisions still remain among the main problems that hamper the judiciary’s efficiency. Kosovo courts face an enormous number of prolonged civil and criminal proceedings that affect the right of citizens to a fair trial.”⁶⁴

PROPERTY RIGHTS

A specific issue with regard to access to justice is the reclaiming of property rights of expelled persons whose

property has been illegally occupied. According to Annual report 2016 of the Kosovo Property Agency (KPA) and Kosovo Property Comparison and Verification Agency (KPCVA), 326 Roma and 16 Ashkali made claims to KPA⁶⁵

Though an institution has been established with the Kosovo Property Agency to solve these numerous cases, many expelled persons could not claim their rights. Moreover, according to Constitutional Court of Kosovo, KPA had itself violated the rights to property and fair trial.⁶⁶

In addition to property rights, the non-implementation of laws and policies referring to the legalisation of informal settlements, discussed in the chapter on housing represents another demonstration of difficulties which Roma face as regards the access to justice.⁶⁷

JUSTICE FOR CRIMES COMMITTED DURING AND AFTER THE WAR

Humanitarian Law Center Kosovo (HLC Kosovo) works on a comprehensive detailed record and circumstances of death and disappearances during the period 1998-2000 (Kosovo Memory Book) which also contains information on Roma. According to preliminary data, for the period 1 January 1998 until 31 December 2000 HLC Kosovo documented there are 275 Roma, Ashkali and Egyptians who were killed or disappeared.⁶⁸

Yet, the access to justice situation for Roma is dominated by the unwillingness of the authorities to investigate the numerous crimes committed against Roma, Ashkali and Balkan-Egyptians during and particularly after the war 1998/1999.⁶⁹ However, the crimes committed against them and non-persecution severely affect the life of Roma, Ashkali and Egyptians in Kosovo.

In January 2012, the Parliament adopted the Law on the Status and Rights of Martyrs, Invalids, Veterans,

63 OSCE Mission to Kosovo, Community Rights Assessment Report. 4th edition. Retrieved on June 28, 2017 from: <http://www.osce.org/kosovo/209956?download=true>

64 Civil Rights Defenders, Country Report Kosovo. Retrieved on May 27, 2017 from: <https://www.civilrightsdefenders.org/files/Kosovo-Country-report-updated-May-2016-.pdf>

65 Annual Report of KPA. Retrieved on July 6, 2017 from: http://www.kpaonline.org/PDFs/Raporti_2016.pdf

66 See Massimo Moratti, the Kosovo Constitutional Court on Displaced Persons property rights. Can mediation ever count as enforcement? Retrieved from <https://terra0nullius.wordpress.com/2014/05/23/the-kosovo-constitutional-court-on-displaced-persons-property-rights-can-mediation-ever-count-as-enforcement>. Constitutional Court of Kosovo, Judgement in Case KI 187/13. Retrieved on July 29, 2017 from http://www.gjk-ks.org/repository/docs/gjkk_ki_187_13_ang.pdf

67 See also Government of Kosovo, Ministry of Justice, Kosovo National Strategy of Property Rights. Retrieved on July 7, 2017 from: http://www.kryeministri-ks.net/repository/docs/National_Strategy_and_Annexes_ENG.pdf

68 Humanitarian Law Centre, Kosovo Memory Book. Retrieved on July 7, 2017 from: <http://www.kosovomemorybook.org> and www.hlc-kosovo.org

69 For more details see inter alia the regular reports of the United Nations High Commissioner for Refugees (UNHCR) and the Organisation for Security and Cooperation in Europe (OSCE), “Assessment of the Situation of Ethnic Minorities in Kosovo”, available at: <http://www.osce.org/documents>; ERRRC, Abandoned Minority, History of Romani Rights in Kosovo, Budapest 2011

Members of the Kosovo Liberation Army, Civilian War Victims and Their Families.⁷⁰ The law entitles the persons to benefits (e.g. pensions, health care, priority in employment). The law, however, sets a timeframe for eligibility to these benefits. Only persons (or their families) being wounded or killed between 27 February 1998 and 20 June 1999 by “enemy forces” are considered eligible, which excludes many Roma, Ashkali and Egyptians who were killed or injured after 20 June 1999 in the mob violence or during the war as civilians by “non-enemy forces”.⁷¹

Though Roma, Ashkali and Balkan-Egyptians were fighting on both sides, the public and political discourse in the post-war period presented them, and in particular the Roma, as Serb collaborators. This was used as a pretext for the crimes committed against them, for their mass expulsion in 1999 and 2000, for occupying their homes and for rejecting their return to homes in the first years after the end of the conflict. This perception still significantly affects the situation of Roma, Ashkali and Egyptians in society now and their access to rights, not least their access to justice.

Until now, neither politics nor the society in Kosovo seems to be ready to discuss the situation of Roma, Ashkali and Balkan-Egyptians during and after the war and their mass expulsion by Kosovo Albanians as a reprisal measure based on “collective guilt”.

Romani settlements have often been targeted by mob violence. More than 80 of their settlements were destroyed while other neighbourhoods or individual houses were illegally occupied. These inhabitants remained expelled to this day.⁷² The most notorious example was the total destruction of the “Roma Mahalla” in Mitrovica in July 1999, which was home to more than 8000 persons prior to its destruction. This crime happened literally under the

eyes of the international military forces that didn't intervene. Similar crimes of mob violence took place all over Kosovo, e.g. also in Vushtrri/Vucitrn where the Roma and Ashkali were targeted again during the mob violence in March 2004 when 69 houses belonging to Roma and Ashkali, including returnees, were ransacked or burned down.⁷³

Despite the numerous crimes, not a single perpetrator has been brought to justice yet.

LEAD-POISONING OF ROMA

After the end of the war in Kosovo, UNHCR settled around 600 Roma who were expelled from their homes or whose houses were destroyed after the war by returning Albanians, in an area in Mitrovica which was heavily poisoned by lead. Only in 2005, the Roma were resettled though research already demonstrated before the high level of lead in the area and the impact on the health of the people, in particular on the health of children.⁷⁴

In 2016, the Human Rights Advisory Panel of the United Nations Interim Administration in Kosovo finally found the UN guilty of breaching human rights provisions and, *inter alia*, recommended that compensations should be paid.⁷⁵ However, the United Nations refused to pay compensations to individuals, but insisted to create a fund, even after the requests made by several human rights organisations.⁷⁶

Though solving the issue is not the responsibility of the Government of Kosovo, but the United Nations, the situation of the Roma, Ashkali and Egyptians who were settled after the war in camps on highly poisoned soil demonstrate the difficulties for Roma to access justice.

70 Law No 04/L-054. Retrieved on August 09, 2017 from the Official Gazette No. 30/2011 of the Republic of Kosovo: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2793>

71 See Council of Europe, Commissioner for Human Rights, Memorandum following the Commissioner's mission to Kosovo from 5 till 9 February 2017. Retrieved on July 30, 2017 from: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2967271&SecMode=1&DocId=2400650&Usage=2>

72 OSCE Mission in Kosovo, 1999; Gesellschaft für bedrohte Völker, 2001

73 Human Rights Watch, 2004; Gesellschaft für bedrohte Völker, 2004

74 See *inter alia* Kosovo: poisoned by lead: a health and human rights crisis in Mitrovica's Roma camps. Retrieved on August 31, 2017 from: <https://www.hrw.org/report/2009/06/23/kosovo-poisoned-lead/health-and-human-rights-crisis-mitrovicas-roma-camps>

75 <http://www.unmikonline.org/hrap/Eng/Cases%20Eng/26-08%20NM%20etal%20Opinion%20FINAL%2026feb16.pdf>

76 New York Times, U.N. offers regret but no compensation for Kosovo poisoning victims. Retrieved on August 31, 2017 from: <https://www.nytimes.com/2017/05/26/world/europe/un-united-nations-kosovo-roma-lead-poisoning.html?mcubz=1>

For the requests of the human rights organisations see: <http://www.advancing-together.org>

8. HEALTH

8.1. LEGAL AND POLICY FRAMEWORK

The most relevant laws are: the 2012 Law on Health which defines the rights and obligations in the field of health, the healthcare principles, the healthcare system, the healthcare institutions' activities and the supervision of healthcare services.⁷⁷

The 2014 Law on Health Insurance regulates the establishment, organization, functioning, and financing of the public health insurance system; as well as the rights and obligations of the parties included.⁷⁸ The law provides for the options of mandatory health insurance and voluntary health insurance. The mandatory health insurance also includes the regular financial contribution to the health insurance and a cost sharing of the insured persons to enjoy certain services in the health sector.

An Administrative instruction on premium collection of mandatory health insurance has been adopted in 2016.⁷⁹ However, the collection of the health insurance was postponed for 2017 due to non-functionality of the Health Insurance Fund. Due to the parliamentary elections in June 2017, the collection of health insurance has been postponed again until the establishment of the new government.

Art. 11 defines the groups of persons exempted from contributing to the health insurance and from the cost sharing. These are families receiving social assistance, repatriated persons according to the bilateral agreements of the Republic of Kosovo with other states (in the first year after repatriation); permanent residents of informal settlements in Kosovo who are not registered or who are in the process of registration until the end of the registration process, or one (1) year after this Law enters into force.

As for further general importance, the Law on the Rights and Responsibilities of the Citizens in the Health Care shall be considered important.⁸⁰

8.2. CURRENT SITUATION

Overall, the current Health Information System does not provide ethnically disaggregated data. The available nation-wide data from surveys or the census-taking process show some disturbing features and also demonstrate that the three communities are facing serious health-related problems.

With regard to access to health, a major problem which affects all people living in Kosovo is the high level of corruption in the health system and the non-availability of certain drugs or the fact that these have to be paid for. Vulnerable families with less money at their disposal are more affected by these two phenomena and the majority of Roma, Ashkali and Egyptians in Kosovo can be considered vulnerable.

In general, the health situation of many families is related to the unhealthy living conditions in many of the settlements and further aggravated by the difficult financial situation of many families and the lack of information and awareness of accessing health services and using preventive health measures.

Data of the Kosovo Agency for Statistics show, for example that one in ten infants of the three communities had low birth weight, while one in seven children under the age of 5 in these communities showed average or severe growth retardation (i.e. were too small for their age).

With regard to vaccination, the survey revealed that less than 30% of the children up to one year old from the Roma, Ashkali and Egyptian communities are immunized in compliance with the immunization calendar of Kosovo.⁸¹

77 Assembly of the Republic of Kosovo, Law No. 04/L-125 on Health. Retrieved on June 29, 2017 from <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20Health.pdf>

78 Assembly of the Republic of Kosovo, Law No. 04/L-249 on Health Insurance. Retrieved on June 29, 2017 from: <http://www.kuvendikosoves.org/common/docs/ligjet/04-L-249%20a.pdf>

79 Administrative Instruction 07/2016 on the implementation of the law, adopted on June 10, 2016. Retrieved on July 6, 2017 from: <http://msh-ks.org/wp-content/uploads/2016/01/Udhezim-Administrativ-07-2016.pdf>

80 Assembly of the Republic of Kosovo, Law No. 2004/38 on the Rights and Responsibilities of the Citizens in the Health Care. Retrieved on June 29, 2017 from: http://www.kuvendikosoves.org/common/docs/ligjet/2004_38_en.pdf

81 Multiple Indicator Cluster Survey 2013 -2014. Data taken from: KEEN, Towards a new Policy: Strategy for the Inclusion of Roma, Ashkali and Egyptian Communities in Kosovo 2016-2020. Retrieved on June 29, 2017 from: http://keen-ks.net/site/assets/files/1345/toward_a_new_policy.pdf

However, the data revealed some improvements, e.g. with more women giving birth in health institutions or with an overall good access to antenatal care for women (96% with a physician and 1% with a nurse or midwife). Overall, the statistics demonstrate too that with a higher participation of women, the health situation and health care awareness increase.⁸²

In 2013-2014, the Balkan Sunflowers Kosova together with Solidar Suisse conducted an extensive research project on the health situation of the Roma, Ashkali and Egyptian communities in Kosovo.⁸³ According to the findings of the survey, the life expectancy of the Roma, Ashkali and Egyptian communities is 58,3 years, compared to an average life expectancy in Kosovo of 70,5 years.

Cardiovascular diseases constitute the most commonly occurring health problem. Out of all the respondents aged 30 or over, nearly 30% of the persons older than 30 years were affected by one or more types of cardiovascular

disease. Additionally, nearly 7% are suffering from bronchitis or other type of disease of the respiratory system, whereas metabolic diseases, mainly diabetes, are affecting 6%. Generally, the health of the Roma, Ashkali and Egyptians begins to deteriorate around the time an individual turns 40 years old.

The research in the municipality of Fushe Kosove/Kosovo Polje revealed that many Roma, Ashkali and Egyptians do not make use of health services due to the high costs of treatment and medication and that they experience discrimination. Furthermore, many make use of health services administered by Serbia, if they (still) have a Serbian health insurance.

With regard to preventive health care, the study revealed that more than 60% of the Romani, Ashkali and Egyptian women did not visit gynaecologist during their pregnancy while in average all over Kosovo only 3% of the women do not see gynaecologist during their pregnancy.

82 Government of Kosovo, Strategy and Action Plan for Inclusion of Roma, Ashkali and Egyptian Communities in Kosovo Society 2016-2020

83 New National Insurance will save lives. Life Expectancy and Health in Kosovo's Roma, Ashkali and Egyptian Communities. Retrieved on July 6, 2017 from: http://www.balkansunflowers.org/images/stories/pdf/kosana%20annual%20report_2015_web.pdf



9. ASYLUM AND FORCED RETURN

9.1. LEGAL AND POLICY REVIEW

Art. 35 of the Constitution of Kosovo guarantees the right to leave the Republic of Kosovo.⁸⁴ Art. 12 of the Law on State Border Control authorises the border guards to “check whether the conditions for entry and exit from the Republic of Kosovo are fulfilled, as defined by law”.⁸⁵

With regard to return to Kosovo, there are two separate frameworks: one framework for the return from Western European countries and one for return from countries in the region which is much more favourable.

The Kosovo government signed bilateral readmission agreements with a number of Western European countries and domestic policy documents, in particular the

Strategy for the Reintegration of the Repatriated Persons with all related documents such as the Action Plan for the implementation of the Strategy or the Regulation on Reintegration of Repatriated Persons and Management of the Reintegration Program governing the return from Western Europe.⁸⁶ The institution in charge for the implementation is the Department for the Reintegration of Repatriated People (DRRP) within the Ministry of Internal Affairs.

The readmission agreements govern both voluntary and forcible returns. They focus of the agreements is on the technical aspects of the return process, referring to human rights only to the extent that the agreements

⁸⁴ Constitution of the Republic of Kosovo. Retrieved on March 02, 2017 from <http://www.assembly-kosova.org/common/docs/Constitution1%20of%20the%20Republic%20of%20Kosovo.pdf>

⁸⁵ Law No. 04/L-214. Retrieved on March 30, 2017 from: <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20amending%20the%20Law%20on%20State%20Border%20Control%20and%20Surveillance.pdf>,

⁸⁶ Government of Kosovo: *National Strategy for Reintegration of Repatriated Persons in Kosovo*, October 2013; Republic of Kosovo, Government, *Action Plan Implementing the Strategy for the Reintegration of Repatriated Persons; Regulation GRK No. 20/2013 on Reintegration of Repatriated Persons and Management of the Reintegration Program*, 13 August 2013. Retrieved on March 03, 2017 from: http://www.kryeministri-ks.net/repository/docs/RREGULLORE_QRK_NR_202013_PER_RIINTEGRIMIN_E_PERSONAVE_TE_RIATDHESUAR_DHE...10092012.pdf

cannot contradict any international agreements. The Reintegration Strategy recognises Roma, Ashkali and Balkan Egyptian returnees as vulnerable groups who are in need of assistance with regard to civil registration, including them in education and resolving their housing issue.⁸⁷ However, as surveys demonstrate this is hardly put in practice (see below Chapter 9.2).

Just as the whole return process from Western Europe, the Reintegration Strategy is based on the assumption that these people left Kosovo for economic reasons and can easily return. It does neither address the specific circumstances why Roma, Ashkali and Balkan Egyptians were forced to leave Kosovo nor their specific needs upon return.

The Reintegration Strategy and related documents do not include any measures on how to tackle the ethnic discrimination experienced by the three communities in Kosovo with regard to housing, on the labour market, access to health services or in education. It ignores the fact that many of them fled an armed conflict or human rights violations, that many of their settlements have been totally destroyed or are illegally occupied and that since the end of the conflict in 1999 none of the perpetrators of the numerous crimes committed against Roma, Ashkali and Balkan Egyptians have been brought to justice yet. Though the discrimination and the impunity for crimes committed against them constitute serious obstacles for their return, they are not addressed in the re-integration policy of Kosovo.

That a different policy is possible is demonstrated by the reintegration policy for people who were displaced to countries in the region (Serbia, Macedonia, Montenegro, Bosnia and Herzegovina, Croatia). The majority of the displaced persons in the region are Kosovo Serbs though a considerable part are Roma, Ashkali and Balkan Egyptians. This policy is based on totally different assumptions. The Government Strategy for Communities and Return 2014 – 2018 defines displaced persons as people “*who have been forced or obliged to flee or leave their places of permanent residence in Kosovo between January 1998 and the end of March 2004, in particular as a result of or in order to avoid the effects of armed conflict, the*

situation of generalised violence, (or) violations of human rights”. This return policy offers potential returnees a comprehensive package, including reconstruction of houses and infrastructure and income generating assistance. The institution in charge for the return from the region is the Ministry for Communities and Returns.

9.2. CURRENT SITUATION

MIGRATION FROM KOSOVO

The exact number is unknown, but there are still more than 100,000 Roma, Ashkali and Balkan-Egyptians from Kosovo living in Western Europe and in countries in the Western Balkans.

The first large-scale exodus took place in the aftermath of the war 1998/1999. Since the end of the conflict a permanent, low-volume (forced) migration from Kosovo prevailed there which increased after the mob violence in 2004 and reached a peak in 2014/2015 when up to 10,000 Roma, Ashkali and Balkan Egyptians left Kosovo in a few months.⁸⁸

Overall, only in the period 2012–2015 more than 130,000 persons from Kosovo applied for asylum in Western Europe (37,875 persons in 2014 and 66,885 persons in 2015).⁸⁹

The Kosovo authorities didn't adopt new laws or by-laws to curb the large-scale migration in 2014/2015. Kosovo Police admitted that it has used “persuasion tactics” at the border between Kosovo and Serbia and by January 2015 could stop 10,000 – 15,000 people from crossing into Serbia who were to continue from there to Western Europe.⁹⁰

REINTEGRATION OF RETURNEES

As outlined in Chapter 9.1. different policies regulate this, depending on whether return takes place from a neighbouring country or from Western Europe. Another important differentiation refers to the fact of a person returning voluntarily or by force.

87 Government of Kosovo: *National Strategy for Reintegration of Repatriated Persons in Kosovo*, October 2013, p. 7

88 Müller, Stephan/Mattli, Angela, Trapped in a vicious circle: Repatriation and Re-Migration of Roma, Ashkali and Balkan-Egyptians from Kosovo in: *International Journal of Migration Studies* (IJMS) No. 204

89 EUROSTAT (2015), First instance decisions on applications by citizenship, age and sex. Annual aggregated data (rounded). Retrieved on July 18, 2016, from http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asydcfst; EUROSTAT, countries of origin of non-EU asylum seekers in the EU-28 Member States 2013-2014, Retrieved on July 18, 2016, from http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Countries_of_origin_of_%28non-EU%29_asylum_seekers_in_the_EU-28_Member_States,_2013_and_2014_YB15_III.png

90 KIPRED, Kosovo to EU: The challenge of irregular migration, Policy Paper 1/15. Retrieved on March 02, 2017 from: http://www.kipred.org/repository/docs/Kosovo_to_EU_The_Challenge_of_Irregular_Migration_659711.pdf

In particular, the returnees from Western Europe face serious obstacles upon return. The total number of persons already returned is difficult to establish. In 2014, the respective department of the Ministry of Internal Affairs registered 4,610 readmitted persons in their data base. 3,352 (73%) were returned by force while 1,258 (27%) returned voluntarily. 471 Roma, 200 Ashkali and 29 Egyptians were returned. The majority of the returnees were ethnic Albanians (3,575).⁹¹

The Reintegration Strategy recognises the three communities as vulnerable groups in need of assistance with regard to civil registration, which needs to get included in education and have their housing issues resolved.⁹²

Overall, the few existing support programmes for returnees are by far not sufficient to address their daily needs. Support to self-employment helped some families survive, but the majority didn't receive sufficient support to create income. The survey of the Society of Threatened People Switzerland found that not a single interviewed returnee could participate in active labour market measures or in training programmes.⁹³

In the last years, the children returned from Western Europe faced other problems: they often didn't obtain a sufficient command of the Albanian language, diplomas from Western Europe were not recognised and they often face double discrimination: as a member of one of the three communities and as a returnee. Support programmes for children who came back in the education system are not sufficient to address their needs. Furthermore, the overall difficult socio-economic situation (lack of housing, lack of income) forces many families not to prioritise education. Children have to contribute to the family income or children cannot be dressed appropriately to attend school.⁹⁴

A survey among returnees demonstrated that the lack of reconstruction of destroyed houses and the lack of sustainable housing options as well as the non-existing access to the labour market and limited access to social allowances, in combination with discrimination and other forms of anti-Gypsyism, force returnees to leave Kosovo

again. People either move to Serbia into displacement or return to Western Europe.⁹⁵

Overall, the reintegration policy for forced returns from Western Europe offers more information and less concrete assistance with regard to sustainable housing or income generating.⁹⁶

DISADVANTAGE OF LATE RETURN

Until 2009, Roma were not allowed to be returned due to security reasons. When the security situation improved, Roma faced the disadvantage of late return: in the first years after the war, more financial resources for reconstruction were available and the regulations to access assistance were less strict. However, Roma who stayed in Kosovo could also not profit from these resources, since Kosovo Albanians and Kosovo Serbs were clearly prioritised. When Roma were returned, less financial resources and strict rules for accessing assistance were in place. Late returns also entailed another negative impact as the former dwellings of the refugees in many cases had been illegally occupied for years or even destroyed in the meantime, depriving them of accommodation upon return. In addition, the Kosovo Government never adhered to its legal and political obligations to legalise the informal settlements which created another obstacle to return (see Chapter on housing).

Western Europe recently increased its efforts to return Roma, Ashkali and Balkan-Egyptians by force to Kosovo. Many returnees have no accommodation upon return and will have problems generating sufficient income to survive and will be forced to leave Kosovo again.

The government in Kosovo did not do much to stop this process in the past and is not prepared to implement a more appropriate policy, but rather seem to follow a purposeful policy. The rough figures emphasise the failure or refusal of the Kosovo Government to integrate Roma, Ashkali and Balkan Egyptian returnees. Seventeen years after the end of the war, from at least 150,000 persons before the war, not even a third of them lives in Kosovo today.

91 Government of Kosovo, Ministry of Internal Affairs, Impact analysis on sustainable reintegration of repatriated persons in Kosovo, Pristina 2017

92 Government of Kosovo: *National Strategy for Reintegration of Repatriated Persons in Kosovo*, October 2013, p. 7

93 Society for Threatened People, *Lost in Transition*, Berne 2015. Retrieved on February 20, 2017 from: https://www.gfbv.ch/de/kampagnen___projekte/roma_im_kosovo__zuruckgeschickt_und_unerwünscht__.cfm

94 GIZ, *Situation Analysis*

95 See Society for Threatened People, *Lost in Transition*, Berne 2015. Retrieved on February 20, 2017 from: https://www.gfbv.ch/de/kampagnen___projekte/roma_im_kosovo__zuruckgeschickt_und_unerwünscht__.cfm

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