



**ODIHR INTERNATIONAL CONSULTATION ON
ROMA REFUGEES AND ASYLUM SEEKERS
Warsaw, 23 October 2000**

CONSOLIDATED SUMMARY AND RECOMMENDATIONS

The International Consultation on Roma Refugees and Asylum Seekers was organised by the ODIHR, with the support of the Council of Europe, Project on Ethnic Relations (USA) and other partners, as a side event of the OSCE Human Dimension Implementation Meeting and was attended by some 150 representatives of governments, Roma NGOs and international organizations. The round table consultation was preceded by a series of preparatory activities implemented by the ODIHR from the end of 1999, in various sub-regions of the OSCE such as Central Europe, South-Eastern Europe and Nordic countries; fact-finding missions and surveys, report writing and debates in workshops, networking and dialogues took place in eight (8) participating States and brought together a variety of actors involved in the asylum chain. Also, in preparation for the meeting, on 22 October, the two largest international Roma organizations, the International Romani Union (IRU) and the Roma National Congress (RNC), formed an International Working Group of Roma Experts on Refugee and Asylum-Seeker Issues. They produced a joint statement calling for - 1) the establishment of a Roma-led assessment group which would evaluate the effectiveness of existing national and international Roma programmes; 2) refugee status for Roma from Kosovo and 3) fair asylum procedures for Roma applicants according to the 1951 Geneva Convention Relating to the Status of Refugees (hereinafter the "Geneva Convention").

Debates during the actual consultation took place in two working panels and a closing session focusing on recommendations for further action. The first panel was entitled *Facts and images on Roma asylum seekers and refugees* and enabled the participants to compare their views on particular aspects of the issue. For the first time in the history of the OSCE, Roma have joined such a discussion from the position of experts and presented their own reports, prepared as background materials for this consultation, based on fieldwork, inquiry and analysis.

As a framework for discussion on Roma and asylum seeking, and as in-put to the debate the ODIHR Contact Point on Roma and Sinti Issues (CPRSI) mentioned the following facts:

- a) A "first wave of Roma asylum seekers" started between 1990-1993, mainly from Romania and the Balkans, which diminished after the German-Romanian and other repatriation agreements throughout the 90s, and the change in the asylum law in Germany and in other countries.
- b) Data indicates a new wave of Roma asylum seekers, starting mid-1997, when Czech Roma asked for asylum in Canada; this trend continues with rather large

numbers of asylum seekers from Slovakia (a 1000% increase in 1999 in comparison with 1998, according to UNHCR statistics).

- c) The recent Roma asylum seekers declare in support of their application fear of persecution they face by the very fact of belonging to the Roma ethnic group; this is different from the trends of the 70s, 80s and beginning of 90s when the demands for asylum were motivated rather in terms of generalised human rights violations and political crisis in the countries of origin.
- d) The dynamic of the recent demands for asylum has some peculiarities: they are made by groups of Roma from particular countries and/or regions in one country, who in a rather short period of time (2-3 months) are reaching the same country of destination - correspondingly, there is a rather intense media coverage of the respective groups which receive a high ethnic visibility different from asylum seekers with another national/ethnic identity, even when the number of the latter are higher.
- e) The reaction in some of the Western “receiving countries” to the increased influx of Roma asylum seekers, between 1997-2000, is a combination of measures: i) to change the asylum procedures (making them shorter; providing more restrictive welfare facilities for asylum seekers); ii) the countries of destination have started to impose specific visa restrictions for the citizens of countries of origin which generate “waves” of asylum seekers.
- f) As a consequence there is an increased hostility of authorities and majority populations in the countries of origin against Roma, who are perceived as a “threat” to the right and the opportunities for freedom of movement of the majority populations.

The debate revealed several sharp distinctions in interpretation of the reality of Roma asylum seeking. There was a clear contrast between the description of application of asylum determination procedures for Roma applicants presented by representatives of national governments and that of Roma, human rights and asylum-oriented NGOs. Governmental representatives stipulated that there is no discrimination against Roma applicants in their asylum determination procedures, all cases are judged on individual merits according to recommendations from the UNHCR, decisions are made by independent bodies and utmost care is taken to collect information on countries of origin through fieldwork, NGO reports and other channels. NGOs, on the other hand, maintained that, in fact, the right of Roma applicants to fair determination procedure is biased by ethnic stereotypes rooted in “anti-gypsyism” (similar to anti-Semitism), and is often violated for example through accelerated procedures in which cases hardly ever go into material assessment and receive full review, and through arbitrary application of the “safe third country” concept.

Two contrasting views also appeared regarding the reasons why Roma apply for asylum and in this case the difference in opinion cut across the division between governmental and NGO positions. While some NGOs, but also governmental representatives, believe that Roma asylum seekers leave their countries of origin only because of racism and discrimination, others acknowledge that Roma requests for asylum are also economically motivated and can be seen as a developmental strategy of Roma individuals looking up to the western societies as more tolerant in hope to obtain fairer chances for personal development. Supporters of the first opinion argue that, although economic marginalization is, along with racial violence, at the core of

Roma requests for asylum, referring to such cases as economic migration is inappropriate because economic marginalization of Roma is a result of a very profound history and present-day systems of discrimination and, as such, provides legitimate grounds for asylum seeking. Advocates of the alternative view however believe that the sharp increase in Roma asylum applications is partly a result of the combination of two factors – the rise of unemployment and lack of economic opportunities in transitional countries and the closing off of other legal migration opportunities for Roma.

A significant part of the first panel was also devoted to the situation of Roma refugees from Kosovo, some of whom were actually brought for the consultation to testify. They testified to the inhuman conditions they have to endure in refugee camps in countries like the Former Yugoslav Republic of Macedonia or Montenegro which are too poor and cannot provide even the most basic services for refugees/IDPs. They appealed to OSCE participating States to find a third country which is able to provide humanitarian assistance and educational facilities to temporarily host Roma asylum seekers or accept them as quota refugees as was done with other groups in the past. They also asked that no pressure should be put on Roma of Kosovo to return home at the moment because the situation in Kosovo is still extremely unsafe for them, and expressed the feeling of betrayal which they experience when Europe stays silent and does not acknowledge their suffering. They feel that the participating States want to avoid answering their calls for help. Several national delegations responded that Roma of Kosovo are not being returned. The UNHCR also reaffirmed that it does not support any involuntary returns to Kosovo. The question of future quota refugees or humanitarian temporary status in the West was not addressed by any governmental delegation.

The situation of other Balkan Roma asylum seekers fleeing from the wars in the former Yugoslavia was also briefly mentioned. It was pointed out that some have lived in the West long enough and could start naturalization process now but are not allowed to and face danger of being returned. Attention was also drawn to the situation of Roma who came to the West with old Socialist Federal Republic of Yugoslavia passports and fear that they will now be labelled with inappropriate citizenship just so that they could be returned. UNHCR was criticised for failing to deal with this issue. In response, the UNHCR representatives called attention to the two conventions on statelessness that apply to these cases and promised to address this situation.

The case of the Roma of Kosovo was also used to illustrate the point that willingness of Roma to integrate will not on its own avoid problems in the future. It was pointed out that before the crisis Roma of Kosovo were well integrated citizens loyal to the state with proper jobs and education and, in fact, Kosovo produced the highest number of Roma intellectuals in Europe. The view was put forward that Kosovo Roma have followed what is always recommended to all Roma and managed to integrate, yet when the crisis started they were once again those to suffer the most.

During the second working panel, entitled *Visa versus Vision*, participants were invited to look for alternatives to asylum seeking in which the situation of Roma communities can be improved. Also in this discussion the strategies suggested reflected the two differing interpretations of what are the primary causes of Roma

emigration. Those who believe that the current requests for asylum by Roma are a direct result of anti-gypsyism and the deterioration of human rights of Roma, advocated according Roma a firm legal status in Europe which would assure their civil, political, social and cultural rights as the appropriate strategy for a solution, along with the reform of the Geneva Convention to reflect the specific situation of Roma asylum seekers. Those that acknowledge the significant role of economic factors suggested rather more economically-oriented solutions along with strategies aimed at re-opening legal opportunities for Roma migration. They envisioned programmes aimed at achieving economic independence for Roma by improving economic opportunities in their home countries, for example, through financial aid for Roma entrepreneurs and combating unemployment, as well as the normalisation of the transfer of Roma labour through signing bilateral treaties between refugee producing and refugee receiving countries which would sanction the import of labour. It was also pointed out that, when looking for a solution, the small percentage of misinformed Roma asylum seekers who migrate out of genuine belief that they have good chances of obtaining residency permits and better life in the West should not be forgotten and there should be an information campaign about the realities of the asylum system aimed at them.

One of the visions proposed as alternative to Roma asylum seeking was the vision of ethnically and culturally diverse societies which fully accept Roma as a legitimate component. It was argued that Roma will keep leaving their home countries until the vision of these societies changes and these societies start seeing celebrating diversity as a base for social cohesion. It was also pointed out that until now European governments have concentrated only on the “pull factors” that attract the Roma to come to the West. They have been developing measures to fight the pull factors such as accelerated procedures, social help restrictions, detention centres but very little attention has been paid to developing programmes to address also the “push factors” which compel Roma to leave their countries of origin. Research has been done on the push factors but only very small financial contributions go towards concrete projects that would aim at eradicating them. In short, in dealing with the Roma asylum issue up to now the ‘visa alternative’ of dissuasive policies is preferred over the ‘vision alternative’ of helping to improve the situation of Roma in the countries of origin.

The participants of the meeting also drew attention to the following paradoxes of the Roma asylum problematique which, however, did not get to be properly discussed due to time constraints: the paradox of the Roma unable to migrate legally because they do not fit the criteria of either the Geneva Convention or the European Social Charter criteria of free movement of labour; the paradox of some countries, such as the Czech Republic and Poland, being both countries of origin, as well as recipient countries, for Roma asylum seekers; the paradox of frantic attempts to stop Roma migration between the associated countries and the countries of the European Union when such migration will in fact soon be legalized through the enlargement; the paradox of the restrictive visa measures being a trigger for policies for improvement of the Roma situation in countries of origin but also for resentment and the rise in right-wing parties; and the paradox of passing of responsibility towards the Roma asylum issue between the EU and countries of origin.

Several participants also pointed out that the Roma issues should be addressed in the context of larger societal problems such as racism and called for mutual co-operation and communication between Roma, the majority societies and governments. Concerns were also voiced about human traffickers, organised migration and using asylum as a source of income by some Roma because such abuse of the asylum system stigmatises all Roma asylum seekers and ruins the chances of the genuine ones.

In the final discussion of proposed solutions, the suggestion for the reform of the Geneva Convention was strongly challenged by the UNHCR representatives as dangerous. In their view, the Geneva Convention as it is serves its purpose because everybody who deserves refugee status, i.e. fulfils its criteria, is recognised as a refugee. The Geneva Convention needs to be reaffirmed rather than reformed. In the current situation, states find it difficult to distinguish between migration and asylum and therefore recommendations regarding asylum have to be very focused for the sake of preserving the institution of asylum, which has benefited many people and should continue to do so.

The UNHCR representatives also challenged the recommendation that the ODIHR CPRSI should act as a facilitator between Roma and governments in some migration and asylum issues. They argued that the international asylum system works and there is no need for representatives of specific minority groups to get involved because it would not help to clarify the system. If one wants to argue that there is discrimination in the status determination, then one has to argue that there is discrimination against everyone because, for example, only slightly more than 1.2 per cent of applicants seeking asylum in Europe between 1990-1999 were indeed recognised as refugees. To this, the supporters of the original recommendation replied that the Roma asylum issue attracts significant attention, as proved by the turnout at this consultation, as well as the hysteria about Roma refugees in the press in various countries, and the fact that national authorities make changes to the asylum laws of their countries in response to this hysteria. Therefore the Roma component plays a significant role in the asylum debate and there is a need for the facilitation by the CPRSI Advisor.

Also the first point of the joint IRU and RNC statement proposal evoked words of caution. It was argued that the call for stopping financial aid for programmes designed to benefit the Roma until a thorough examination of their effectiveness by a study group is completed might have negative consequences for the Roma people and also generate a serious backlash in the recipient countries.

By way of conclusion, it was pointed out that it has to be recognised that the Roma refugee issue exists and that solutions to this problem must be found. A major problem is that Roma have developed an attitude of non-participation and non-co-operation in state activities because of feelings of exclusion and non-confidence and this moves them towards emigration, seeking asylum and accepting the risks of illegal residence in states other than those of their citizenship. The issue is even more serious due to the fact that it is the educated and integrated middle class of Roma who could work towards the improvement of the situation of their communities but decide to abandon their countries instead because they feel their future is endangered. Therefore the OSCE participating States should try to prevent further emigration by

supporting concrete activities, among others those of the ODIHR, in order to keep the confidence that Roma now have in its work.

Recommendations regarding the situation of Roma in Kosovo:

- OSCE participating States should grant refugee status to all Roma who have fled from Kosovo.
- OSCE participating States should help the Kosovo Roma to satisfy their housing and educational needs.
- OSCE participating States should take the responsibility for reconstruction of houses in Kosovo which were destroyed through bombing.
- OSCE participating States should consider transfer of Kosovar Roma refugees/IDPs and asylum seekers from the Former Yugoslav Republic of Macedonia and Montenegro, which cannot afford to provide asylum seekers even with the most basic services. This could be done either through finding a third country to temporarily host Roma asylum seekers or accepting Roma refugees of Kosovo using the quota system.
- Solutions to the problems of Roma refugees from the Balkans in matters of nationality and citizenship should be sought.

Recommendations for the OSCE participating States:

- OSCE participating States that are receiving asylum seekers should develop a common approach on asylum seeking procedures, taking into account the specific situation of Roma.
- The focus on refugees and asylum seeking should move from addressing the “pull” factors to the “push” factors.
- The OSCE should continue to play a constructive role in eradicating racism and discrimination against Roma and Sinti.
- More comprehensive, serious policies should be devised and implemented which would allow for diversity and legal migration.
- The incoming Romanian Chairmanship of the OSCE should host a comprehensive European Conference in Romania in 2001, as a follow up of the 1994 Budapest meeting in 1994, in order to discuss and evaluate all the work done over the last five years in the field of Roma and Sinti Issues.
- The participating States should change permanent governmental structures of resources in state budgets to incorporate Roma issues properly and to allow Roma to achieve things within the structures.
- The participating States should allow Roma organizations to have more direct input in policy-making.
- A Roma component should be considered in all European projects.
- The participating States should take their OSCE commitments under the 1990 Copenhagen Document more seriously.
- The emergence of networks of civil advisory bureaux and Roma social and charity organizations, which would for example provide temporary accommodation for asylum seekers and returnees, should be encouraged.
- Money devoted to training, research, education and other non-investment projects should be complemented with funding to concrete investment projects such as accommodation centres for asylum seekers and returnees.
- Funding for Romani projects should not only be divided according to needs, but should also be used as a model for self-financing.

- Consideration should be given to updating the Geneva Convention to reflect the specific situation of Roma and other asylum seekers, through, for example re-interpreting the term “fear of persecution” to encompass grave and persistent (economic) discrimination, non-violent measures by non-state actors, and sustained or systematic violation of human rights demonstrative of failure of state protection.
- The participating States should adopt a binding European Roma Rights Charter which would ensure social and political rights of Roma and define their legal position.

Recommendations for the ODIHR Contact Point for Roma and Sinti Issues (CPRSI):

- The CPRSI mandate should be enhanced as recommended in the “ Report on the Situation of Roma and Sinti in the OSCE Area” of the OSCE High Commissioner on National Minorities.
- The CPRSI should have a mandate, resources and political support from the governments to conduct on-site enquiries, especially in areas of crisis. Greece was mentioned as an example of a country where on-site enquiries were desirable.
- The CPRSI should act as a facilitator between Roma and governments and should assist participating States in policy making on Roma affairs.
- The CPRSI should continue to document the situation of Roma refugees and asylum seekers.
- The CPRSI should continue its work on asylum on the international level through the Informal Contact Group on Roma established by the OSCE, Council of Europe and the European Union and should lobby other international organizations to address the issue of Roma asylum-seeking.
- The CPRSI should lobby for concluding bilateral treaties among States, which would provide for legal movement of migrant workers.
- The CPRSI should help train the OSCE missions staff who work on Roma issues and provide info about the Geneva Convention in the Romani language.
- The CPRSI should be given the capacity to monitor the situation of Roma in member states.
- The CPRSI should adopt an action plan for activities in Western European countries because at the moment it is focussing mainly on Central and Eastern Europe.
- The CPRSI newsletter, which was part of the clearing house function of CPRSI and stopped in 1995, should be re-launched.
- CPRSI should document the distribution of the Holocaust reparations money because Roma feel that they are discriminated against in this process.
- CPRSI programmes should have a gender component, with a special emphasis on political involvement of Roma women.
- CPRSI should help publicise the Council of the European Union Directive on equal treatment between persons irrespective of racial or ethnic origin¹.

Recommendations for Roma NGOs / associations:

- Roma NGOs/associations need to create a dialogue with the governments of the states they live in.

¹ Council Directive 2000/43/EC of 29 June 2000.

- Roma NGOs/associations should manifest themselves in the various EU fora and lobby for inclusion of Roma issues in general EU programmes.
- Roma NGOs/associations should co-operate with legal experts to articulate in strict legal terms how the Geneva Conventions rights should apply to the Roma.
- Roma NGOs/associations should lobby their governments to adopt into their national laws the EU directive on equal treatment of all people, social protection, and social advantages.

Recommendations for specific action to be taken in co-operation between Romani organizations, the OSCE participating States and CPRSI:

- A team composed of Roma and non-Roma should evaluate the funding of projects targeting Roma and review the programmes that have benefited from European financial support. They should work out suggestions for effective projects that are self-sustainable and will have a lasting positive effect – for instance support for Roma entrepreneurs - in several countries.
- A panel of independent journalists should be assembled with the task of investigating, documenting and publishing information about existing discrimination of Roma in various OSCE participating states.
- A central institution should be set up, perhaps in Brussels, to deal with Holocaust reparations money, combating racism and discrimination and promotion of Romani language and cultural affairs.