

Access to Civil Documentation and Registration in South Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration

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Section I State of play

I. 1. Overview

It is estimated that over 20,000 people in South Eastern Europe lack basic civil registration and documentation and may be of undetermined nationality, at risk of statelessness or stateless. A significant proportion of these belong to Roma, Ashkali and Egyptian communities, especially those living in informal settlements and in extreme poverty. Their lack of civil registration and documentation is a result of societal marginalization, compounded by factors related to the dissolution of the former Socialist Federal Republic of Yugoslavia (former SFRY) and displacement. The obstacles to obtaining civil registration and documentation, including complex evidentiary requirements, have been cyclic and systemic, as a person with few or no documents will find it harder to obtain more or any documents. Effectively, this means that thousands of people across the former SFRY remain legally invisible, lacking papers to prove their existence or nationality and unable to exercise their rights.

In October 2011, Bosnia and Herzegovina, Croatia, Kosovo*, Montenegro, Serbia and the former Yugoslav Republic of Macedonia alongside the international community participated in the Zagreb Conference on the Provision of Civil Status Documentation and Registration in South Eastern Europe. The participants endorsed the recommendations of the “Zagreb Declaration on the Provision of Civil Status and Registration in South East Europe” (Zagreb Declaration) (see page 6). This report aims to renew the original call to action and takes stock of the progress so far. The report principally draws upon information provided by these Governments on the request of the Organization for Security and Co-operation in Europe High Commissioner on National Minorities (OSCE HCNM), the United Nations High Commissioner for Refugees (UNHCR) and the European Commission. Civil society, including members of the Western Balkans Legal Aid Network, and independent research were also consulted during the drafting process.

Since the Conference in October 2011, numerous developments at the regional and national levels have contributed towards implementing many of the recommendations of the Zagreb Declaration. This includes legislation facilitating registration and the acquisition of civil documentation and increased bilateral co-operation. However, as discussed below, much remains to be done to solve these problems. This includes the need to collect reliable data on the populations concerned.

In addition to implementing the recommendations of the Zagreb Declaration, the States concerned should accede to the 1961 Convention on the Reduction of Statelessness. An overview of the State Parties to these Conventions can be found in Appendix 2 (see page 456).

* This designation is without prejudice to positions on status, and is in line with United Nations Security Council Resolution 1244/1999 and the International Court of Justice Opinion on Kosovo’s declaration of independence.

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A brief review of the steps taken by each State concerned follows:

I. 1. i. Bosnia and Herzegovina

Bosnia and Herzegovina has an estimated 4,500 people with undetermined nationality who lack civil registration and documentation, a significant majority of whom are Roma. Amendments to the laws on civil registries at the entity level and in the Brčko District have facilitated immediate and subsequent birth registrations. The legal framework has also been strengthened to provide maternal healthcare, which should promote hospital births and thus reporting. However, harmonizing the various laws on civil registries between the different administrative levels and implementing them consistently remain challenges. Still pending are a national co-ordination mechanism and a solution to provide civil registration, documentation and lawful residence to individuals with undetermined nationality.

I. 1. ii. Croatia

Croatia has an estimated 2,886 people who are either stateless or of undetermined nationality. A large proportion of these are believed to be Roma from other parts of the former SFRY who are long-term residents of Croatia but lack civil registration, documentation and lawfully recognized residence status. In 2012, the Government adopted the National Strategy for Roma Inclusion 2013–2020, which aims to regulate the status of all Roma with firm ties to Croatia by 2020. The full implementation of its 2013 Action Plan, including establishing mobile teams, will be a key to achieving progress. The 2011 amendments to the Law “on Citizenship” and the introduction of the 2012 Law “on Foreigners” and its 2013 amendments relaxed the requirements for acquiring residence permits and, subsequently, nationality; it remains to be seen how these will be implemented. However, these legislative amendments do not provide a comprehensive solution. Croatia still has to establish a national co-ordination mechanism.

I. 1. iii. Kosovo

There are no reliable estimates on the number of Roma, Ashkali and Egyptians who lack civil registration and documentation in Kosovo. Kosovo adopted a Law “on Civil Status” in 2011 and bylaws regulating subsequent and re-registration of birth in 2012. In 2013, Kosovo introduced the birth extract, a form of civil documentation unique to the region which greatly facilitates the acquisition of civil status documentation by representing four documents in one. The new Law “on Civil Status”, along with its bylaws, represents a significant development of the framework for civil registration in Kosovo, and an improvement over previous legislation. It remains to be seen whether implementation of these Laws is consistent in practice. Kosovo has demonstrated its willingness to engage bilaterally with Serbia and Montenegro to improve access to civil registration. This includes an agreement according to which the European Union Rule of Law Mission in Kosovo (EULEX) certifies dislocated registries in Serbia and hands them over to the Civil Registration Agency in Kosovo.

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I. 1. iv. Montenegro

According to the 2011 census, 4,312 people reported that they did not have any citizenship. Only 841 of these indicated they had gone to Montenegro to flee war or related reasons. Based on the census, it is estimated that 3,383 people had no or undetermined nationality and lacked civil registration and documentation at the end of 2012. Fewer than 40 per cent of these belong to Roma, Ashkali or Egyptian communities living in informal settlements. To address the situation of Roma displaced from Kosovo, the Government has taken measures to facilitate access to permanent residency status. However, many challenges remain. For example, many will still need to obtain civil registration and documentation from Kosovo and Serbia to obtain residency status; others will need to subsequently register their birth in Montenegro. However, the necessary amendments to the Law “on Non-Contentious Procedures” to facilitate subsequent registration have not been adopted yet. Montenegro has already taken some steps to facilitate the acquisition of documents in its capacity as a Chair of the Regional Technical Working Group on Civil Documentation (Working Group on Civil Documentation), established under the Sarajevo Declaration Process, but much work is still needed.

I. 1. v. Serbia

In Serbia, an estimated 8,500 Roma need assistance to access civil registration and to acquire identity documentation. In 2011 and 2012, Serbia adopted legislative amendments to facilitate civil registration. Notably, this includes amendments to the Laws “on Non-Contentious Procedure”, “on Permanent and Temporary Residence” and “on Administrative Taxes”. In 2012, Serbia established a national co-ordination mechanism by signing a Memorandum of Understanding (MoU) with the Office of the Ombudsman and UNHCR. The Management Board and the Technical Working Group established under this MoU involve a wide range of stakeholders and have already implemented training and awareness-raising activities on the new amendments at the municipal and national levels. It remains to be seen whether the intended effects of these amendments are realized in practice.

I. 1. vi. The former Yugoslav Republic of Macedonia

There are 905 people in the former Yugoslav Republic of Macedonia known to have problems accessing civil registration and documentation and have undetermined nationality. Since agreeing to the recommendations of the Zagreb Declaration, the Government has established an inter-ministerial working group on civil registration and documentation issues and taken steps to identify and assist people without documentation. A Memorandum of Understanding between the Ministry of Labour and Social Policy and the Macedonian Young Lawyers Association (a non-governmental organization (NGO) providing legal aid) has increased access to legal aid. However, the legal and administrative framework still lacks systemic solutions to help people overcome the obstacles to obtaining civil registration and documentation, especially among long-term habitual residents, a majority of whom are Roma.

I. 2. The Zagreb Declaration on the Provision of Civil Status and Registration in South East Europe

*The Zagreb Declaration
on the Provision of Civil Status and Registration in South East Europe
27 October 2011*

We, the participants of the Conference on the Provision of Civil Status Documentation and Registration in South Eastern Europe (Zagreb, 26–27 October 2011), taking into account fundamental human rights obligations and relevant international instruments on statelessness, as well as aspirations towards European integration, propose and recommend to consider the following principles:

I. At the local level:

1. Remove all obstacles to the documentation and registration needs, particularly of vulnerable persons. This may include legal reforms, adequate residence and documentation requirements, the waiving of fees, facilitated birth and subsequent registration and the issuance of identity cards.
2. Establish a national coordination mechanism (e.g., MoU) amongst the various stakeholders for which a focal point should be designated.
3. Strengthen relevant municipal services, in particular that of civil registration and social welfare centres, to identify and address registration and documentation issues.
4. Carry out concrete efforts to identify and assist all persons at risk of statelessness, especially those who need to be registered and who lack documentation.
5. Conduct activities in co-ordination with civil society and use mobile teams for outreach and registration.
6. Develop awareness campaigns to sensitize on the need to be registered at birth and explaining the procedures.
7. Actively involve Roma and other minority groups throughout the entire process.
8. Promote universal birth registration, in specific cases by simplifying evidentiary requirements in administrative and judicial procedures necessary to complete registration.

II. At the regional level:

Enhance co-operation at the regional level. To this end, examine the role, structure and methods of the Sarajevo Process Working Group on Civil Documentation in order to further a regional initiative to:

1. Identify and address the regional aspects of the provision of civil documentation, registration and the risk of statelessness and develop benchmarks to assess progress.
2. Conduct awareness raising activities amongst potential target groups and stakeholders.
3. Ensure co-operation and exchange of information among stakeholders including responsible authorities and civil society representatives.
4. Establish adequate, accelerated and facilitated procedures to assist civil documentation and registration.
5. Encourage the reciprocal recognition of documents.
6. Further develop co-operation with relevant institutions outside the region to overcome issues related to identification and documentation of persons originating from the region.
7. Follow up during the March 2012 meeting of the Roma Decade in Skopje.

Section II The Zagreb Declaration in context

II. 1. Background and follow-up

On the joint initiative of the OSCE HCNM, UNHCR and the European Commission, the Regional Conference on the Provision of Civil Documentation and Registration in South Eastern Europe was hosted by Croatia on 26 and 27 October 2011. The conference discussed the potential consequences of States not taking adequate measures to provide personal documents to all people on their territory who lack basic civil registration and documentation or may be of undetermined nationality or at risk of being stateless. Such consequences include people being unable to access their rights and the risk of some communities becoming marginalized. This can result in people deciding to move to countries in the European Union (EU) in the search for a better life, which further complicates efforts to resolve documentation issues. The Conference was organized to both renew States' commitments in the area of civil registration and documentation and to step up their efforts to resolve these issues in the region. The outcome was a set of recommendations referred to as the "Zagreb Declaration". The recommendations encourage States to reach out to affected communities and to involve them in their efforts to resolve these issues. The participants to the Zagreb Declaration agreed to work on identifying and removing all obstacles, practical or legal, to people's documentation and registration needs. The Zagreb Declaration also highlighted the regional aspects of the problem and the need for bilateral co-operation to help people who do not live in their place of origin due to the conflict or other reasons related to the dissolution of the former SFRY.

At the political level, several States pledged their commitment to the Zagreb Declaration at the UNHCR Ministerial Intergovernmental Event in Geneva in November 2011 to mark the anniversaries of the 1951 Convention Relating to the Status of Refugees and the 1961 Convention on the Reduction of Statelessness in Geneva.¹

The participants of the Zagreb Declaration agreed to take stock of the progress made in the context of the former Yugoslav Republic of Macedonia's Presidency of the Decade for Roma Inclusion 2005–2015. In this context, the Government of the former Yugoslav

¹ Croatia specifically reconfirmed its commitment to the Zagreb Declaration in its pledge. It further committed to facilitate access to civil registration and documentation, with particular attention to Roma, and in co-ordination with the rest of the region. Montenegro pledged, *inter alia*, to: "harmonize national legislation and procedures related to refugees and statelessness [...] and to actively co-operate with other countries to ensure reduction of statelessness" and to "facilitate and accelerate procedures for obtaining civil documentation both at the national level, and in co-operation with their countries of origin." See UN High Commissioner for Refugees, *Ministerial Intergovernmental Event on Refugees and Stateless Persons – Pledges 2011*, October 2012, pp. 65–66 and 96, available at: <http://www.refworld.org/docid/50aca6112.html>.

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Republic of Macedonia hosted a conference on Solving the Problems of People without Documents and Access to Rights (Skopje Conference) on 10 and 11 April 2012.²

The Skopje Conference was useful in terms of exchanging information among parties in the region and providing insight into how this issue is addressed in some EU countries (Bulgaria, Romania, Poland and the United Kingdom). The Skopje Conference also called on participants to continue implementing the recommendations of the Zagreb Declaration. With a view to reinforcing regional co-operation, the Skopje Conference conclusions emphasized that: (1) Ministries of Foreign Affairs should be involved in the regional co-operation process to ensure that they provide the necessary documentation via their diplomatic consular offices and (2) all parties in the region (ministries, NGOs and international donors) need to co-operate and exchange information on measures taken to facilitate the registration of Roma (see Appendix 4, page 48).

II. 2. Other regional initiatives

II. 2. i. Sarajevo Declaration Process

The Sarajevo Declaration Process originates in the Sarajevo Declaration of January 2005. It is a regional initiative that aims to resolve the protracted refugee situation in the Western Balkans, including refugees from the former SFRY (1991–1995) and displaced people from Kosovo and Montenegro (1999). In March 2010, the Ministers of Foreign Affairs of the four participating countries (Bosnia and Herzegovina, Croatia, Montenegro and Serbia) decided to address the remaining displacement issues by intensifying regional co-operation, including with regard to data on refugees, housing and property, and civil registration (Belgrade Declaration, March 2010). The participants renewed their commitments at the Ministerial Review Conference on Solving the Refugee Situation in the Western Balkans (Ministerial Review Conference) in November 2011 and approved an agreement on a joint regional programme to reach durable solutions.

The Sarajevo Declaration Process addresses issues of displacement in a comprehensive manner. The four participating States have acknowledged the need for bilateral support in the provision of civil documentation for refugees and others displaced during the conflicts of the 1990s and the dissolution of the former SFRY. To facilitate this Process, the Working Group on Civil Documentation was established in 2011 and has met six times under the leadership of Montenegro. Practical issues related to procuring and mutually recognizing civil documentation have been discussed and some results have been achieved with the assistance of international donors. For example, international donors have organized trips for displaced people living in

² The meeting was attended by representatives of participants to the Roma Decade, including participants of the Zagreb Conference and international stakeholders. See the report of the conference at: http://www.romadecade.org/cms/upload/file/9385_file3_conference-report.pdf

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Montenegro but originally from Kosovo to travel to Serbia to obtain the documents they need to regularize their status as foreigners in Montenegro.³

II. 2. ii. EU social inclusion seminars on Roma issues

Results achieved as part of the Sarajevo Declaration Process have also been important for fulfilling the EU's conditionality criteria. To keep the process moving, the EU co-organized a series of national "Social Inclusion Seminars on Roma Issues" in EU candidate countries and potential candidates throughout the region from 2011 to 2013.⁴ The objective of these Seminars is to foster dialogue with governments and other relevant stakeholders and address critical issues related to Roma integration, including civil documentation and registration. The national authorities of EU enlargement countries and potential candidates need to demonstrate their commitment to Roma integration, particularly by facilitating access to personal documents and registration. Each seminar produces joint operational conclusions adopted between the government and the European Commission. These have included recommendations in the area of civil registration and documentation in all candidate countries and potential candidates to date.

II. 3. Shared regional aspects to civil registration and documentation

II. 3. i. Consequences of the dissolution of the former SFRY

The dissolution of the former SFRY and the conflicts of the 1990s, including the 1999 conflict in Kosovo, displaced many people and caused administrative havoc to the former SFRY's civil registry system.⁵ While many people have been able to reconstruct their personal records in the intervening years, others, especially the most vulnerable and socially and economically disadvantaged, still lack valid personal records and documents. Bosnia and Herzegovina, Croatia, Kosovo, Montenegro, Serbia and the former Yugoslav Republic of Macedonia are still dealing, to varying degrees, with the consequences of the disruption, and in some cases destruction, of the civil registry system. These events affected these State's citizens as well as people originating from other parts of the former SFRY.

³ In 2013, 41 people originally from Kosovo but displaced in Montenegro travelled to Kragujevac and Nis in Serbia to obtain personal documentation necessary to regulate their stay as foreigners in Montenegro. This was funded through a project with the OSCE Office for Democratic Institutions and Human Rights (ODIHR). There have also been 14 bus trips carrying a total of 547 passengers to procure documents in Kosovo since 2011.

⁴ Roma Seminars have been held in EU candidate countries Montenegro, Serbia and the former Yugoslav Republic of Macedonia, as well as in potential candidates Bosnia and Herzegovina and Kosovo. Given Croatia's recent accession to the EU on 1 July 2013, the EU has used a different approach in Croatia. See the chapter on Croatia for further details.

⁵ Montenegro's independence from the State Union of Serbia and Montenegro in 2006 and Kosovo's declaration of independence from Serbia in 2008 created new legal realities and further complicated the problems of access to civil registration for people living on the territories of Montenegro and Kosovo.

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The challenges for people who have been displaced are even more difficult to overcome because they have to obtain civil registration and documentation from their place of origin. Members of marginalized groups often require financial assistance and professional support to navigate the often lengthy and complicated procedures. The process is even more complex for people who were not properly registered at birth and have to start by registering their birth in the place they were born.

Bilateral agreements on mutual legal assistance in civil matters are in place among the participants of the Zagreb Declaration. This enables mutual recognition of documents issued by State bodies without the need for additional authorization and enables people to remotely acquire certificates from registry books. However, in practice these agreements do not always function effectively, especially if the request is complicated. People with complex requests require free legal assistance to support their efforts to acquire civil registration and documentation, especially people without financial means. To tackle this issue, the Western Balkans Legal Aid Network (WeBLAN) was established in 2012 as a regional network of NGOs providing legal aid. It has been instrumental in ensuring co-operation and providing legal expertise to assist Roma, Ashkali and Egyptians acquire civil registration.

II. 3. ii. Similarities in birth registration procedures

Because the participants to the Zagreb Declaration were originally one country, they have similar civil registration systems. This facilitates the sharing of good practices and solutions designed to promote and ensure civil registration and documentation.

The right to be registered immediately after birth is a fundamental human right. Birth registration is essential for States to determine nationality and provide access to other forms of civil registration and identity documentation.⁶ Generally speaking, birth registration in the region is not completed upon the initial report of the birth, which hospitals are legally required to submit to the local registry office within a specific timeframe. Registration legally requires a second step, which is left to an authorized person, normally a parent or a legal guardian appointed by a social welfare centre. The authorized person has to provide the registry office with additional documentation and evidence, including that related to the identity and civil status of both parents, within a period of 30 days to two months. Deadlines, documents and other evidence required vary in the region. If this second step is not completed within the required timeframe, the person will have to be registered under a process of subsequent birth registration.

⁶ The right to be registered “immediately after birth” is guaranteed in the Convention on the Rights of the Child (CRC) and the International Covenant on Civil and Political Rights (ICCPR). Bosnia and Herzegovina, Croatia, Montenegro, Serbia, and the former Yugoslav Republic of Macedonia have succeeded to the CRC and the ICCPR, which were signed and ratified by the former SFRY in 1971 and 1991, respectively. The Kosovo authorities have also undertaken to abide by the provisions/standards of a variety of international treaties.

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Completing the second step of birth registration can be difficult for parents who lack civil registration and documentation.⁷ As a result, some parents miss the deadline and the child must be registered through the process of subsequent birth registration. In some cases, this procedure requires additional documentation and evidence, which further complicates efforts to register the birth.

II. 3. iii. Affected communities

A common feature across South Eastern Europe is that Roma, Ashkali and Egyptians are disproportionately affected by the lack of birth registration and other forms of civil registration and identity documents. For those who miss birth registration deadlines, the procedures and evidentiary requirements to register subsequently can be complicated and difficult. For example, many Roma are trapped in a cycle in which the parents' lack of documentation, especially birth registration, obstructs registration of their children. Thus successive generations of Roma remain undocumented due to a combination of factors that include lack of awareness, misunderstanding of the importance of birth registration, mistrust of public institutions (a result of discrimination) and the sometimes undefined and inconsistent, and even occasionally discretionary, practices of registry offices. Language barriers are also common obstacles. In addition, many undocumented women give birth outside the healthcare system because they cannot afford hospital fees. This means their children miss the primary safeguard of having a hospital report the birth. They are also unlikely to be able to meet the requirements for the second step of reporting the birth of the child and completing the registration themselves.

II. 3. iv. Lack of relevant data

There are no precise figures on the number of people without documents. UNHCR and other non-governmental actors have carried out various surveys and mapping exercises covering different categories of people, including those without documentation, those who are stateless, those with undetermined nationality, etc. Censuses can be a valuable source of relevant data. In 2011, censuses were conducted in all parts of the region except the former Yugoslav Republic of Macedonia, where it was planned but not carried out, and Bosnia and Herzegovina, where it will take place in October 2013. However, because marginalized people tend to avoid official data-collection exercises, the figures related to Roma are unreliable. Census results and estimates of the population without documents are reported under the "Population profile" section for each participants of the Zagreb Declaration (see Section II: The Zagreb Declaration in context, page 7).

⁷ Some parents are unable to produce the required evidence for registration due to their own lack of identity documentation. For example, in some cases, people under the age of legal majority cannot obtain photo identification. They may lack marriage certificates and sometimes face higher evidentiary requirements for births out of wedlock. Additional burdens include high administrative fees and associated travel costs to obtain evidence from civil registries abroad. These compound factors, particularly the administrative and travel costs, can be insurmountable.

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While the lack of accurate figures on how many people lack civil registration and documentation remains a major obstacle to designing effective measures to tackle these issues, any data collection exercises must respect international standards in the field of personal data protection as well as the right to self-identification.

Section III Review of measures taken by participants to the Zagreb Declaration

III. 1. Bosnia and Herzegovina

III. 1. i. Population profile

Pending the results of the census in October 2013, statistics on the population without documentation can be deduced from the Ministry of Human Rights and Refugees (MHRR) Registration of Roma Needs in Bosnia and Herzegovina conducted in 2009 and 2010. According to MHRR estimates, there are approximately 35,000 Roma in Bosnia and Herzegovina, seven per cent of whom have no birth registration. Current estimates by UNHCR-led research indicate that there are around 4,500 people with undetermined nationality, a significant majority of whom are Roma.⁸

Roma from other parts of the former SFRY who lived in Bosnia and Herzegovina before the war should have benefited from safeguards designed to prevent loss of nationality as a result of the dissolution of the former SFRY.⁹ However, many Roma living in Bosnia and Herzegovina before the war but originating from other parts of the former SFRY were unable to confirm or acquire nationality under the facilitated naturalization procedures because they had not formally registered their residence in Bosnia and Herzegovina, as they did not have proof of birth registration or civil status documents or were simply not aware of the procedures. Current legislation allows for registration of permanent residence for a period in the past (subsequent registration of permanent residence) and according to UNHCR, some people have managed to subsequently register their prior permanent residence and thereby acquire citizenship.

⁸ Under UNHCR leadership, teams of legal-aid implementing partners, Roma mediators and local NGOs working in the field undertook an exercise to map the people in need of documentation throughout the country. The estimated figure of 4,500 people with undetermined nationality is based on an estimate of people living in Bosnia and Herzegovina who have not yet had their citizenship formally recognized through the issuance of documents proving nationality. Efforts are underway to more accurately establish the number of people of concern under UNHCR's statelessness mandate. Bosnia and Herzegovina has planned a census for October 2013. See UN High Commissioner for Refugees, *Displacement, The New 21st Century Challenge*, 19 June 2013, available at: <http://www.refworld.org/docid/51c169d84.html>.

⁹ The Law "on Citizenship of Bosnia and Herzegovina" (and its entity-level citizenship laws) contains safeguards against statelessness as a result of the dissolution of the former SFRY. See *Official Gazette of Bosnia and Herzegovina*, Nos. 4/97, 13/99, 41/02, 6/03, 14/03, 82/05, 43/09 and 76/09. See also: "Instruction on Subsequent Registration in Birth Registry Book of Persons who Acquired Citizenship of the Republic of Bosnia and Herzegovina in Accordance with the Law on Citizenship of Bosnia and Herzegovina", *Official Gazette of Bosnia and Herzegovina*, No. 27/00.

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III. 1. ii. Updates to the legal and administrative framework since the Zagreb Declaration

(1) Legal and administrative framework for civil registration and documentation

The legal and administrative framework in Bosnia and Herzegovina is highly complex, with legislation at the State and entity levels (the Federation of Bosnia and Herzegovina (with ten cantons) and the Republika Srpska (with 63 municipalities)) as well as the Brčko District. Legislation governing registry books is set at the entity level. Each entity and the Brčko District have separate laws on registry books and they are not harmonized.¹⁰ Further complicating the issue, implementation of these laws varies within entities at the canton and municipal levels.

Since the Zagreb Conference, Bosnia and Herzegovina has introduced important changes to its laws on registry books. The Federation of Bosnia and Herzegovina adopted its own Law “on Registry Books” in 2012 and the Republika Srpska adopted amendments to its 2009 Law “on Registry Books” in April 2013.

The Federation of Bosnia and Herzegovina’s 2012 Law “on Registry Books” introduces many improvements to the civil-registration process. The developments, which include nine bylaws, are in line with the Zagreb Declaration and facilitate immediate and subsequent birth registrations through practical mechanisms, such as strengthening the roles performed by social welfare centres. For example, the new Law obligates social welfare centres to ensure that children are registered within the 30-day deadline if their parents do not do so. The jurisdiction in which social welfare centres are responsible (in cases where the place of birth is different from the place of the mother’s residence) is currently being clarified in a new draft Law “on Personal Names of the Federation of Bosnia and Herzegovina”. The Law “on Registry Books” also gives competence to social welfare centres to appoint a guardian to assist adults to register their births if they need support.

Importantly, the Law “on Registry Books of the Federation of Bosnia and Herzegovina” obligates anyone who comes across a person without birth or citizenship registration to report that fact to the relevant authorities so the person can be registered. Furthermore, when a child is born at home without the presence of a health professional and no one present is able to report the birth, any other person who is aware of the birth is obligated to report it to the relevant authorities. In addition, one of the 2012 bylaws to the Law “on

¹⁰ Law “on Registry Books of the Republika Srpska” (2009), *Official Gazette of the Republika Srpska, Bosnia and Herzegovina*, No. 20/09; Law “on Registry Books of the Brčko District” (2011), *Official Gazette of the Brčko District, Bosnia and Herzegovina*, No. 58/11; and Law “on Registry Books of the Federation of Bosnia and Herzegovina” (2012), *Official Gazette of the Federation of Bosnia and Herzegovina*, No. 37/12.

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Registry Books” makes it possible to register the birth of a child of undocumented parents based on witness statements.¹¹

The new Law “on Registry Books of the Federation of Bosnia and Herzegovina” also removes expiry dates from birth, marriage, citizenship and death certificates. Until recently, this was a problem because to register the birth of a child some registrars required mothers to provide a copy of their birth certificate that had been issued within the past six months to check whether she had changed her marital status or name. This used to mean that mothers had to go to the office where their birth was registered, which could entail travel costs and time. It will be important to ensure that previous practices and requirements do not resurface in the future. In addition, although poor individuals are exempt from birth registration fees, they are still applied in some locations, according to UNHCR.

On 25 April 2013, the Republika Srpska adopted amendments to its 2009 Law “on Civil Registry Books”. This includes provisions to record people born in the Federation of Bosnia and Herzegovina but holding citizenship of the Republika Srpska in its basic registers of citizens. It also provides for the registration of detailed data on parents, including their names and dates and places of birth. The Law also now includes a requirement to transfer records to electronic registries by 30 June 2014, which should facilitate decentralized access to civil documentation from any registry office in the Republika Srpska. This means, for example, that people no longer have to travel to the registry office where their birth was registered to obtain a birth certificate.

The Law “on Registry Books of the Republika Srpska” also removes the expiry dates from birth, marriage, citizenship and death certificates and makes social welfare centres responsible for registering children if their parents fail to do so.

(2) Other relevant laws

The Law “on Personal Identification Numbers” lapsed in January 2013. The Republika Srpska and the Federation of Bosnia and Herzegovina have not yet agreed on a new law, which means children born since February do not have a personal identification number (known as a “JMBG”), which is essential, among other things, for health insurance and to acquire important documents, such as passports. Following protests in early June 2013, the Government reached an interim deal to resume issuing identification numbers for the next six months.¹²

Hospitals throughout the country report approximately 200 births every year to registry offices that later remain unregistered. Home births continue to occur and have a high

¹¹ Article 8(3) states: “exceptionally, if the mother or father of the child does not possess any document [e.g. ID card, travel document or birth/marriage certificate], the basic registrar can take a statement from them, as prescribed by the Law ‘on General Administrative Procedures’”, “Forms for Registration of Birth of the Child and Confirmation of Death”, *Official Gazette of the Federation of Bosnia and Herzegovina*, No. 68/12.

¹² See, for example: www.crisisgroupblogs.org/balkanregatta/2013/06/07/id-politics-sarajevo-protest-shows-a-weakened-state/.

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risk of going unreported and remaining unregistered. Hospital births increase timely reporting of a birth to the competent registry office. At the same time, there may be practical obstacles to hospital births for undocumented people: not all health institutions are familiar with the fact that deliveries of babies in hospitals are not conditioned upon possession of documents and are covered by the general health insurance plan. As a result, health institutions routinely ask Roma women to present health insurance booklets, which not all women have.

Good practice: promoting birth registration through maternal healthcare

In 2012, the efforts of NGOs, UNHCR and local governments resulted in legislative reforms to provide access to healthcare for pregnant women in “social need”.

The NGO Vaša Prava, supported by UNHCR, promoted reform of the healthcare legislative framework in an effort to increase birth registration among marginalized groups. The Law “on Health Protection of the Federation of Bosnia and Herzegovina” prescribes that pregnant women who are not insured have the right to maternal healthcare during pregnancy and for six months following birth. However, the Law does not regulate the body and procedure to access this right. Vaša Prava requested that the Sarajevo Canton issue an instruction to clarify both the competent body and procedure for recognizing the right of pregnant women to healthcare.

On 23 September 2011, the Ministry of Labour and Social Policy, Displaced Persons and Refugees of the Sarajevo Canton issued an Instruction providing the competent body and procedure to recognize the right to healthcare to persons in “social need” not otherwise insured, which can include pregnant women. Laws on social protection of the Federation of Bosnia and Herzegovina and the Sarajevo Canton define “social need” as “a situation of a person or a family following war, natural disaster, economic crisis, psycho-physical conditions or other reasons, which cannot be improved without other persons’ assistance. It can be caused by migration, repatriation, death of a family member, etc.” The social protection service establishes through social anamnesis in each individual case whether a person is in a social need.

In May 2012, the Ministry’s Instruction was incorporated in the text of amendments (article 141b) to the Law “on Social Protection, Protection of Civil Victims of War and Protection of Families with Children” (*Official Gazette of the Sarajevo Canton*, No. 26/12).

To avoid these problems, some Roma women use the health booklets and health insurance of another person, usually a friend or family member. Hospitals then register the wrong names of the parent on their birth record. The only way to remedy this situation is through civil litigation to establish maternity, which is lengthy and costly, and which most Roma cannot afford.

In many cases, parents whose children are born at home miss the birth registration deadline of 30 days. When this happens, the unregistered person will need to go through the more complicated process of subsequent birth registration later in life.

III. 1. iii. National co-ordination and strengthening municipal services

While there have been positive examples of co-ordination among relevant international and non-governmental stakeholders at both the national and entity levels, Bosnia and

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Herzegovina has not yet set up a national co-ordination mechanism for civil documentation and registration, as recommended in the Zagreb Declaration.

III. 1. iv. Bilateral and regional co-operation

Roma originating from Kosovo frequently face problems obtaining basic civil registration and personal documentation from Bosnia and Herzegovina. Notably, if they were unregistered at birth, they need to complete subsequent birth registration in dislocated registry offices in Serbia to regulate and obtain proof of their civil status, which is necessary for obtaining residence in Bosnia and Herzegovina and establishing nationality.¹³

In the context of the Working Group on Civil Documentation of the Sarajevo Declaration Process, Bosnia and Herzegovina is working to facilitate the issuance of passports for its citizens residing in Croatia and Montenegro through its embassies in those countries. This will ensure that affected individuals can apply for permanent residence and regularize their status in Croatia and Montenegro. (See “Bilateral and regional co-operation” in the chapter on “Montenegro”, page 29). Financial support is also available; for example, refugees in Montenegro are eligible for a 50 per cent discount on the fee for issuing a Bosnia and Herzegovina passport. However, even the reduced fee is very high for refugees and many cannot afford it. Other support has included an initiative on UNHCR’s request in which the Ministry for Human Rights and Refugees helped approximately 50 vulnerable individuals to acquire other documents required to obtain a Bosnia and Herzegovina passport, such as birth and citizenship certificates.

¹³ For more information on recent improvements to the subsequent birth registration procedures in Kosovo and Serbia, see pages 23 and 31 respectively.

III. 2. Croatia

III. 2. i. Population profile

The various estimates of the number of people with undetermined nationality in Croatia are difficult to reconcile. During the 2011 census, a total of 2,083 persons self-declared as having undetermined citizenship and a further 713 persons self-declared as stateless. According to official data from the Ministry of the Interior from 2011, there are 21 stateless people, seven of whom have permanent residence and 14 of whom have temporary residence, and 56 people with undetermined or unknown citizenship, 41 of whom have permanent residence and 15 of whom have temporary residence. UNHCR's statistics for the end of 2012 put the number of people who are either stateless or of undetermined nationality at 2,886.¹⁴

According to the 2011 census, there are 16,975 Roma in Croatia, comprising less than one per cent of the population. The National Strategy for Roma Inclusion for the period 2013–2020 (National Strategy) adopted in November 2012 recognizes that there is “not even an approximately accurate statistical figure on the number of Roma in Croatia who do not have their status resolved (temporary residence, permanent residence, citizenship) [...] the figure of 1,500 is the lowest certain estimated number of Roma who, viewed broadly, do not have regulated status in Croatia. The actual number is certainly higher.”¹⁵

Croatia reports that since the adoption of the Zagreb Declaration in 2011, 136 Roma have received permanent resident identity cards and 35 have been granted Croatian citizenship. In addition, 13 Roma were given guarantees of admittance to Croatian citizenship under the condition that within two years from the date of the guarantee they provide the Ministry of the Interior with proof of renouncing their current citizenship. As of April 2013, 69 Roma had temporary residence status on humanitarian grounds and 85 held temporary residence permits for the purpose of family reunification. In 2012, temporary residence on humanitarian grounds was given to 83 Roma and in 2011, to 54 Roma.

These numbers provide a complicated picture of an undefined group of people who reside in Croatia and who may lack civil registration and documentation. According to UNHCR, a majority of Roma who lack documentation in Croatia were born in other Republics of the former SFRY, some of whom were living on the territory of Croatia at the time of its independence. However, following the dissolution of the former SFRY, the 1991 Law “on Croatian Citizenship” granted citizenship only to people with Croatian Republican citizenship and provided facilitated access to citizenship only to ethnic-Croats. The 1991 Law “on Movement and Stay of Foreigners” offered a facilitated

¹⁴ The figure is based on data from the 2011 census. It includes 36 people registered as stateless and 54 people registered as of undetermined nationality by the Government of Croatia. See UN High Commissioner for Refugees, *Displacement, The New 21st Century Challenge*, 19 June 2013, available at: <http://www.refworld.org/docid/51c169d84.html>.

¹⁵ Croatia National Roma Inclusion Strategy for the period 2013–2020, adopted 29 November 2012.

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procedure to non-ethnic-Croats who habitually resided in Croatia at the time of independence (8 October 1991).¹⁶ They were granted the status of permanently residing foreigners and were entitled to Croatian citizenship, provided that they remained in the country or registered their residence abroad with the Croatian consular office. However, only a limited number of Roma benefited from these short-lived provisions and many have still not regulated their residence status. Some Roma are not in a position to travel to their place of origin to obtain civil registration and documentation because they cannot afford the travel or the administrative fees. Moreover, some were never registered at birth, and face the additional hurdle of subsequent registration in their place of birth. These Roma have been unable to naturalize as Croatian citizens because they are unable to register their residence without civil registration and documents and cannot demonstrate that they meet the residence requirements for naturalization under the Law “on Croatian Citizenship”.

III. 2. ii. Updates to the legal and administrative framework since the Zagreb Declaration

(1) Legal and administrative framework for civil registration and documentation

There have been no recent changes or amendments to the legal and administrative framework to facilitate civil registration. The Law “on Civil Registries” requires parents to register all children immediately after birth.¹⁷ A fine is still imposed on a person who does not report the birth or name of a child within the proscribed timeframe.¹⁸ The Family Law and the Law “on Civil Registries” permit a certain amount of flexibility for registering a child in the birth registries if the parents lack the required evidence.¹⁹ In practice, NGOs indicate that registry offices work proactively to ensure that all births are registered, even in complicated cases. For example, if one of the parents is undocumented and cannot produce the evidence required, registry offices can accept a notarized statement on identity signed by two people attesting to the identity of the individual to enable registration.

Registry offices enjoy good co-operation with social welfare centres in following up on individual cases where the deadline for registration has passed. However, if an undocumented woman gives birth outside a hospital, the birth might not be reported and if the birth is not detected by a social welfare centre, the birth of the child may remain unregistered.²⁰

¹⁶ Law “on Movement and Stay of Foreigners”, 1991. This Law was superseded in the same year by the “Law on Foreigners” which has subsequently been further modified.

¹⁷ Law “on State Registries”, *Croatian Official Gazette*, No. 96/93, articles 12 and 13.

¹⁸ Law “on State Registries”, *Croatian Official Gazette*, No. 96/93, article 46.

¹⁹ Family Law, *Croatian Official Gazette*, Nos. 116/03, 17/04, 136/04, 107/07, 57/11 and 61/11.

²⁰ In emergencies and life-threatening situations, the State budget covers medical costs for people without health insurance or financial means, under the Law “on Healthcare of Foreigners”. As delivery is considered a life-threatening situation, women are not obliged to cover the costs. Even so, lack of

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(2) Other relevant laws

As mentioned above, the majority of problems related to a lack of civil registration and documentation among Roma relate to people born outside of Croatia and people who do not have the documents necessary to regulate their residence status in the country.

Since the Zagreb Declaration, the Government has adopted amendments to the Law “on Croatian Citizenship” and introduced a new Law “on Foreigners” in January 2012²¹, which was amended in June 2013.²² Although these amended Laws improve access to residency permits, they fail to provide a comprehensive solution for undocumented Roma.

(3) Access to residency status for refugees, returnees and undocumented persons

The 2012 Law “on Foreigners” and its 2013 amendments, together with the Rule Book “on the Status and Work of Foreigners” and its 2013 amendments, and the Law “on Croatian Citizenship”, together with its amendments, greatly facilitate access to temporary and permanent residence status for refugees and for returnees by, respectively, reducing and removing residence and other requirements for permanent residence, paving the way to citizenship.²³

The 2012 Law “on Foreigners” together with the Rule Book “on the Status and Work of Foreigners” provide a potential avenue to temporary residence on humanitarian grounds for undocumented individuals.²⁴ Temporary residence status is renewable on a yearly basis.²⁵ The Law and the Rule Book reduce evidentiary requirements for people seeking temporary residence on humanitarian grounds due to “serious justified humanitarian grounds.”²⁶ Under the Rule Book, an applicant must provide evidence demonstrating the humanitarian grounds, including evidence that the person has resided for many years in Croatia due to extenuating circumstances and has not yet established their residence due to such reasons as poor health or old age.²⁷ Such people are exempted from providing proof of secured means of subsistence and health insurance but must

information and misinformation is a deterrent for some. Home births also happen in cases where the parents fear repercussions for underage “illegal” marriages.

²¹ Amendments to the Law “on Croatian Citizenship” and the Law “on Foreigners”, *Croatian Official Gazette*, No. 130/11.

²² Amendments to the Law “on Foreigners”, *Croatian Official Gazette*, No. 74/13.

²³ Refugees only need three years of continuous temporary residence instead of five and qualifying returnees obtain permanent residence immediately. In addition, both refugees and returnees do not have to meet the criteria of having a valid foreign travel document, means of financial support, health insurance or knowledge of the Croatian language and the Latin script, and the Croatian culture and social system. See Law “on Foreigners”, articles 65(3) and 92–96, *Croatian Official Gazette*, No. 130/11. See also: “Evidentiary requirements for temporary and permanent residence”, Rule Book “on the Status and Work of Foreigners in the Republic of Croatia”, articles 14 and 18, *Croatian Official Gazette*, No. 52/12.

²⁴ Law “on Foreigners”, articles 47 and 65, *Croatian Official Gazette*, No. 130/11.

²⁵ Law “on Foreigners”, article 52, *Croatian Official Gazette*, No. 130/11.

²⁶ Law “on Foreigners”, article 65(5), *Croatian Official Gazette*, No. 130/11.

²⁷ Rule Book “on the Status and Work of Foreigners in the Republic of Croatia”, article 16, *Croatian Official Gazette*, No. 52/12.

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provide a valid travel document from their place of origin. The Law and the Rule Book have removed the previous requirement for applicants for temporary residence to provide a birth certificate and a certificate of non-criminal conviction from their place of origin. The removal of these requirements facilitates access to temporary residence for people who have difficulty obtaining birth registration and other documentation from their places of origin. It remains to be seen how these changes will help undocumented Roma who do not have legal residence in Croatia to acquire temporary residence in practice.

The 2013 amendments to the Law “on Foreigners” were adopted to further align the Law with the EU’s *acquis communautaire*. They prescribe issuing a new “special passport”, which can be provided to foreigners who have legal residence in Croatia and, through no fault of their own, are unable to obtain a national passport. This will provide documentation to otherwise undocumented persons, stateless persons and persons with undetermined nationality on the condition that they have a legal basis for residence (temporary or permanent residence status) in Croatia. The significant change regards the relaxing of the provision for acquiring the status of a permanently residing foreigner. A foreigner who was born on the territory of Croatia, has lived in Croatia since birth and has not regulated his/her status for reasons beyond his/her control may be granted the status of permanently residing foreigner without needing to acquire the status of temporary residence beforehand.²⁸ However, foreigners still need to satisfy legal preconditions for permanent residence, such as possession of a valid travel document, health insurance, sufficient means for support and knowledge of the Croatian language and culture. The amendments to the Rule Book “on the Status and Work of Foreigners” prescribe that birth and habitual residence in Croatia can be proved by birth certificate and school attendance records, a decision on social welfare allowance or similar documents.²⁹

The 2012 Law “on Residence” provides that people without an official address can register at a local social welfare centre or at the address of another person or legal entity that provides accommodation.³⁰ This should facilitate registration of residence for Roma who live in informal settlements and do not have an official address. There was no information related to the implementation of this provision available at the time of writing. Registered residence is required to apply for an identity card. Identity cards are issued to permanent and temporary residents and cost HRK 123 (approximately EUR 16).³¹ Identity cards are required for foreigners and citizens alike, and the cost represents a significant financial burden for poor individuals.

²⁸ Amendments to the Law “on Foreigners”, *Croatian Official Gazette*, No. 74/2013.

²⁹ Amendments to the Rule Book “on the Status and Work of Foreigners in the Republic of Croatia”, *Croatian Official Gazette*, No. 81/2013.

³⁰ Law “on Residence”, article 6, *Croatian Official Gazette*, No. 144/2012.

³¹ Rule Book “on the Status and Work of Foreigners in the Republic of Croatia”, article 64(2), *Croatian Official Gazette*, No. 52/12.

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- (4) Lack of facilitated naturalization procedure for long-term habitual residents with unregulated residency status

Long-term habitual residents of Croatia still do not benefit from facilitated citizenship procedures following the dissolution of the former SFRY. The amendments to the Law “on Croatian Citizenship” does not offer any new avenues to access citizenship for long-term residents who have not regulated their residence status, such as undocumented Roma, stateless persons or persons of undetermined nationality. These amendments actually increased the requirements for naturalization, including by requiring continuous residence (with permanent residence status) of five to eight years.

III. 2. iii. National co-ordination and strengthening municipal services

Although Croatia has not yet established a national co-ordination mechanism for resolving issues, per the Zagreb Declaration recommendations, it plans to enhance co-ordination under the National Roma Inclusion Strategy 2013–2020. In April 2013, the Government adopted an Action Plan that includes three measures to resolve the status of undocumented Roma: (1) establishing mobile teams (implementation underway), (2) establishing information points in all places where Roma live and (3) co-ordinating all stakeholders.

III. 2. iv. Bilateral and regional co-operation

Croatia is working to resolve many issues related to civil registration and documentation in the context of the Sarajevo Declaration Process Working Group on Civil Documentation. The amendments to the Laws “on Croatian Citizenship” and “on Foreigners” contain provisions that facilitate permanent residence status and citizenship for some refugees and returnees in Croatia. Croatia also provides bilateral support through its embassy in Montenegro to facilitate the provision of civil registration documents to Croatian citizens seeking permanent residence in Montenegro (see “Bilateral and regional co-operation” in the chapter on “Montenegro”, p. 27).

III. 3. Kosovo

III. 3. i. Population profile

There are no reliable estimates or figures available on how many people lack civil registration and identity documentation in Kosovo. According to the 2011 census, there are 34,525 Roma, Ashkali and Egyptians in Kosovo.³² Informal estimates from civil society and other sources indicate that approximately ten per cent of Roma, Ashkali and Egyptian communities living in Kosovo lack civil status registration or personal identity documentation.

III. 3. ii. Updates to the legal and administrative framework since the Zagreb Declaration

(1) Legal and administrative framework for civil registration and documentation

There have been significant developments in the legal and administrative framework for civil registration since the Zagreb Declaration. In June 2011, Kosovo approved a new Law “on Civil Status” and in 2012, the Ministry of Internal Affairs and the Civil Registration Agency issued 12 administrative instructions, including two on subsequent registration and re-registration.³³ These two administrative instructions address obstacles facing unregistered people by simplifying procedures and requirements.

In accordance with article 66 of the Law “on Civil Status”, the administrative instruction on the subsequent-birth-registration procedure allows people who do not have civil status documentation and are unable to provide the required evidence to register their child to either submit the statements of two witnesses or people with knowledge of the birth as evidence or to provide “other” evidence that could confirm the date, place of birth or identity of the parents. In practice, the opportunity to substantiate a request with additional evidence provides the municipal official some margin of appreciation. UNHCR and NGOs have reported that implementation of this administrative instruction varies widely among registry offices.

According to the new Law, fines are applicable for late registration of births and deaths. Late birth registrations are subject to a fine of 20 to 50 EUR. In February 2012, the Civil Registration Agency under the Ministry of Internal Affairs issued a circular letter requesting Municipal Civil Status Offices to exempt Roma, Ashkali and Egyptian people from these fines to facilitate late registrations. In 2013, a second circular was issued,

³² According to the 2011 census, people self-identified as follows: 8,824 Roma, 15,436 Ashkali and 10,265 Egyptians. N.B. this number can only be considered indicative, as census data was not available for three out of 37 municipalities. See: Kosovo Population Census 2011, Quality Report, <http://unstats.un.org/unsd/censuskb20/Attachment488.aspx>.

³³ Law “on Civil Status”, No. 04/L-003 (2011), AI No. 2/2012, Ministry of Internal Affairs, on Late Registration in the Civil Status Records, and AI No. 3/2012, Ministry of Internal Affairs, on Re-registrations.

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extending the exemption from fines to 15 March 2014. The Ministry of Local Government Administration also declared April 2013 as a month of free registration for members of the Roma, Ashkali and Egyptian communities who are unregistered or were born outside of the health system in Kosovo and called upon all mayors for support.

In February 2013, in accordance with the Law “on Civil Status”, a new form of civil documentation, the birth extract, was introduced. The birth extract includes all personal data previously issued through four different civil status documents: the birth certificate, the marital status certificate, the residence certificate and the citizenship certificate. This greatly facilitates the acquisition of civil status documentation and promotes birth registration by reducing the burden and cost of collecting these documents separately. The birth extract is the only document necessary to get an ID card. It is also the only document together with the parents’ ID card(s) required to register a birth. The birth extract can be issued from any registry office in Kosovo and not only the municipality of birth.

(2) Other relevant laws

According to the 2012 Law “on Health”, valid identity documents are required to access healthcare. In practice, however, primary healthcare is provided to everyone, regardless of whether they have an ID card. This means that women can access primary healthcare facilities to give birth. Kosovo is opening civil status offices in hospitals, which means it is gradually becoming impossible to not register the birth of a child before leaving a hospital. When children are born to parents who are unregistered or in marriages that are not legally recognized, the parents often have to be registered alongside their children. This administrative requirement means undocumented parents often prefer home births.

In July 2013, the Government approved and the Assembly adopted the Law “on Citizenship of Kosovo”. This Law contains a safeguard against children being born into statelessness in the territory and facilitates the acquisition of citizenship for refugees and stateless persons.

III. 3. iii. Co-ordination and strengthening municipal services

Ad hoc co-ordination exists among various stakeholders, including the international community, local NGOs and the Ministry of Internal Affairs Civil Registration Agency. Efforts to increase institutional co-ordination and co-operation, in particular between the central and local levels of government, have also been discussed.³⁴

³⁴ See in particular the two thematic roundtables organized by UNHCR in 2012. More than 160 people attended, from municipal civil status registration offices throughout Kosovo; the Office of the Prime Minister; the Ministry of Internal Affairs; the Department of Citizenship, Asylum and Migration; the Ministry of Internal Affairs Civil Registration Agency; the Ministry of Foreign Affairs; the Ministry of Labour and Social Welfare; the United Nations Children’s Fund (UNICEF); the EULEX; and the OSCE. Discussions focused on the bylaws connected to the new Law “on Civil Status” and, in particular, on the issue of subsequent registration in registry books.

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Good practice: birth registration using SMS technology

In an effort to tackle unregistered births, the Civil Registration Agency (CRA) co-operates with UNICEF to identify unregistered people in Kosovo through SMS. The initiative, a UNICEF innovation lab project, began in 2012 in co-operation with UNHCR. It uses mobile phone messaging to collect information on unregistered individuals that the CRA can then follow up. The system was designed to identify unregistered children in co-operation with members of local Roma, Ashkali and Egyptian communities. The technology allows for on-the-spot notification of cases to the CRA from remote locations, in particular where home births may have remained unreported. The mobile phone SMS messages generate a map with bio-data and the location of unregistered children and adults, which facilitates follow up by mobile teams, in co-ordination with the CRA and relevant local authorities so they can register the identified people through the subsequent registration procedure. During a four-month pilot phase in 2012, 200 unregistered children were identified and referred to the CRA. During the spring of 2013, UNICEF continued the initiative with a six-month project with three local NGOs, during which over 200 locations were visited, identifying more than 640 unregistered children for referral.

III. 3. iv. Bilateral and regional co-operation

Due to the 1999 conflict in Kosovo, many civil registration records were either destroyed or dislocated to seven municipalities in central and southern Serbia. In 2011, bilateral discussions during the EU-facilitated dialogue between Pristina and Belgrade paved the way for the EULEX to certify and transfer 12,036 registry books from dislocated registries in Serbia to Pristina.³⁵ The EULEX is facilitating the process of scanning and certifying the copies, witnessed by Kosovo and Serbian experts and authorized officials. In 2012, an administrative instruction “on the use of certified copies of original civil status registers of Kosovo” entered into force, which helps residents of Kosovo access their civil registration records locally.³⁶

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 is important for children returning with their parents to Kosovo from Western Europe under readmission agreements. It is also important for children born in the region – for example, in Montenegro or in the former Yugoslav Republic of Macedonia – to parents displaced during the 1999 Kosovo conflict. Registration in the Kosovo civil registry system continues to pose a problem for unregistered children born to undocumented and displaced Roma originating from Kosovo but living in Montenegro, 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 their children born in Montenegro. Then, with an international birth certificate issued in Montenegro, a child’s citizenship can be assessed in Kosovo

Following an MoU between Kosovo and Montenegro on facilitating subsequent birth registration in Kosovo for displaced persons from Kosovo in Montenegro, the Kosovo

³⁵ See, <http://www.eulex-kosovo.eu/en/pressreleases/0399.php>.

³⁶ AI No. 37/2012 – MIA, *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*, 19 October 2012. Available at: http://www.mpb-ks.org/repository/docs/Udhezim_Administrativ_Nr__37_2012_anglisht.pdf.

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Minister of Internal Affairs met with the Montenegro Minister of Labour in March and April 2013 to agree on modalities to facilitate civil registration and documentation for people born in Kosovo but residing in Montenegro. Montenegro agreed to provide a list of its residents who need civil registration in Kosovo and, pending verification, facilitate procurement of the document for the individuals concerned (see section on “Bilateral and regional co-operation” in the chapter on “Montenegro”, p. 27).

III. 4. Montenegro

III. 4. i. Population profile

UNHCR's 2012 end-of-year statistics indicate there are 3,383 stateless people in Montenegro. UNHCR based its estimate on the 2011 census in Montenegro, in which 4,312 people declared they were without citizenship. According to the Statistics Office of Montenegro, this figure breaks down to the following ethnic composition, based on self-declared ethnicity: 1,649 Roma and Egyptian, 987 Serbs, 860 Montenegrins, 119 Albanians and 91 Bosniaks.

In the first half of 2011, the Government, together with other stakeholders, including the United Nations agencies and the local NGO Legal Centre, organized a registration survey of Roma, Ashkali and Egyptians living in the Konik area on the outskirts of Podgorica. Within the five settlements in the Konik area, 3,642 people were identified, 542 of whom were not registered in the birth and citizenship registries. Of these, 508 were displaced from Kosovo during the 1999 conflict and 34 originated in Montenegro. In addition to lacking civil registration, 1,360 do not have the citizenship of any State. Of these, 820 were born in Montenegro and 451 in Kosovo. Over 50 per cent of the people without civil registration and identity documentation were under the age of 18.³⁷

III. 4. ii. Updates to the legal and administrative framework since the Zagreb Declaration

In January 2013, the Government adopted a second Action Plan to implement the 2011–2015 Strategy for Durable Solutions of Issues Regarding Displaced and Internally Displaced Persons in Montenegro, with Special Emphasis on the Konik Area (2011–2015 Strategy). The Action Plan includes the need to amend the 2009 Law “on Civil Registry Books” to define the subsequent birth registration procedure for children not born at healthcare facilities, which is a key obstacle to efforts to regularize the status of, and issue identity documents to, Roma, Ashkali and Egyptians. The current Law requires medical evidence to prove birth, which is difficult to provide if a baby was born outside a healthcare facility. This disproportionately affects Roma, Ashkali and Egyptians, who, due to lack of means, health insurance, civil registration and/or identity documentation, cannot or choose not to give birth in healthcare facilities.

The 2009 Law “on Civil Registry Books” does not adequately define the procedure and evidentiary requirements for subsequent birth registration. This has led to inconsistent practices among branch offices of the Ministry of Interior, which are responsible for registering births. In some municipalities, in particular in Podgorica, branch offices

³⁷ Government of Montenegro and UN Agencies in Montenegro, *The Report on the Legal Status of Persons Living in the Area of Konik Camp with Recommendations for its Improvement*, November 2011 available at:

http://www.un.org.me/uploads/Documents/2013/ENG_The%20Report%20on%20the%20Legal%20Status%20of%20Persons%20Living%20in%20the%20Area%20of%20the%20Konik%20Camp%20with%20Recommendation%20for%20its%20Improvement.pdf.

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refuse jurisdiction for subsequent registration of birth, referring parents to the courts to prove their parenthood and establish the facts of birth. In such cases, the courts also frequently reject jurisdiction, leaving the parents without clear recourse and making it impossible to register the birth of their child. The First Instance Court in Podgorica, where a large number of unregistered Roma, Ashkali and Egyptian individuals reside, has repeatedly denied its competency in matters related to birth and parenthood.

Parents may register their children born in healthcare facilities by submitting a hospital attestation and their own photo identity documents.³⁸ Evidentiary requirements for children born outside healthcare facilities are more stringent, especially for subsequent birth registration. In such cases, parents may need to provide their marriage certificate, witness statements and/or school certificates. It is extremely difficult, if at all possible, to obtain such documents years after a home birth took place.

Under the 2011–2015 Strategy, the Government set a deadline of June 2012 to amend legislation relevant for subsequent birth registration. While no formal amendments to the legislation have yet been made, the Ministry of Justice is considering adopting amendments to the Law “on Non-Contentious Proceedings” to clarify and facilitate subsequent birth registration. Meanwhile, at the end of 2012, the Ministry of the Interior said it would start processing applications for subsequent birth registration within the existing procedure, asking for only three pieces of evidence: (1) any type of medical certificate of the birth, (2) a statement from the mother and (3) two witness statements. However, at the beginning of 2013, the Ministry of the Interior suspended several applications pending DNA testing to establish family links. UNHCR has noted a slightly better success rate in other municipalities, including Niksic, Bar, Berane and Kotor.

During 2012, UNHCR’s implementing partner, the Legal Centre, recorded that 88 people had managed to acquire subsequent registration in the citizenship registry in either Montenegro or Serbia and 12 people in the birth registry. A further 28 subsequent registration procedures for Montenegrin citizenship were initiated.

III. 4. iii. National co-ordination and strengthening municipal services

Montenegro has not yet established a national co-ordination mechanism to comprehensively facilitate access to civil registration and documentation among all segments of its population, as recommended by the Zagreb Declaration. However, it has established some co-ordination mechanisms to resolve the legal status of people residing in the Konik area on the outskirts of Podgorica.³⁹

³⁸ It is not infrequent that women from Roma, Ashkali and Egyptian communities in Montenegro give birth before reaching the age of majority. This can be a problem for minors who have the status of displaced person, as their displaced person identity cards do not have photos, and a photo ID is required to register the birth of a baby.

³⁹ Government of Montenegro and UN agencies in Montenegro, *The Report on the Legal Status of Persons Living in the Area of Konik Camp with Recommendations for its Improvement*, November 2011, available at:

http://www.un.org.me/uploads/Documents/2013/ENG_The%20Report%20on%20the%20Legal

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Branch offices of the Ministry of the Interior in all 21 municipalities are in charge of registration. Efforts have been made to strengthen these municipal services, in particular by raising awareness on the difficulties encountered in the subsequent birth registration process and, since 2010, birth, death and citizenship registries are kept in a centralized electronic registry.

III. 4. iv. Bilateral and regional co-operation

Displaced Roma, Ashkali and Egyptians from Kosovo in Montenegro face additional hurdles in obtaining civil registration, as they need to visit registry offices either in Kosovo or, frequently, dislocated registry offices in Serbia to rebuild their records that were in registry books destroyed during the 1999 conflict in Kosovo. They must appear in person to give a statement about their birth. This is a problem for Roma, Ashkali and Egyptians who cannot cross the State border without proper identity documents and because few have the financial means.

The Montenegro Ministry of the Interior co-ordinates and leads the Working Group on Civil Documentation within the framework of the Sarajevo Declaration Process. This has had a direct and positive impact on resolving some of the obstacles for displaced people.⁴⁰ Montenegro's situation is more complicated than the other countries of the Sarajevo Declaration Process because it also has to deal with issues affecting people displaced on its territory as a result of the 1999 Kosovo conflict, many of whom are Roma, Ashkali or Egyptian.⁴¹

The Working Group on Civil Documentation has taken steps to facilitate the acquisition of passports for citizens of Bosnia and Herzegovina and Croatia who have the status of "displaced person" in Montenegro. This will enable them to apply for permanent residence status in Montenegro, as outlined in the 2009 amendments to the Montenegrin Law "on Foreigners".⁴² To this end, the Embassy of Bosnia and Herzegovina in Montenegro delivered more than 200 biometric passports for its citizens and 16 refugees in 2012 and reduced the fees to issue a passport by 50 per cent. The Croatian Embassy has also facilitated the issuance of passports to "displaced persons" in Montenegro with Croatian citizenship, but it has not reduced the fees.

[%20Status%20of%20Persons%20Living%20in%20the%20Area%20of%20the%20Konik%20Camp%20with%20Recommendation%20for%20its%20Improvement.pdf](#).

⁴⁰ See also under Section I, "Other regional initiatives", the bus trips organized for displaced people in Montenegro but originally from Kosovo thanks to the ODHIR project, "Best Practices for Roma Integration in the Western Balkans".

⁴¹ Other than this, the regional process only focuses on people displaced due to the 1991–1995 conflicts. It only includes individuals displaced from the 1999 conflict in Kosovo residing on the territory of Montenegro and does not include displaced people from the Kosovo conflict who reside in other States.

⁴² Under article 105a, paragraph 2 of the amendments to the Law "on Foreigners", displaced persons from Kosovo, Bosnia and Herzegovina and Croatia may submit applications to the Ministry of the Interior for permanent residence status. They are exempt from requirements for secured health insurance, income and accommodation but they must provide a valid travel document from their place of origin along with birth and citizenship certificates and proof that they have not been prosecuted for a crime in Montenegro.

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With respect to people displaced from Kosovo in the 1999 conflict, the Regional Technical Working Group on Civil Documentation has addressed the issue of access to dislocated registries in Serbia so that displaced persons from Kosovo lacking basic civil registration documents, including birth certificates, may either re-register or subsequently register their birth. For undocumented displaced persons from Kosovo, obtaining civil registration documents is the first step towards obtaining a Serbian passport, which is necessary for the regulation of their status as permanent residents in Montenegro under the amendment to the 2009 Montenegrin Law “on Foreigners”. To date, Serbia has provided birth and citizenship certificates for 129 vulnerable displaced people free of charge. Serbia has also reduced the administrative tax for the issuance of passports at its diplomatic representation in Montenegro from 65 to 49 EUR.

In June 2011, Montenegro and Kosovo signed an agreement on subsequent birth registration of displaced persons from Kosovo residing in Montenegro in the basic registers and in the civil registers of Kosovo. (See the section on “Bilateral and regional co-operation” in the chapter on “Kosovo”, page 25).

III. 5. Serbia

III. 5. i. Population profile

According to a 2010 UNHCR survey on persons at risk of statelessness, 5.4 per cent of Roma, Ashkali and Egyptians do not have an identity card, 1.5 per cent are not registered in birth registries, three per cent do not have registered permanent/habitual residence and 2.3 per cent are not registered in citizens' registries. Moreover, 26 per cent of people at risk of statelessness are displaced persons from Kosovo and 54 per cent live in illegal settlements.⁴³

The 2011 census indicated that 147,604 Roma, 997 Ashkali and 1,834 Egyptians reside in Serbia. Civil society organizations and researchers working with Roma believe the number may be up to 20 per cent higher because some Roma might not have declared their ethnicity during the census and because the census might have missed people living in isolated, informal settlements. UNHCR estimates that there are 8,500 people of undetermined nationality in Serbia, the great majority of whom are citizens of the former SFRY whose Serbian nationality has not been formally recognized yet.⁴⁴ Most of these people are from the Roma, Ashkali and Egyptian communities.⁴⁵

III. 5. ii. Updates to the legal and administrative framework since the Zagreb Declaration

(1) Legal and administrative framework for civil registration and documentation

Since 2011, Serbia has adopted amendments to several laws to address and resolve systemic problems preventing people from marginalized communities, including Roma, Ashkali and Egyptians, from obtaining birth registration and other forms of civil registration and documentation essential for the recognition of their Serbian nationality. These laws include the amended Law “on Administrative Taxes”, the amended Law “on Non-Contentious Procedures” and the Law “on Permanent and Temporary

⁴³ UN High Commissioner for Refugees, *Persons at Risk of Statelessness in Serbia*, June 2011, available at: <http://www.refworld.org/docid/4fd1bb408.html>. Some Roma, Ashkali and Egyptian people displaced from Kosovo face additional obstacles with civil registration and documentation due to the destruction of registry books during the 1999 conflict in Kosovo. These people need assistance, as the process of re-registering birth, like subsequent birth registration, can take significant time and resources. The problem becomes more complex if they have children before they manage to re-register because they lack the documents required to register the birth of their children and will later have to deal with the process of subsequent registration. Regarding the obstacles related to people living in illegal or informal settlements throughout Serbia, see the explanation of the 2011 Law “on Permanent and Temporary Residence” in the section on “Other relevant laws”, below.

⁴⁴ UN High Commissioner for Refugees, *Displacement, The New 21st Century Challenge*, 19 June 2013, available at: <http://www.refworld.org/docid/51c169d84.html>.

⁴⁵ There may also be a very small number of non-Roma refugees from the former SFRY (1991–1995) who originate from the rest of the former SFRY and lack documents proving their nationality.

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Residence”.⁴⁶ With these amendments, many of the key obstacles and gaps in the legal framework have been addressed.⁴⁷ Work remains in monitoring and ensuring their effective implementation in practice.

Under the 2009 Law “on Registers of Civil Status”, birth registration in Serbia requires that parents provide personal identity cards in addition to other forms civil registration (birth and marriage certificates) to complete the birth registration of their child.⁴⁸ Parents without identity cards cannot provide the evidence required for immediate birth registration and miss the 30-day deadline. After the deadline has passed, a birth can only be registered through the process of subsequent birth registration, which is provided for in the Law “on Registers of Civil Status”. However, the procedure for subsequent birth registration is insufficiently defined by the Law “on General Administrative Procedures” and individuals lacking documentation remain unable to provide the evidence required for the registration of birth. According to UNHCR and the legal-aid NGO, Praxis, a majority of requests to register the birth of undocumented Roma births through the subsequent-registration process have been unsuccessful.

According to Government statistics, 9,573 applications for subsequent birth registration were finalized in 2009 and 7,996 in 2010. A further 774 applications were received in 2011 and 1,555 in 2012.⁴⁹ These figures do not provide information on how many cases resulted in successful birth registration. In addition, as birth registers do not contain data on ethnicity, there is no way of knowing how many of the requests and decisions were made on cases involving undocumented Roma. Without more information, the diminishing number of requests alone does not permit the assumption that the procedure for subsequent birth registration is working; it only provides an indication of the scope of need but not why these requests have become less frequent over time.

In response to advocacy and efforts to raise awareness of the problems that undocumented Roma face in registering their birth through the subsequent birth-registration procedure, the Government adopted amendments to the Law “on Non-Contentious Procedures”, which came into force on 31 August 2012. This Law provides a separate simplified procedure for birth registration outside the administrative procedure. It is now possible to submit a motion to the court to determine the facts (time and place of birth) based on the testimony of two witnesses. The court decision is to be used as evidence by the registry office to finalize birth registration.

⁴⁶ Amendments to the Law “on Administrative Taxes”, 5 July 2011; Amendments to the Law “on Non-Contentious Procedures”, 31 August 2012; and Law “on Permanent and Temporary Residence of Citizens”, *Official Gazette of the Republic of Serbia*, No. 87/2011.

⁴⁷ Law “on Registers of Civil Status”, *Official Gazette of the Republic of Serbia*, No. 20/09. Also relevant: The Instruction “on maintaining the birth register and on birth register forms”, *Official Gazette of the Republic of Serbia*, Nos. 109/09, 4/10 corrigendum, 10/10, 25/11 and 5/13.

⁴⁸ See Instructions “on Administering Civil Registry Books and Registry Book Forms”, paragraph 10, *Official Gazette of the Republic of Serbia*, Nos. 109/200 and 4/2010.

⁴⁹ It is interesting to note that after the 5 July 2011 amendments to the Law “on Administrative Fees”, which provided an exemption from fees and taxes for the subsequent birth-registration procedure, the number of requests doubled in 2012. The exemption includes application fees and other associated fees, such as for authenticating accompanying documents when applying for subsequent registration of birth.

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Good Practice: Joint-advocacy work among stakeholders brings legislative change enabling subsequent birth registration for “legally invisible” people in Serbia

The amended Law “on Non-Contentious Procedures” in Serbia shows how the co-ordinated actions and committed partnership of a wide range of stakeholders – including civil society, the international community, the Ombudsman’s Office and relevant ministries – can help remove obstacles to civil registration and documentation of marginalized individuals.

Starting in 2007 and later following the adoption of the Law “on Registries” in 2009, UNHCR and Praxis drew public attention to the shortcomings in the procedure for subsequent birth registration and the fact that unregistered and undocumented individuals of Roma ethnicity were often unable to meet the criteria necessary for subsequent birth registration and go through the complex procedures without legal assistance, leaving them at risk of remaining unregistered and without birth certificates.

Together with the Centre for the Advancement of Legal Studies (CUPS) – and funded by the ODHIR Project “Best Practice for Roma Integration” – Praxis and UNHCR gathered experts to develop a proposal for an appropriate “legislative solution” taking the specific situation of undocumented individuals into consideration. The resulting “model law on legal subjectivity” was refused by the relevant ministry. However, as a result of intensive dialogue with parliamentarians, joint-advocacy work and continuous, repeated efforts to raise public awareness on both the importance of the problem and the efficacy of the solution, in 2011, with the critical support of the Ombudsman’s Office, a draft law made it to parliamentary procedure for the first time, but did not pass. Amendments to the Law “on Non-Contentious Procedure” were adopted on 31 August 2012.

Since the Law “on Non-Contentious Procedure” was amended, 134 court decisions have been issued and 75 procedures are in process. However, in some decisions, the court has established the time and place of birth but has not directed the birth registry to register the person, leaving the decision without any practical effect. Despite the fact that the Law provides a systemic solution to the problems faced by undocumented people, the effects have yet to be observed in practice. While there have been some registrations made on the basis of the court decision under this procedure, it is still too early to draw a definitive conclusion on the implementation of the Law and whether it will solve the issue of subsequent birth registration among marginalized Roma.

There is one concern with the amended Law “on Non-Contentious Procedures”. Article 71K, paragraph 2, states that the Ministry of the Interior, as the organ in charge of determining citizenship, is not bound by the court decision establishing the place and time of birth. In effect, this gives the Ministry of the Interior discretion over whether to take the court decision into consideration when making its decision on determining a person’s nationality. This means that while the Law puts in place an effective legal framework to ensure birth registration of undocumented individuals, a person who succeeds in obtaining birth registration under the simplified procedure may ultimately be prevented from confirming their Serbian citizenship. The international and NGO community expressed concern regarding article 71K and in February 2013, the Ombudsman of the Republic of Serbia initiated procedures in parliament to amend the Law to remove this article. At the time of writing, article 71K remains and the issue has yet to be resolved.

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(2) Other relevant laws

Until November 2011, it was impossible for people living in informal settlements to register their residence in Serbia. This posed a serious obstacle to civil registration and documentation, as it was only possible to obtain an identity card based on a registered residence. An identity card is required to register a child's birth on time and to access and exercise citizens' rights.

The November 2011 Law "on Permanent and Temporary Residence", together with the bylaw "Rule on the form of registration of residence at the address of an institution or centre for social welfare" adopted a year later, should enable people to register at local social welfare centres, in accordance with article 11 of the Law.⁵⁰ This is a crucial development for Roma living in irregular settlements throughout Serbia who need to establish residence. However, very few people have registered under this provision. Practice has shown that centres for social welfare continue to refuse to register residence due to differing interpretation and lack of clarity in the official guidance provided by the Ministry of Labour, Employment and Social Policy (MLESP). The MLESP requires that a person requesting registration at a social welfare centre provides proof from the competent police body that his or her registration cannot be performed in line with article 11.⁵¹ Meanwhile, the Ministry of the Interior has clarified that it is unable to issue the precise form of proof requested. While the legal framework is formally in place, much work remains for the Government to remove all obstacles preventing implementation in practice.⁵²

III. 5. iii. National co-ordination and strengthening municipal services

In April 2012, the Ministry of Human and Minority Rights, Public Administration and Local Self Government (MHMRPALS), the Ombudsman of the Republic of Serbia and UNHCR signed an MoU to comprehensively address and remove obstacles preventing access to civil registration and documentation among Roma. Following Government changes, the Ministry of Justice and Public Administration assumed the responsibilities of the former MHMRPALS.

The MoU marks an important step towards addressing the civil registration and documentation issues faced by Roma, in line with the 2009 Strategy for Improvement of the Status of Roma in the Republic of Serbia and the recommendation of the Zagreb Declaration to put a national co-ordination mechanism in place. Under the framework of the MoU, a Management Board was created and is tasked to resolve all documentation

⁵⁰ "Rule on the form of registration of residence at the address of an institution or centre for social welfare", 30 November 2012.

⁵¹ For one example of a documented case, see: *Praxis Watch*, 3 June 2013, <http://www.praxis.rs/index.php/en/praxis-watch/item/585-prijava-prebivali%C5%A1ta-na-adresi-centra-za-socijalni-rad-jo%C5%A1-uviek-neostvariva-u-praksi>.

⁵² For detailed information on this issue, see: Praxis, *No Residence, No Rights*, 2012, available at: <http://www.praxis.org.rs/index.php/en/reports-documents/praxis-reports/item/506-no-residence-no-rights>.

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problems by the end of 2015. The Management Board has developed a plan of action and reviews the work of a related Technical Group, which has a wider membership.⁵³

The Technical Group has held trainings for 91 judges at the first instance and appellate level judges on implementation of the amended Law “on Non-Contentious Procedures”. Similar trainings have been organized by the Technical Group in five cities for 753 members of the State Administration. These training sessions have provided instruction on the importance and priority of resolving difficult cases for municipal registrars, centres for social welfare and the police. The Management Board will prepare guidelines for implementing the amended Law “on Non-Contentious Procedures”, which will be distributed to judges and social welfare centres.

The Technical Group plans on organizing information campaigns with the Office of the Ombudsman, UNHCR and Praxis from September 2013 to raise awareness among people living in informal settlements about registering births and residence and on the regulations for acquiring personal identity documentation and citizenship. The campaign complements and builds upon Praxis’s and UNHCR’s on-going outreach activities.

Within the Technical Group, Praxis has agreed to be in direct contact with the relevant ministries to facilitate finding a solution to provide civil registration and documentation in the most complex cases. Praxis has already met with representatives of the Ministry of the Interior to discuss several complicated citizenship requests. This practice will continue and is reported at the Technical Group meetings.

In addition to work within the MoU, the Ministry of Justice and Public Administration is working to establish a central system for electronic data processing of civil registry records. As of 1 April 2013, data from 129 municipalities and cities had been transferred to the central system, with a total of 12,297,945 entries. The goal is that all cities and municipalities will complete electronic transfer of records by the end of 2014 to form a unified citizen database. This initiative will ease the financial costs and time required for people to obtain their personal information, which presents a serious obstacle for Roma, especially those displaced from Kosovo.

III. 5. iv. Bilateral and regional co-operation

In the context of the Sarajevo Declaration Process’s Regional Technical Working Group on Civil Documentation, Serbia is co-operating with Montenegro to facilitate the provision of civil registration and documentation from the dislocated registry offices in southern Serbia to displaced persons from Kosovo who are now living in Montenegro. A majority of these people are Roma.

Serbia has provided birth and citizenship certificates to 129 vulnerable displaced persons in Montenegro free of charge. It has also reduced the administrative fee for

⁵³ The Technical Group includes all relevant stakeholders, including, in addition to the members of the Management Board, the Ministry of the Interior, the Ministry of Labour, Employment and Social Policy, the NGO Praxis, the Government Office for Co-operation with Civil Society, the Secretariat for Legislation and the City of Belgrade Registrar Office.

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issuing passports at its diplomatic representation in Montenegro from EUR 65 to EUR 49 (see section on “Bilateral and regional co-operation” in the chapter on “Montenegro”, page 29).

III. 6. The former Yugoslav Republic of Macedonia

III. 6. i. Population profile

There are no up-to-date census data for the former Yugoslav Republic of Macedonia, as the 2011 census was suspended indefinitely. UNHCR reports 905 people under its mandate for 2012.⁵⁴ The great majority are citizens of the former SFRY whose former Yugoslav Republic of Macedonia nationality has not yet been formally recognized. Based on estimates from civil society and NGOs, UNHCR acknowledges that there could be more undocumented people than reported under its mandate. A formal and comprehensive mapping exercise is required before more accurate estimates can be made.

At the end of 2012, the Ministry of the Interior's Citizenship Department recorded 33 long-term habitual residents of undetermined nationality with pending naturalization applications.⁵⁵ The Ministry of the Interior's section for Aliens and Readmission recorded a further 161 people with no nationality determined in the Registry Records for Aliens.

UNHCR is aware of approximately 470 people requiring subsequent birth registration, based on figures provided by its legal-aid implementing partner, the Macedonian Young Lawyers Association. The vast majority are Roma children, many of whom are children of citizens who lack documentation. A further 402 long-term habitual residents, a majority of whom are Roma, face challenges with civil registration, documentation and registering legal residence.

III. 6. ii. Updates to the legal and administrative framework since the Zagreb Declaration

(1) Legal and administrative framework for civil registration and documentation

The administrative procedures and documentary evidence required in the birth registration process are not precisely defined in the Law "on Registry Books".⁵⁶

Registry offices have some discretion over whether they accept or deny various forms of proof from parents registering their children. This has led to diverging practices in

⁵⁴ UN High Commissioner for Refugees, *Displacement, The New 21st Century Challenge*, 19 June 2013, available at: <http://www.refworld.org/docid/51c169d84.html>.

⁵⁵ The term "long-term habitual resident" refers to people who originate from one of the other republics of the former SFRY. In many cases, they were living on the territory of the former Yugoslav Republic of Macedonia during the dissolution of the former SFRY and due to various reasons, including a lack of documentation and/or understanding of their obligations, did not register their residence in the former Yugoslav Republic of Macedonia, which later made it difficult for them to naturalize under facilitated provisions.

⁵⁶ Law "on Registry Books", *Official Gazette*, Nos. 8/95, 38/2002, 66/2007, 98/2008 and 67/2009 and 13/13.

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different municipalities and opens the potential for discrimination. In practice, requirements include providing the identification documents of both parents, including their marriage certificate. If the child is not born in a hospital, two witness statements are required to establish the facts (time and place) of birth along with other proof that the birth occurred. Registering births out of wedlock requires both parents to register, providing birth certificates that are less than six months old so the father's name can be listed on the birth certificate. This requirement is particularly difficult for parents who are long-term habitual residents born outside of the former Yugoslav Republic of Macedonia, as it involves financial costs and time to obtain new birth certificates from abroad.

The Law "on Registry Books" insufficiently defines the procedure for subsequent birth registration after the 30-day deadline. Some registry offices do not accept the two witness statements. To subsequently register the birth of people over the age of ten, DNA analysis is required to prove family links. The cost of this analysis must be borne by the individual, which represents a substantial obstacle to individuals without financial means. In 2012, the Ministry of Labour and Social Policy organized and paid for the DNA analysis of 32 people. While this has been helpful for the individuals concerned, it does not provide a systemic solution to removing the financial burden of DNA testing necessary for subsequent birth registration. Moreover, as a practical matter, DNA testing is not a realistic option for a person whose parents are no longer living or are otherwise unavailable.

While registering a birth immediately is free, issuing a birth certificate costs 150 MKD (approximately 2.50 EUR). Subsequent birth registration and registration of births occurring outside of a healthcare facility cost 250 MKD (approximately 4.00 EUR). Although these fees may appear low, they may serve as a disincentive for people lacking financial means.

(2) Other relevant laws

Long-term habitual residents who have been living in the country since before the dissolution of the former SFRY but originate from other former republics need to provide civil documentation from their places of origin to regulate their residence as foreigners in the former Yugoslav Republic of Macedonia. This is also the path to naturalization under the Law "on Citizenship".

The 2006 Law "on Foreigners" requires people applying for a temporary residence permit to prove they have secure accommodation and means of subsistence, health insurance, a valid and recognized travel document and a certificate of non-conviction that also confirms there are no pending criminal procedures in the place of origin.

These requirements can prove challenging to meet for the following reasons:

- Health insurance: it is difficult for Roma, Ashkali and Egyptians who cannot claim citizenship of the former Yugoslav Republic of Macedonia to produce a valid health insurance document, as they are not eligible for public healthcare without

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- legally registering their residence, which requires a valid ID and birth certificate. Many Roma cannot afford private health insurance.
- Valid travel document from place of origin: Undocumented people in the former Yugoslav Republic of Macedonia who have not established their foreign nationality are unable to provide a valid travel document to acquire a temporary residence permit. Confirming citizenship through foreign embassies in Skopje may be possible, but the process can be extremely complicated, expensive and time consuming. This requirement has recently become a problem for long-term habitual residents originating from Kosovo and Serbia as well, because their old non-biometric passports ceased to be valid in January 2012. The cost and difficulties involved in obtaining a new passport present a significant obstacle for many long-term habitual residents.
 - A certificate of non-conviction that also confirms that there are no pending criminal procedures in the place of origin: This can be difficult for a person who has never had their nationality determined by any State, especially as many States do not issue certificates on criminal records for individuals who were born outside of the country and who have never registered domicile/residence in the country. If an individual registers his or her residence in the place of origin in order to obtain this certificate, he or she risks interrupting his or her continuous residence in the former Yugoslav Republic of Macedonia, which is necessary for obtaining permanent residence and ultimately citizenship.

Lawful residence is also essential for naturalization under the Law “on Citizenship”. Most frequently, long-term habitual residents apply for citizenship on the basis of marriage to a citizen of the former Yugoslav Republic of Macedonia or after eight years of legal and continuous residence in the country. In both cases, they are required to produce a certificate of non-conviction that also states that they have no pending criminal procedures in the place of origin.

According to the Law “on Registration of Domicile and Residence of Citizens”, citizens of the former Yugoslav Republic of Macedonia must register a legally recognized address and proof of property ownership (by the applicant or immediate family) to acquire a national identity document. This poses a serious obstacle for people living in informal settlements. Without a valid residence, individuals living in informal settlements cannot obtain identity documentation and cannot register the births of their children.

III. 6. iii. National co-ordination and strengthening municipal services

An overall national co-ordination mechanism has not been established. However, the Ministry of Labour and Social Policy and the Ministry of the Interior, in co-operation with the Directorate for Keeping the Personal Identification Registry within the Ministry of Justice, formed a working group in September 2011 that is using mobile teams to take concrete steps to identify and assist people not registered in personal registries. The mobile teams comprise a wide range of stakeholders, including regional offices of the Ministry of the Interior, the Ministry of Justice’s Directorate, local centres for social work, Roma Information Centres and Roma NGOs. In 2012, the mobile teams identified 448

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people, the vast majority of whom were Roma, who lacked birth registration and other forms of civil registration. Of these, 31 were subsequently registered. The mobile teams also raised awareness about the importance of birth registration in the municipalities of Tetovo, Gostivar, Shuto Orizari, Prilep, Bitola, Strumica, Gyorche Petrov, Topansko Polje, Kichevo, Shtip, Delchevo and Kumanovo. A second phase of the initiative is planned to identify and assist people without personal identification documentation or with undetermined citizenship.

The Ministry of Labour and Social Policy funds Roma Information Centres throughout the country to connect the Roma community to local institutions.⁵⁷ One activity of these centres is assisting Roma to obtain civil registration and documentation.

The Ministry of Labour and Social Policy and the Macedonian Young Lawyers Association (an NGO providing legal aid) signed an MoU in February 2012 formalizing their co-operation through the Roma Information Centres. According to the MoU, the Macedonian Young Lawyers Association can work directly with the Roma Information Centres rather than working through the Ministry. The Macedonian Young Lawyers Association covers the fees related to obtaining civil registration and documentation. Because the Roma Information Centres have direct contact with the people of concern, more new cases are identified, more people are able to access legal assistance and overlaps between the various stakeholders providing assistance can be avoided.

III. 6. iv. Bilateral and regional co-operation

There are no developments in bilateral and regional co-operation in the areas of civil registration and documentation.

⁵⁷ Roma Information Centres have been established in Skopje, Stip, Bitola, Gostivar, Delchevo, Kumanovo, Tetovo and Prilep.

Section IV Conclusion

This report, commissioned to review the developments in the region subsequent to the 2011 Zagreb Declaration, highlights some of remaining obstacles to civil registration and documentation, especially among people belonging to marginalized communities, in the region. Many participants to the Zagreb Declaration have made efforts to facilitate registration, notably by amending relevant domestic legislation. While this is a positive step, the legal frameworks of the participants to the Zagreb Declaration remain overly complex. In addition, evidentiary requirements and procedures remain too demanding and cumbersome, and local implementation is uneven. Governments in the region should continue to address and resolve these issues within their own borders, researching existing good practices where relevant and stepping up bilateral co-operation where necessary to help people obtain documentation from abroad.

Citizens of the former SFRY who did not establish or confirm their nationality in the aftermath of its dissolution and today live without documents are of greatest concern. Without confirmed citizenship, legal residence or domicile, or regulated status as a foreigner or citizen, a person cannot participate in the society in which he or she lives. Providing registration and civil documentation to all is not only a human rights imperative, it is also a fundamental prerequisite for social inclusion of all people in society.

Section V Recommendations

To all Zagreb Declaration participants:

Further to the Zagreb Declaration, authorities are recommended to take the following steps:

1. Ensure immediate birth registration of all children, in accordance with the Convention on the Rights of the Child, irrespective of whether the parents have identity documents or lawful residence in the country;
2. Exempt socially vulnerable individuals from fees for civil registration and documentation as well as residence and provide them with free legal aid when needed;
3. Identify and remove obstacles preventing undocumented women from giving birth in hospitals; for example, by providing health insurance to those in need or by eliminating the requirement that pregnant women need to show identity documentation to access clinics for the purpose of delivery; and
4. Ensure cross-border co-operation to help people who require documentation from different countries to obtain civil registration documents to regularize their stay and confirm or acquire nationality.

In addition:

Bosnia and Herzegovina is recommended to take the following specific steps:

1. *Identification of the population:* Identification of the population: organize an information campaign to raise awareness about the importance of birth registration in communities where registration is lacking, at the level of the entities and Brcko District;
2. *Legal framework and practical measures:* establish a mechanism for the exchange of data from electronic databases at all levels (entities, Brcko District and state level); harmonize legislation on civil registration in the Republika Srpska, the Federation of Bosnia and Herzegovina and the Brcko District, in particular in relation to the provision of free legal aid, the exemption from payment of fees for civil registration for socially vulnerable persons and national minorities, the increased involvement of centres for social welfare (e.g. appointing a guardian to assist adults to register), and the recognition of identity documents issued to asylum-seekers, stateless persons and persons under international protection, for the purpose of civil registration;
3. *Establish a State-level co-ordination mechanism* that builds on existing co-operation with relevant stakeholders; and
4. Establish *bilateral co-operation* with Serbia to ensure that Roma from Kosovo obtain civil documentation from dislocated registry offices in Serbia; facilitate civil registration and the acquisition of identity documents for people born in Bosnia and Herzegovina but now living in another part of the former SFRY.

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Croatia is recommended to take the following specific steps:

1. *Identification of the population*: establish the number of undocumented Roma who do not have a legal status, with due respect for international standards of personal data protection;
2. *Legal framework and practical measures*: ensure that people without a lawful residence, especially Roma, can register at social welfare centres or other residence providers under article 6 of the 2012 Law “on Residence”;
3. *Establish a national co-ordination mechanism* that builds on existing co-operation with relevant stakeholders; strengthen collaboration between the Ministry of the Interior and the Ministry of Public Administration to address the challenges of undocumented persons; and
4. Reinforce *bilateral support* to help people who were born in Croatia but now live in a different part of the former SFRY to acquire civil registration and identity documents; and reinforce bilateral co-operation with relevant States to facilitate the acquisition of civil documentation for undocumented persons residing in Croatia.

Kosovo is recommended to take the following specific steps:

1. *Identification of the population*: identify and map the population needing civil status registration and identity documentation, with due respect for international standards of personal data protection;
2. *Legal framework and practical measures*: abolish fines for late birth and death registrations;
3. *Establish a co-ordination mechanism* that builds on existing co-operation with relevant stakeholders; use mobile teams to provide free legal aid and information in informal settlements; and
4. *Provide bilateral support* to help people living outside Kosovo acquire civil status registration and identity documents.

Montenegro is recommended to take the following specific steps:

1. *Identification of the population*: identify and map the population needing civil status registration and identity documentation, with due respect for international standards of personal data protection;
2. *Legal framework and practical measures*: amend the Law “on Non-Contentious Procedures” to facilitate subsequent birth registration and abolish related fines for socially vulnerable individuals ;
3. *Establish a national co-ordination mechanism* that builds on existing co-operation with relevant stakeholders; use mobile teams to provide free legal aid and information in informal settlements.
4. *Bilateral co-operation*: continue to facilitate the acquisition of passports for citizens of Bosnia and Herzegovina and Croatia and ensure that they have an opportunity to apply for permanent residence; ensure that the decisions taken by the Working Group on Civil Documentation under the Sarajevo Process are followed up.

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Serbia is recommended to take the following specific steps:

1. Ensure that the currently available *data on the population needing civil status registration and identity documentation* is updated as needed and with due respect for international standards of personal data protection;
2. *Legal framework and practical measures*: remove obstacles preventing people living in informal settlements from registering their residence at social welfare centres, pursuant to article 11 of the Law “on Permanent and Temporary Residence”; remove article 71K from the Law “on Non-Contentious Procedures” to ensure that people who have obtained subsequent birth registration through the courts have an opportunity to establish their nationality on the basis of that registration; monitor implementation of this Law with a view to adopting additional measures, as necessary, to ensure that court decisions on the fact of birth are applied by registry offices; and
3. Establish *bilateral support* and co-operation to facilitate the acquisition of civil registration and documentation for persons living outside of Serbia.

The former Yugoslavia Republic of Macedonia is recommended to take the following specific steps:

1. *Identification of the population*: Identify and map the population needing civil status registration and identity documentation, with due respect for international standards of personal data protection;
2. *Legal framework and practical measures*:
 - a. *With regard to civil registration*: establish a simplified procedure for subsequent birth registration, including removing fines and requirements that are difficult to meet, such as the need to obtain new birth certificates and mandatory DNA testing; and
 - b. *With regard to residency*: amend relevant legislation to enable people living in irregular settlements to register their address at a local social work centre so they can establish residence; lower or remove (some of) the requirements for temporary residence for foreigners, including the certificate of non-conviction and no pending criminal procedures in the place of origin and valid health insurance;
3. Establish a *national co-ordination mechanism*, building on existing co-operation between the Ministry of Labour and Social Policy, the Ministry of the Interior and the Ministry of Justice’s Directorate for Keeping the Personal Identification registry; and
4. Establish *bilateral co-operation* with relevant States to facilitate the acquisition of civil documentation for undocumented Roma residing in the former Yugoslav Republic of Macedonia; provide bilateral support to facilitate the acquisition of civil registration and identity documents for persons living outside of the former Yugoslav Republic of Macedonia but who were born in the country.

Appendix 1: Works consulted

Marina Simeunovic, "Possession of identity documents as a requirement of social integration of young Roma in the settlement of Veliki Rit in Novi Sad (Serbia)", in: OSCE ODIHR, *Best Practices for Roma Integration in the Western Balkans*, 2013.

Ajnur Sulejman, "Registration and Possession of Personal Identification Documents as Preconditions for Better Education of Roma People, through Case Studies of the Settlements of Toapaana and Sredorek in Skopje and Kumanovo (the former Yugoslav Republic of Macedonia)", in: OSCE ODIHR, *Best Practices for Roma Integration in the Western Balkans*, 2013.

UNHCR, *Report on Statelessness in South Eastern Europe*, September 2011, available at: <http://www.refworld.org/docid/514d715f2.html>.

Conference document

Appendix 2: State Parties to the 1954 Convention and the 1961 Convention

	1954 Convention relating to the Status of Stateless Persons	1961 Convention on the Reduction of Statelessness
Bosnia and Herzegovina	1 September 1993 (b)	13 December 1996 (a)
Croatia	12 October 1992 (b)	22 September 2011 (a)
Montenegro	23 October 2006 (b)	
Serbia	12 March 2000 (b)	7 December 2011(a)
The former Yugoslav Republic of Macedonia	18 January 1994 (b)	

- (a) Accession
- (b) Succession

Conference document

Appendix 3: Number of persons reported under UNHCR's statelessness mandate in 2012

	Number of persons reported
Bosnia and Herzegovina	4,500
Croatia	2,886
Kosovo	N/A
Montenegro	3,383
Serbia	8,500
The former Yugoslav Republic of Macedonia	905

Appendix 4: Conclusions of the Conference on “Solving the Problems of People Without Documents and Access to Rights”, Skopje, 11–12 April 2012⁵⁸

- Inclusion of the Ministries of Foreign Affairs (on a regional level) in the process of inter-regional co-operation to ensure proper documentation via their diplomatic consular offices.
- Networking of NGOs on a regional level, to achieve greater mutual co-operation in providing documents needed to register in the Registry of Births.
- In co-operation with international organizations to create opportunities for acceleration and facilitation of the procedure for registration and issuing documents on a regional level, with a special focus by the Ministries of Internal Affairs and the Administration for keeping registers in the process of obtaining the needed documents for entry into the Registers of Birth.
- Providing co-operation and exchange of information between the parties from the region (Ministries of Internal Affairs, Administration for keeping registers, the Ministry of Labour and Social Affairs, NGOs and international donors) in conveying mutual activities for raising awareness among Roma about the importance of their entry into the Registries of Birth.
- Formalizing (signing) of co-operation between civil society, as experts on the problem in the field and the State institutions as experts on the problem through State institutions.
- Encouraging mutual recognition of documents issued by the countries in the region
- Maximum effort is recommended in the countries from the region to follow and implement the conclusions of the Zagreb Declaration and of the next regional conference under Croatian presidency with the Decade to report on activities undertaken in terms of the Declaration.
- Respect and application of the European legislation and their practices in solving the problem
- Respect for the individual during solving the problem with recording into the Registry of Birth.

⁵⁸ The original conference report can be found here:
http://www.romadecade.org/cms/upload/file/9385_file3_conference-report.pdf.