

Co-chair Conclusions of the Regional Conference on Access to Civil Registration and Documentation in South-Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration, Podgorica, 25 October 2013

On 25 October 2013, a regional conference on the progress and challenges in the field of civil documentation and registration in South-Eastern Europe, organized by the Ministry of the Interior of Montenegro and supported by the European Commission, the OSCE High Commissioner on National Minorities and UNHCR, took place in Podgorica, Montenegro. The regional conference was attended by governmental representatives from Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Kosovo*, Montenegro and Serbia, as well as representatives from the three supporting organisations, civil society and UN agencies. Participants took stock of the developments two years after the adoption of the October 2011 Zagreb Declaration on this topic and jointly considered steps ahead towards solving the issue of undocumented persons in the region.

The participants discussed the developments reflected in the report prepared for the regional conference, 'Access to Civil Documentation and Registration in South Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration'¹. The co-chairs representing the three supporting organisations noted some positive legislative and administrative developments, as well as practical initiatives in the region since the adoption of the Zagreb Declaration. Among them are:

- Legislation adopted to facilitate civil registration including subsequent registration, by using for example witness testimonies or by strengthening the role of social welfare offices, and legislation adopted to facilitate the regularization of residence. These amendments contribute to undocumented and stateless persons acquiring or confirming nationality.
- Awareness-raising activities and training organized for those government officials, members of the judiciary and legal professionals involved in the implementation of legislative amendments at the central and local levels.
- Residence registration, including through the possibility of subsequent registration of habitual residence for a period in the past, or the registration of residence in social welfare offices for persons residing in informal settlements.
- Electronic databases created, including all acts of civil registration, in order to facilitate access to civil registration information and the issuance of documentation throughout the country.
- Civil documentation issued without an expiry date in order to avoid the need for repeated requests for the same document in the course of several years for various purposes.
- Co-operation between stakeholders established from ad-hoc exchanges at the working level to the signing of a Memorandum of Understanding (MoU) between government institutions,

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

¹ See <http://www.refworld.org/docid/5280c5ab4.html>

civil society organizations and UNHCR, accompanied by the establishment of a technical working group to implement the MoU.

- Multidisciplinary mobile teams deployed to the field in order to identify undocumented persons in need of support.
- Legal aid provided by civil society organizations, which made it possible for individuals to obtain civil documents.
- SMS technology used in order to speed up and facilitate the process of birth registration.

The organizations remain concerned about the following:

- The inconsistent and lack of uniform positive changes throughout the region.
- Significant gaps remain between the improved legal and administrative framework and the day-to-day practice of the competent local administrations.
- Though the number of undocumented persons in the region seems manageable, this number is not decreasing because, while efforts are made to identify case-by-case solutions, there is a lack of systemic solutions.
- The continued violation of the right of every child to be registered as soon as possible after birth, irrespective of the level of documentation of the parents, in accordance with the UN Convention on the Rights of the Child. The solutions found in individual cases, such as DNA tests, do not address the underlying problem. Difficulties to register the birth of children born outside of health centres also persist.
- The level of implementation of the amended legislation is unclear because of the lack of data, notably on the persons assisted and in need of assistance, that would allow for quantifying the progress made and for identifying the remaining needs.
- The need for undocumented persons to travel across borders to their country of former residence to obtain civil documentation required to register their child, to regularize their own stay in their current country of residence or to confirm or acquire nationality.
- The high costs involved in obtaining the various types of documentation are a burden on the undocumented persons concerned who are often destitute.
- The valuable role of legal aid organizations and UNHCR cannot be a permanent substitute for a functioning legal and administrative framework.

Participants are therefore invited to:

- Elaborate systemic solutions that go beyond the case-by-case approach to ensure civil registration and documentation of those persons in need within a determined time-frame.
- Register all children at birth, independent of the documentation of the parents, in line with the UN Convention on the Rights of the Child. Making immediate registration of births in hospitals compulsory can contribute, while also adopting practical measures to register births outside of hospitals.
- Develop a comprehensive approach to ensure access to civil registration and documentation: legislation needs to go hand-in-hand with administrative instructions to municipalities and relevant local administrations, awareness-raising among communities concerned and training of those who implement the law.
- Formalize, such as through a memorandum of understanding, and strengthen co-operation between government institutions, civil society organizations, UN agencies and other stakeholders.

- Collect data, with due respect for personal data protection requirements, on the persons assisted and the persons who are still in need of assistance in order to monitor the level of implementation of the laws and identify remaining or additional gaps.
- Enhance bilateral exchanges at the working level to find practical solutions and alternative ways of assisting undocumented individuals that do not require, inter alia, travelling across borders.
- Exempt socially vulnerable individuals from fees for civil registration and documentation, as well as for residence registration and provide them with free legal aid when needed.

The three organizations suggest to participants taking the following concrete steps, using existing mechanisms, including:

- Set up a training scheme through the regional school for public administration in Danilovgrad, Montenegro, where good administrative practices, including those related to the implementation of newly adopted legislation, have been identified.
- Make the best use of the existing regional practices, such as those identified in the regional project under IPA regional/multi-beneficiary envelope run by OSCE ODHIR: "Best practices for Roma Integration".
- Explore the possibility of TAIEX targeted support for short-term targeted expertise, at national or regional level, regarding the adoption of adequate legal standards and their implementation, as well as for the exchange of experience on identified good practices.

The following next steps are hereby outlined:

- The present co-chair conclusions shall be communicated to all participants.
- Country-specific recommendations, including a suggested time-frame for measures to be taken, shall be prepared by the three supporting organizations and communicated to all participants. These recommendations will take into account the findings of the expert report used as conference document, as well as the comments and views expressed during the conference by the participants.
- The substance of the discussions and the above-mentioned recommendations will be reviewed in the context of the country-specific "Social Inclusion seminars on Roma issues" held between the European Commission and EU candidate countries and potential candidates, as well as under the "EU framework" on Roma issues.