



**Transition Assistance and Institutional Building
(IPA Component I) National Programme 2011**



Local Integration of Refugees, Internally Displaced Persons and Minority Groups

Contract No.: 12-8715/1

**POLICY BRIEF ON STATUS AND PERSONAL IDs
FOR UNREGISTERED ROMA
Final – 29 June 2016**

Date 29/06/2016



This project is funded by
the European Union

The project is implemented
in a consortium led by





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LOCAL INTEGRATION OF REFUGEES,
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DOCUMENT CONTROL SHEET

Project Name:	Local Integration of Refugees, Internally Displaced Persons and Minority Groups
Reference No:	EuropeAid/136616/IH/SER/MK
Contracting Authority:	Central Financing and Contracting Department, Ministry of Finance, Republic of Macedonia
Beneficiaries:	<ul style="list-style-type: none"> • Ministry of Labour and Social Policy (MLSP); • Cabinet of the Minister without Portfolio; • Secretariat for European Affairs (SEA) • Roma Information Centres (RICs); • National Coordinative Body for Implementation of Strategy and Decade for Roma; • Local self-government units; • Employment Service Agency; • Civil society organizations active in the field of Roma issues, refugees and internally displaced persons.
Consultant:	Eptisa in consortium with CARE, MCIC and Roma Education Fund
Report:	Policy brief on status and personal IDs for unregistered Roma
Project activity:	Activity 1.3 - Preparation of an analysis of the current legislation, procedures and practices and providing recommendations in terms of identifying the obstacles and delivering the services for improved regulation of status.
Project output #:¹	7. Policy brief on status and personal IDs for unregistered Roma

¹ As per the numbering of outputs made in Chapter 12 of the project's Inception Report.



PROJECT SYNOPSIS

Programme Name: Project Name: Reference No: Contract Number: Project Duration: Project Commencement Date: Project End Date:	Transition Assistance and Institutional Building (IPA Component I) Local Integration of Refugees, Internally Displaced Persons and Minority Groups EuropeAid/136616/IH/SER/MK 12-8715/1 18 months 11 January 2016 11 July 2017		
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Overall Objective: Purpose: Expected Results:	<p>To enhance the state administration and implementation capacities for further strengthening and supporting the local integration process and inclusion of the residential and / or non-residential displaced persons (refugees and internally displaced) and minority groups (Roma), as well increasing the sustainability of their reliance.</p> <p>To contribute in supporting the process of residential and / or non-residential displaced persons in their access for provision of comprehensive state administration services, increase self-reliance via participation and inclusion of the displaced persons in the society, as well as improve the quality of life and access to rights and services for social inclusion of the Roma, Ashkali and Egyptian communities in the country.</p> <p><u>Component 1: Support to the implementation of national and local public policies for Roma inclusion:</u></p> <ul style="list-style-type: none"> ○ Implemented training plan for capacity building of relevant institutions on the Local Action Plans (LAPs) within the implementation of the Roma Strategy and Decade; ○ Enhanced capacity for all the relevant stakeholders for implementation of Roma Strategy and Decade and memorandum for cooperation with the municipalities; ○ Local Action Plans for Roma implemented. <p><u>Component 2: Institutional Capacity Building and Access to Labour Market for refugees and IDPs:</u></p> <ul style="list-style-type: none"> ○ Increased capacity of state institutions and policy makers to deliver integration policies and facilitate access to services; ○ Achieved economic sustainability; ○ Increased employability; ○ Gained experience and best practices in the area of refugee integration. 		



TABLE OF CONTENTS

1. INTRODUCTION	8
2. CURRENT SITUATION.....	9
3. BIRTH REGISTRATION	10
4. CITIZEN’S STATUS	12
5. PERSONAL IDENTIFICATION DOCUMENTS	13
6. CONCLUSIONS.....	14
7. RECOMMENDATIONS	15
DOCUMENTS CITED	17



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ABBREVIATIONS

DNA	Deoxyribonucleic acid
EU	European Union
MI	Ministry of Interior
MLSP	Ministry of Labour and Social Policy
OMR	Office for Management of Registers of Births, Marriages and Deaths
RIC	Roma Information Centre

1. INTRODUCTION

Having personal identification documents means being registered in the system of the state that you live in. These documents provide a person's access to the most basic rights, such as the right to education, social welfare, work, health insurance, and other benefits ensured by the state. Adequate citizen's status and obtaining personal identification documents are, in reality, a precondition for respecting one's human and civil rights.

The purpose of this policy brief is to present in concise form for practical application the findings of an analysis of legislation, procedures, and practice related to status and personal identification documents for Roma. Beginning with a brief overview of the current situation in this area, the document summarizes the results of the analysis on citizen's status, birth registration, and personal identification documents in turn, highlighting the key findings in each area. Sets of synthetic conclusions and recommendations provide a concrete basis for actions to tackle the issues covered in the document.

This brief (Output 7) contributes to the implementation of Activity 1.3 ("Preparation of an analysis of the current legislation, procedures and practices and providing recommendations in terms of identifying the obstacles and delivering the services for improved access to subsequent ID and birth registration, regulation of status, acquisition the personal documentation for Roma, as well preparation of policy brief and holding informational meetings for preventive action") of the EU-funded project "Local Integration of Refugees, Internally Displaced Persons and Minority Groups". It draws on the other two outputs of this Activity: a review report with recommendations² and a series of information meetings for sharing the results of the analysis.

² Review report of legislation, procedures and practices, with recommendations related to citizen's status and personal identification documents for Roma, EPTISA, 2016.

2. CURRENT SITUATION

In recent years, birth registration, citizen's status and personal identification documents for Roma have been recognized as important social problems. The Ministry of Labour and Social Policy (MLSP)³ states there were approximately 550 Roma who were not registered by the state in 2015, i.e. people who were not registered as citizens of the Republic of Macedonia. Further efforts identified a total of 850 Roma who were not registered by the state by the first half of 2016. Activists estimate that there might be up to 1,500 Roma persons without registration by the state.

Since 2011, the efforts of the state to tackle these issues in a systematic manner are coordinated by a national working group led by the MLSP. The group includes representatives of responsible public institutions, such as the Office for Management of Registers of Births, Marriages, and Deaths (OMR) and the Ministry of Interior (MI), and several civic organizations active in this field.

At local level, Roma Information Centres (RIC) and a number of civic organisations provide support to Roma communities in birth registration, obtaining personal documents and exercising other rights. State-funded RIC exist in 12 municipalities⁴ throughout the country. Several civic organisations have gained significant expertise and experience in supporting Roma's access to state registries and obtaining personal documents.⁵

The European Union (EU) also noted this issue in 2015,⁶ presenting the progress achieved, but also highlighting the need for further efforts. Thus, Roma's registration with relevant authorities and their access to personal identification documents bear significance for Macedonia's bid to become a member of the EU.

³Action Plan for Inclusion of Roma and Roma refugees. Status of implementation of activities with data included from 2014, Ministry of Labour and Social Policy

⁴In alphabetical order: Berovo, Bitola, Chair, Delchevo, Gostivar, Kochani, Kumanovo, Prilep, Shtip, Shuto Orizari, Tetovo, and Vinica.

⁵In alphabetical order (the list is not exhaustive): the Helsinki Committee for Human Rights of the Republic of Macedonia, Kham, Lil, the Macedonian Association of Young Lawyers, Mesechina, the National Roma Centrum, Umbrella.

⁶[The Former Yugoslav Republic of Macedonia Report 2015](#), European Commission, 2015

3. BIRTH REGISTRATION

The Law on Registry⁷ covers the registration of births, marriages and deaths: All births on the territory of the Republic of Macedonia need to be registered. Parents need to complete the newborn's registration procedure within 30 days of its birth, presenting, at minimum, valid personal documentation and certificate of marriage, in case the child was born at a health institution, or a certificate by gynaecologist that the mother had given birth and public-notary certified statements of two witnesses, in case of births at home.

The Law on Family⁸ stipulates that paternity can only be officially registered if declared by the child's mother. This means that only the mother can register the child if the declaration of consent for recognition of paternity is, for any reason, non-existent (including lack of valid personal documents of the mother).

Some Roma who live in extreme poverty and social exclusion are not aware of and do not fulfil these obligations. They lack information and understanding of the administrative procedures required, feel insecure to approach the public institutions and fear fines and punishments for not having obtained various needed documents in time.

The 2016 modifications of the Law on Registry provide the possibility for "additional" registration of children and persons within the Register of births. However, the law does not specifically list the needed documents, but requires "proofs and data", including DNA tests, to support the request. This puts pressure on the public servants working in the branch offices of the OMR, who feel responsible to assess the quality of the provided "proofs and data". As a result, the branch offices of the OMR implement different practices when dealing with requests for additional registration within the Registry of Births.

As part of the efforts to solve this issue, the MLSP financially supports the conduct of approximately 30 DNA tests annually. RIC and civic organisations provide information, legal advice and support to Roma without birth registration.

⁷Zakon za maticnata evidencija (Sluzben vesnik na Republika Makedonija no. 8/1995, 38/2002, 66/2007, 98/2008, 67/2009, 13/2013, 43/2014, 148/2015 and 27/2016)

⁸Zakon za semejstvo (Sluzben vesnik na Republika Makedonija no. 80/1992, 9/1996, 38/2004, 33/2006, 84/2008, 67/2010, 156/2010, 39/2012, 44/2012, 38/2014, 115/2014, 104/2015 and 150/2015)

Key findings on birth registration:

- **Birth registration among Roma is not universal even nowadays.** This perpetuates the problem from one generation to the next.
- **The Law on Registry foresees a procedure for additional registration, but does not specifically list the requirements.** This seems to be confusing for both applicants and institutions and results in different practices of local branch offices of the OMR.
- **Applicants obtain “proofs and data” at their expense to support the additional registration request.** This, as well as the fact that collecting all required proofs and data may take a significant period of time, is discouraging for some Roma to launch an application for additional registration.
- **Civic organizations and RIC have developed significant experience and expertise in facilitating the communication between Roma and relevant authorities.**

4. CITIZEN'S STATUS

The crucial law regulating the citizen's status is the Law on Citizenship:⁹ A person may obtain the Macedonian citizenship by their origin, by being born on the territory of the Republic of Macedonia, through naturalization or on the basis of international agreements. This means that if one of the parents has a Macedonian citizenship, the child has the right to obtain a Macedonian citizenship likewise. However, this criterion is fulfilled only if at least one of the parents has a complete documentation issued by the institutions of the Republic of Macedonia.

Roma persons born in the Republic of Macedonia and who are not registered within the Registry of Births are persons without citizen's status, as are some Roma persons born in the other states that emerged from former Yugoslavia who have not regulated their stay and residence in Macedonia. There are cases of adult Roma who cannot leave the Republic of Macedonia as they do not have any valid travel documents. Factors in such cases may include but are not limited to living in an informal partnership (rather than a formal marriage), lack of awareness of the need to regulate their status upon Macedonia's independence, and failure to obtain the needed documents from the country of origin.

Therefore, some of the really complex individual cases call for improved inter-state cooperation, in particular between Macedonia, on the one, and Serbia and Kosovo, on the other hand. Some countries in the region have already developed relevant models of cooperation.

The application for citizenship costs 100 Euros (in Denars): 20 Euros upon application submission, while 80 Euros are only payable should the response be positive. Members of families living on social welfare are relieved from the obligation to pay administrative fees in the process.

Key findings on citizen's status:

- **Persons who are not registered within the Registry of Births cannot obtain citizenship.**
- **Obtaining citizen's status of foreign nationals depends on issuance of relevant documents from their country of birth.**
- **Obtaining citizenship may be costly beyond the financial possibilities of some Roma.** This refers not only to the costs of the application for citizenship *per se*, but also to costs to obtain the documents from their country of birth (whenever relevant).
- **Regional exchange between state and civic actors forums and mechanisms exist in this field.** This is a good starting point for the needed cooperation between the states in the region to jointly tackle unregulated citizen's status of Roma (and others), taking into account the already functioning models in this regard.

⁹Zakon za drzavjanstvoto na Republika Makedonija (Sluzben vesnik na Republika Makedonija no. 67/1992; 8/2004; 98/2008; 158/2011 and 55/2016)

5. PERSONAL IDENTIFICATION DOCUMENTS

The cornerstone of the legislation in this area is the Law on the Identification Document.¹⁰ The identity card is a public document that proves the identity, the Macedonian citizenship, the residence and the address of the citizen of the Republic of Macedonia.

In addition to lack of adequate registration and citizen's status, Roma face an additional problem with regards to personal identification documents: Ownership and lease of the place of living are the only legal grounds for registration at a certain address. These grounds constitute a problem for Roma who live in extreme poverty, are homeless and/or live in illegally built objects or improvised houses. On the other hand, obtaining ownership or leasing a place for living requires valid personal documents. Thus, these persons are caught in a vicious circle that is very difficult to break out of.

Some countries in the region, for example Serbia, have developed the model of issuing "temporary" identification cards to persons without permanent residence, in an effort to overcome this problem.

Key findings on personal identification documents:

- **Personal identification documents cannot be obtained unless a person has been registered within the Registry of Birth and/or regulated their stay in the Republic of Macedonia.**
- **Ownership and lease of the place of living are the only legal grounds for citizen's registration at a certain address, which is a precondition for issuance of personal identification documents.**
- **Countries in the region have developed a practice of issuance of "temporary" identification.**

¹⁰Zakon za licnata karta (Sluzben vesnik na Republika Makedonija no. 8/1995; 38/2002; 16/2004; 12/2005; 19/2007; 10/2010; 51/2011; 13/2012; 166/2012; 154/2015 and 55/2016)

6. CONCLUSIONS

- 1. The failure to ensure universal registration of births, citizen's status and personal identification documents contributes to the marginalization of Roma in the Macedonian society.**
- 2. State institutions are engaged in providing inter-sectoral response to this issue, in collaboration with the civic sector.** Certain progress has been made in recent years, including the establishment of a national working group led by the Ministry of Labour and Social Policy and including representatives of civic organizations.
- 3. Certain elements of current legislation do not favour effective solution to birth registration, and obtaining citizen's status and personal identification for Roma.** While not "ill-intended", some elements of the current legislation hamper the efforts to ensure citizen's status and personal documents for all Roma in the country.
- 4. The issue of Roma without birth registration certificates, citizen's status and personal identification has been noted by the EU.** This issue has been specifically referred to within the 2015 country progress report issued by the European Commission, as part of Macedonia's application to join the Union.
- 5. Civic organizations are more successful than public institutions in reaching out to Roma communities and providing support to those in need.** Organizations act as intermediaries and bridge the "gap" between institutions and Roma, as they have better understanding of Roma culture and are appreciated for their past work.
- 6. Required administrative procedures demand financial assets that are not affordable for the impacted Roma.**
- 7. Other countries in the region have developed new and innovative models and practices in dealing the birth registration, citizen's status and personal documents.**
- 8. Roma themselves need be better informed and aware of the need to ensure birth registration, citizen's status and personal identification documents.**

7. RECOMMENDATIONS

- 1. Identify all Roma persons in the Republic of Macedonia without birth registration, citizen's status and personal identification documents.** This should be jointly done by state institutions, including municipalities, civic organizations and Roma Information Centres.
- 2. Raise the awareness of Roma on the need to ensure and the possible benefits of birth registration, regulated citizen's status and obtaining personal identification documents.** Civic organizations, Roma Information Centres, and municipalities need to present Roma with the potential benefits rather than threaten them with sanctions. Media and relevant state institutions need to be involved, as well.
- 3. Explore the possibilities for legislation modification that would create more favourable conditions for universal birth registration.** The Law on Family needs to enable fathers with valid documents to ensure the registration of their newborns in cases when the mother lacks documentation to complete the registration. Provisions might be foreseen to introduce "temporary" or "special" custody by the Centre for social work for the sole purpose of ensuring the birth registration of the child.

The Law on Registry could be changed to ensure that the Office for Management of Registers of Births, Marriages and Deaths approaches families of newborns delivered at hospitals that have not fulfilled their obligation to register their child within the deadline set by the law (as the Office is notified of the birth by the health institution). In this manner, families would be alerted to react soon after they fail to complete the registration.

- 4. Explore the possibilities for legislation modification that would give courts the responsibility for additional registration within the Registry of Birth.** The Law on Extrajudicial Procedure could give courts the responsibility to take decisions for additional registration. It would enable that witnesses are held accountable for their statements. Courts could overturn their decisions, should it turn out that they based their decision on false evidence and data. This model is already in place in the region (Kosovo).

Wide discussion with all involved stakeholders – state institutions, civic organizations and experts should identify the most relevant solution.

- 5. Ensure that the standardized additional registration procedure is implemented.** The state institutions responsible to take decisions on the additional registration need to implement a standardized procedure, which could be further legally standardized. This will make the procedure clearer for both the institutions and the applicants and might require training and additional manuals (or other acts) for the responsible public servants.

6. **Ensure a system of community-based legal support and advice for Roma in birth registration, citizen's status and obtaining personal identification documents.** Civic actors should be strengthened in capacity and resources for more effective working. They should be able to hire external legal support. Adequate state funding needs to be provided.
7. **Engage in cooperation with neighbouring states to ensure adequate citizen's status to persons who live in Macedonia and were born in the neighbouring countries.** This primarily refers to Kosovo and Serbia. The model of cooperation implemented by Montenegro and Kosovo, with mobile teams from one of the countries (Kosovo) conducting registration and issuing documents for their citizens living in the other (Montenegro). These documents are then used to regulate their citizen's status in Montenegro, as well.
8. **Explore possibilities for legislation changes in registration of dwelling and residence.** Homeless Roma and Roma living in illegally built object must not be excluded from the possibility to obtain personal documents. Solutions should be found, with examination of existing regional experiences such as the "temporary identification card" issued in Serbia, as the lack of ownership of lease must not deprive citizens from exercising other human and civil rights.
9. **Foster regional cooperation and exchange on the issue of birth registration, citizen's status and personal identification documents.** State institutions in particular and civic organizations need to remain involved in initiatives for exchange of practices and experiences on these issues among the countries in the region.

DOCUMENTS CITED

Action Plan for Inclusion of Roma and Roma refugees. Status of implementation of activities with data included from 2014

[The Former Yugoslav Republic of Macedonia Report 2015](#), European Commission, 2015

Review report of legislation, procedures and practices, with recommendations related to citizen's status and personal identification documents for Roma, EPTISA, 2016

Zakon za drzavjanstvo na Republika Makedonija (Sluzben vesnik na Republika Makedonija no. 67/1992; 8/2004; 98/2008; 158/2011 and 55/2016)

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