



SOCIAL INCLUSION OF ROMA, ASHKALI AND
EGYPTIANS IN SOUTH-EASTERN EUROPE
- REAL LIFE STORIES -

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ASHKALI AND EGYPTIANS IN
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FOREWORD

Everyone has a right to full enjoyment of all citizens' rights without discrimination. Sixty years ago, the right of all to a nationality was confirmed by Article 15 of the Universal Declaration of Human Rights. Contrary to this, centuries' old marginalization of Roma, Ashkali and Egyptians persist throughout Europe and the rest of the world. For many Roma and other minorities, be they old or young, men or women, belonging to and being equal members of a society remains out of reach.

South Eastern Europe has a high concentration of Roma, Ashkali and Egyptians. According to current estimates there are anywhere between 700,000 and more than 1 million Roma, Ashkali and Egyptians¹ living on the territory of Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Kosovo (SCR 1244) and Serbia. Although the size and the dispersion of the population vary from one country to the other, the problems that besiege it are identical. The critical lack of effective citizenship and lack of personal documents such as birth certificates, personal identity documents, local residence permits or documents related to health insurance and social welfare, is a main obstacle to their social inclusion and enjoyment of fundamental rights. This condition, inherited over generations around the globe, has been aggravated in South Eastern Europe through the conflicts and the state- dissolution over the past two decades which brought about forced displacement and creation of new states adding new complexities to the existing impasse.

Recognizing the multiplying repercussions of the lack of personal documentation and the ensuing marginalization and inability to exercise basic human rights, the European Union and UNHCR launched in early 2008 a regional project in South Eastern Europe to facilitate civil registration. Based on the initial response received within the project, a rough projection is that there are some 50,000 individuals in the region that are either stateless or are at risk of statelessness because they lack personal documents.

This brochure contains a representative collection of real life cases that UNHCR's legal aid partners encountered during the project implementation and sought to find solutions to. The problems portrayed are region-wide and are caused by the following factors:

-legal and administrative frameworks that are not fully adapted to the circumstances and are often

1 A combination of official and unofficial statistics as available in the subject countries.

- not providing an enabling environment conducive to solutions;
- protracted legal and administrative procedures that delay the completion of cases;
- intolerant and prejudiced approach towards Roma and other minorities by administrative and legal instances as well as the surrounding community;
- limited access to free legal advice by Roma and other marginalized groups;
- limited access to information by Roma and other marginalized groups, and limited awareness about rights, requirements and procedures;
- extremely limited financial resources of Roma and other marginalized groups as a result of which they are unable to cover the administrative fees and related documentation costs.

These serious shortcomings require urgent attention and solution. We hope that the brochure will raise justified concern among central and local authorities, policy makers, experts, international organizations and spur action.

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RESULTS AND RECOMMENDATIONS

The regional project, under which this brochure is produced, is entitled *“Social Inclusion and Access to Human Rights of Roma, Ashkali and Egyptians in the Western Balkans”* and covers Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Kosovo (SCR1244) and Serbia. It was implemented in the period from February 2008 till July 2009 through an allocation of a sum of EUR 1,250.000 provided by EU and UNHCR.

Throughout the project, UNHCR mounted extensive outreach and awareness campaigns targeting the marginalized minorities, authorities and the general public. In parallel, legal aid partners provided free legal advice and direct legal assistance to Roma individuals and other minorities to acquire citizenship, alien residence permits, civil registration and personal documents. As the provision of documents is hampered by inadequate legal frameworks and complex and cumbersome administrative procedures coupled with lack of flexibility and commitment by the authorities to unblock the situation, UNHCR and its partners also invested considerable efforts in drawing the attention of policy makers to these shortages, advocating for necessary change and putting forward proposals for possible solutions. This being said, it should be recognized that the degree of commitment and determination by state authorities to resolve the documentation gaps among targeted communities varies in the region.

The awareness raising campaigns and outreach activities across the region resulted in receipt of 11,641 requests for legal advice and assistance with civil registration and access to basic rights. By the end of the project, 7,926 (68%) of these requests were processed and completed. The majority of the requests regarded issuance of identification documents (2,464 requests of which 50% were for women). The most complex, costly and protracted requests were those for subsequent registration² which totalled 518 and, of which, 22 necessitated court resolution. 376 individuals were assisted with acquisition of citizenship. In addition, almost 5,500 recipients were assisted with access to basic rights such as education, employment, health care, social welfare and other. At the end of the project 3,715 requests for assistance with civil registration or access to basic rights remained pending. The project is followed by a second phase within which the pending cases, as well as new requests, will be processed.

The implementation of the project has highlighted shortages in the birth registration systems in the

2 Registration in birth and citizenship registries which is undertaken following the expiration of legally prescribed registration time

region as well as in some of the individual country's citizenship registration systems that perpetuate the social exclusion of Roma and other minorities.

In order to create a firm ground and to facilitate the social inclusion of marginalised communities in the South Eastern Europe, UNHCR recommends that:

- Governments in the region, with the support of international organizations, make concerted solutions oriented efforts to map, prevent and eradicate statelessness and protect stateless persons or persons at risk of statelessness;
- Governments in the region adopt or amend appropriate relevant legislation and limit the duration and supporting documentary requirements of the procedures to simplify the process of subsequent registration;
- Governments assume a pro-active approach in identifying and assisting marginalised individuals with documentation gaps to resolve their problems;
- The application of the laws is standardised and there is consistency in interpretation and procedure between municipalities and other sub-regional entities;
- Governments in the region make sufficient budgetary allocations, complemented by international funding as needed, to regularise personal documentation of all stateless individuals or those at risk of statelessness. Specific attention to be given to refugees and internally displaced persons which are the most disadvantaged sub-categories of the marginalised communities;
- Affirmative actions to be carried out on central and local authority level and in the community at large in order to decrease and eradicate discriminatory and prejudiced approach towards Roma and other minorities. Particular attention to be paid to public servants, central and local authorities that in their daily work are directly interacting with members of marginalised communities.

ACRONYMS

BCG	Vaccine against tuberculosis
CDD	Centre for Democratic Development
CRP/K	Civil Rights Program in Kosovo
CSRC	Civil Society Resource Centre
NGO	Non-Governmental Organization
PISG	Provisional Institutions of Local Self Government in Kosovo
SFRY	Socialist Federal Republic of Yugoslavia
SCR 1244	United Nations Security Council Resolution 1244
UNHCR	United Nations High Commissioner for Refugees
UNMIK	UN Mission in Kosovo

The publication has been produced with the assistance of the European Union. The contents of the publication are the sole responsibility of UNHCR and can in no way be taken to reflect the views of the European Union.

The cases in this brochure are true stories found by UNHCR implementing partners during the implementation of the EU regional programme "Social Inclusion and Access to Human Rights for Roma, Ashkali and Egyptian Communities in the Western Balkans". Due to confidentiality the names in the cases are fictional.

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

LEILA

Impact of State Dissolution

Leila was born in Prishtine/Pristina, Kosovo, in 1948. Her parents moved to the former Yugoslav Republic of Macedonia when she was only five and she has been living there ever since. In 1968, she married a resident of the Socialist Republic of Macedonia who held the citizenship of the Socialist Federal Republic of Yugoslavia (SFRY) and of the Socialist Republic of Serbia. Leila has never attended any school and is illiterate.

When the former Yugoslav Republic of Macedonia proclaimed its independence in 1991, **Leila** was 43 years old and she did not submit a request for naturalization within the foreseen deadline. Similar to other countries which emerged after the dissolution of SFRY, the former Yugoslav Republic of Macedonia *ex lege* recognized its citizenship to all persons holding a citizenship of SFRY and the Socialist Republic of Macedonia. All other persons originating from the other republics of former SFRY could get citizenship of the former Yugoslav Republic of Macedonia under the most favourable conditions, only through a transitional naturalization procedure for which they could apply until 11th November 1993. Following this date, they were applying and acquiring citizenship under other naturalization procedures available to all ordinary foreigners in the former Yugoslav Republic of Macedonia. **Leila** had not realized that she was suddenly in another state and that she needed to take action. This is why she did not apply for naturalization under the transitional procedure, within the given deadline.

In the years that followed, she did not apply for citizenship according to any of the other provisions for naturalization of foreigners foreseen in the Citizenship Act of the former Yugoslav Republic of Macedonia. **Leila** was still not aware of the legal consequences of not having a citizenship of the state in which she had been living almost her whole life. Since her identity card of the Socialist Republic of Macedonia was still valid and acceptable for accessing basic rights, it seemed to her that her life continued as usual.

The former Yugoslav Republic of Macedonia changed its Citizenship Act in 2004. It introduced, among other changes, a new provision giving another possibility to long-term habitual residents of the country, originating from other republics of former SFRY, to obtain citizenship under more favourable conditions, if they apply within the two-year deadline. **Leila's** husband benefited from this provision and applied for

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citizenship, while **Leila** and their two adult children (a daughter of 33 and a son of 39 with physical disability) did not. The envisaged fee of €100 for naturalization was a sum they could not afford - they were not aware of the fact that, as a family, they could submit one application for all of them and pay one fee only.

Leila's children did not get citizenship automatically at birth as neither **Leila** nor her husband had the citizenship of the Socialist Republic of Macedonia at the moment of their birth. **Leila** now lives with her physically disabled son, her only source of income being the pension she inherited from her deceased husband. She has been withdrawing her pension with her old identity card of Socialist Republic of Macedonia.

Leila's daughter **Sarah** lives in a common-law marriage with a citizen of the former Yugoslav Republic of Macedonia. She has only a birth certificate issued in the former Yugoslav Republic of Macedonia and for the time being she could not meet any of the existing legal requirements to obtain citizenship of the former Yugoslav Republic of Macedonia. Moreover **Sarah** has never regulated legally her residence in the country and has no personal identification documents. She has never travelled outside the former Yugoslav Republic of Macedonia and has never tried to regulate her Serbian citizenship. Consequently she cannot marry lawfully.

Sarah gave birth to six children, now aged between 6 and 16. She could not register either the births of three of her children born at home or the personal names of the other three of her children born at hospital, as she lacks an identification document, needed to initiate the birth registration procedure. By law, **Sarah's**



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children acquired automatically citizenship of the former Yugoslav Republic of Macedonia at birth, as one of their parents, in this case the father, was its citizen at the moment of their birth. However, in practice, the children cannot exercise their right to citizenship as none of the necessary procedures (for registration of birth, personal name and recognition of paternity) can be initiated, and they are legally invisible.

In April 2009, when she could not withdraw her husband's pension any more, since her old Socialist Republic of Macedonia identity card, although still valid and acceptable, was damaged, **Leila** turned to UNHCR's partner CSRC for help. It is still possible for **Leila** to apply for and obtain citizenship of the former Yugoslav Republic of Macedonia, while the only option for **Sarah** is to apply for a temporary residence permit for foreigners. However, to do that, **Sarah** has to first regulate her Serbian citizenship and obtain national passport of the Republic of Serbia. CSRC has contacted the UNHCR partner NGO in Serbia – Praxis – in order to facilitate this. The request is currently pending while its outcome is uncertain.

Until both of these procedures are finalized both **Sarah** and her brother live unlawfully in the former Yugoslav Republic of Macedonia, although both were born there, while their mother **Leila** still does not possess the citizenship of the country in which she has been living since her early childhood.

FERDI

Once Refugee Now Citizen

Ferdi is ethnic Roma who fled from Kosovo to the former Yugoslav Republic of Macedonia in 1999, due to the conflict in Kosovo and his fear of persecution for reasons of his ethnicity. In the former Yugoslav Republic of Macedonia he was granted the status of "temporary humanitarian assisted person", a form of temporary protection granted by the Government in situations of mass influx of refugees. While he held this status, **Ferdi** entered in a common law marriage with a citizen of the former Yugoslav Republic of Macedonia. In 2003, when the new Law on Asylum and Temporary Protection entered into force, **Ferdi** submitted an individual asylum application with the legal assistance of UNHCR's partner CSRC. He was consequently granted asylum, i.e. the status of a person under humanitarian protection, a form of complementary protection.

In 2005, CSRC assisted **Ferdi** again to lawfully marry his common law wife. **Ferdi** already had a valid

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passport as well as the required supporting documents (birth certificate, citizenship certificate and certificate of free marital status and absence of legal and other obstacles to marry in the former Yugoslav Republic of Macedonia) of the Republic of Serbia, which he had obtained himself.

Once the marriage had been stipulated, **Ferdi** voluntarily renounced his asylum, i.e. status of a person under humanitarian protection, because he could obtain an alien residence permit, on grounds of marriage with a citizen of the former Yugoslav Republic of Macedonia. Consequently, towards the end of 2005, CSRC assisted **Ferdi** to obtain an alien residence permit and an alien identity card, while **Ferdi** obtained himself the necessary supporting documents from the Republic of Serbia.

The funds for the administrative fee which had to be paid for the application, for the verification of the required statements by the notary public, as well as for the translation of supporting documents obtained in the country of origin, were provided by UNHCR.

In 2008, when **Ferdi** met the requirements for acquisition of citizenship of the former Yugoslav Republic of Macedonia on grounds of marriage with its citizen, CSRC offered legal and financial assistance to **Ferdi** to submit an application for citizenship, again as an implementing partner of UNHCR.

In 2009, once he had obtained the citizenship of the former Yugoslav Republic of Macedonia, CSRC assisted **Ferdi** to obtain his first national ID card. Today, thanks to the legal and financial assistance of CSRC and UNHCR, **Ferdi** enjoys the same rights as all other citizens of the former Yugoslav Republic of Macedonia.

EMRULA AND AJSE

Cumbersome and Lengthy Procedures

Emrula was born in Tetovo, the former Yugoslav Republic of Macedonia, in 1960. With his wife **Ajse**, also a citizen of the former Yugoslav Republic of Macedonia, he fathered eight children with whom they live in extreme poverty. Both **Emrula** and **Ajse** are citizens of the former Yugoslav Republic of Macedonia registered in the citizenship registries. The only source of income for **Emrula's** family is the social support that they receive from the state. Their first five children were born in a hospital and duly registered

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in the registry books. The sixth child, *Rehana*, was born at home in 1992, and she was also duly registered by her parents. At the time of their birth **Emrula** supported his family by working occasionally on construction sites. However, in 1994 **Emrula** was injured and could not work for two years. It was during these two years (1994 and 1995) that **Emrula** and **Ajse** got two more children – daughter *Emrana* and son *Demir* – both born at home. Since he was not working at the time and did not have any income, **Emrula** did not register these two children in the birth registries. **Emrula** claims to have started a procedure for subsequent registration of *Emrana* and *Demir* in the birth registries, when he started working again in 1996. Although **Emrula** contacted the relevant authorities repeatedly enquiring about the decision on his request, it was only in 1998 that he received the information that according to their records this request did not exist and had never been submitted to them.

Disappointed, **Emrula** did not attempt to register his two children again until February 2009 when he contacted UNHCR's partners CDD and



KOSOVO (SCR 1244)

CSRC, having heard about their free-of-charge programme for registration in birth registries. On 11th February 2009, CDD and CSRC submitted a request for subsequent registration of *Emrana* and *Demir* in the birth registries. The registration of *Emrana* is particularly urgent as she is suffering from a liver disease and needs to undergo surgery.

In July 2009, four months after the submission of the request, and after several interventions of CDD lawyers to accelerate the procedure, neither a decision was taken nor an explanation was given as to the reasons for the lengthy decision-making process. Therefore, in early July 2009, a preliminary action was submitted to the authority processing this request with the notice that a lawsuit for silence of administration would be lodged, if the authority did not decide upon the request within ten days.

Awaiting a decision, *Emrana* and *Demir* live without any legal identity and with no possibility to exercise their basic rights including health care, even though their parents and siblings are citizens of the former Yugoslav Republic of Macedonia

NAFIJE

Disproportionate Requests for Evidence

Nafije currently lives with no status and no identity. She believes herself to be over 30 but is not certain about it. Neither is she certain of the place of her birth, although she believes that it was in Obiliq/Obilic, Kosovo. Her parents died when she was very young and she has no contacts with her brothers who live abroad. **Nafije** is a mother of five children who are not registered in the birth registries because she had no documents to prove her own identity. The children do not have any inoculation cards nor any other medical cards as they were not born in hospital. They do not attend school.

Nafije's husband was registered in the birth registries and has all necessary personal documents. However, he cannot legalize his marriage with **Nafije** and have the paternity for their five children recognized because **Nafije** has no documents to prove her identity.

In September 2008, a request for subsequent registration of **Nafije** and her five children in the birth registries was submitted to the Municipal Civil Status Commission. The Commission rejected it because

KOSOVO (SCR 1244)

the mother did not have the documents required by the law.

The main problem lies in the fact that the Municipal Commission bases the registration of children on the mother solely and does not accept personal documents of the father nor his paternity. Their demands for evidence are too high and disproportionate.

On 17th February 2009, six months after re-submitting the request and following long administrative procedures and numerous meetings with UNHCR and its partner CRP/K, the registration of the children was declined again with the explanation that the required documents had not been submitted. A decision regarding **Nafije's** request is yet to be passed.

NASER AND SULTANA

Proving Legal Relations with the Place you've Lived in for Decades

Naser lives with his four-member family in Janjevë/Janjevo, municipality of Lipjan/Lipljan, Kosovo. Although he is 45 and although he was registered in the birth registries at birth, **Naser** does not have a birth certificate issued after 1999, as the registry books for Janjevë/Janjevo were destroyed during the conflict in Kosovo in 1999. His wife **Sultana** was born in France and was not registered in the birth registries. Both their sons were born in the hospital managed by Serbian parallel administrative institutions in Kosovo. Consequently, their birth was registered in birth registries administrated by Serbian authorities and not in the registries kept by UNMIK/PISG at the time.

All the four members of this family applied for and were issued documents in 2002 on their civic status by the Serbian municipal authorities that still operate in Kosovo.

As the Kosovo institutions do not recognize and do not accept documents issued by the Serbian parallel administrative institutions in Kosovo, **Naser** recently applied to UNHCR's partner CRP/K for help with the procedure for registration in the registry books kept by the Kosovo authorities, in order for his family to be able to access all rights and public services that they are entitled to. The case was submitted to the Municipal Commission for Civil Registration for review and for their decision on the basis of available evidence, consisting mainly of witnesses' statements. The evidence submitted is, however, weak, mainly

KOSOVO (SCR 1244)

because documents for **Naser's** and **Sultana's** parents cannot be submitted since the registry books containing their data were destroyed. Due to variable actions by the municipal authorities in Kosovo it is impossible to predict whether the municipal authorities will accept the evidence based on witnesses' statements. Awaiting the decision, **Naser** can only hope that the Municipal Commission will accept the only evidence he could secure and that he would be able to prove his connection with Janjevë/Janjevo, notwithstanding the fact that he was born in this village and that several generations of his family have lived there.

BAJRAM AND AFERDITA

Access to rights north and south of Ibar River

Bajram is a Roma while his wife **Aferdita** is Albanian. Both were born in Mitrovica South, Kosovo. They are not formally married; however, they do have three children together. The family is internally displaced in Mitrovica North and lives in very poor housing.

They approached UNHCR's partner CRP/K for legal assistance in submitting a request for social welfare and in order to exercise their right to it. The request for social welfare was submitted to the Municipal Centre for Social Work in Mitrovica South, managed by Kosovo authorities. The standard procedure is that representatives of the centre visit the family to establish the housing conditions and it's eligibility for social welfare. This was not possible in the case of **Bajram** and **Aferdita** as the Centre for Social Welfare from Mitrovica South does not have access to the northern parts of the town. There is also a Centre for Social Welfare in Mitrovica North managed by the UNMIK/PISG administration. However, cooperation between these two centres is limited.

When CRP/K filed a request to the Centre for Social Welfare in Mitrovica North, the officers responded that they could not accept the documents on civic status or any other documents issued in Mitrovica South by the Kosovo authorities. They explained that the necessary documents had to be obtained from the Serbian municipal authorities in Kraljevo, whereto the registry books for the Municipality of Mitrovica were dislocated in 1999.

Bajram and **Aferdita** can have access to the right to social welfare in Kosovo only if they obtain per-

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sonal documents from the Serbian authorities in Kraljevo. All other documents, such as the certificate of temporary residence, etc. should be obtained from the authorities in Mitrovica North. Even if this procedure was to be completed, the issued documents will be valid only in Mitrovica North. The Kosovo administration does not recognize the validity of the documents issued by the Serbian parallel administrative institutions. For this family, as for many others in Mitrovica, access to rights is affected by the fact that there is no reciprocity between the administration on the north and on the south of the river Ibar.

LEONTINA

Lack of Documents: Inter-Generational Phenomena

Leontina was born in the Institute for Gynaecology and Obstetrics of the Clinical Centre of Serbia in Belgrade in 2008. Her parents live in a common-law marriage and they have had two more children before **Leontina**. However, unlike her brother and sister, **Leontina** was not registered in the birth registries.

In August 2008 **Leontina's** father *Leonard* applied to UNHCR's partner Praxis, asking for help in obtaining a health booklet for **Leontina**, because she could not get a BSG vaccine without it. *Leonard* tried to register **Leontina's** birth in the registry books several times, but the authorities refused to make the registration, because **Leontina's** mother *Valentina* did not have any proof of her identity except a refugee identity card. This, however, had not been a problem for **Leontina's** elder sister and brother who were registered in the birth registries on the basis of their mother's refugee identity card.

Leontina's mother *Valentina* was not registered in the birth registries in Bihac, Bosnia and Herzegovina, where she was actually born, and she has no proof required for initiation of the procedure of subsequent registration. Another aggravating circumstance is the fact that *Valentina* cannot travel to Bosnia and Herzegovina to initiate the procedure. **Leontina's** father *Leonard* has all documents.

After the required evidence was collected, the request for subsequent registration of **Leontina** in the birth registries was submitted in late August 2008. The following documents were submitted with the request: a certified photocopy of new-born baby sheet; a certified photocopy of hospital discharge letter; a photocopy of **Leontina's** father's identity card and a photocopy of refugee identity card of **Leontina's**

mother. The request also contains a suggestion to have the hearing of *Leonard and Valentina*, as well as the offer to submit other evidence if needed.

In late September 2008, the relevant body sent a notification stating, *inter alia*, that the request for subsequent registration had already been met, because **Leontina's** birth was registered in the birth registries, and that the following request should refer to the subsequent registration of her personal name and acknowledgement of paternity of her father. The notification also said that the relevant body tried to obtain a birth certificate of the child's mother *ex officio*, but that the authorities from Bihac responded that *Valentina* was not registered in the birth registries.

Since the competent body did not pass the decision within the legally required period of time, an appeal was lodged with the Ministry for Public Administration and Local Self Government in late September 2008. In the mean time, before the decision upon the appeal was passed, the relevant body passed a decision rejecting the request for **Leontina's** subsequent registration as unfounded. They repeated all the reasons they had stated in the previously sent notification. They also stated here that the person who claims to be **Leontina's** father was told repeatedly that the mother of the child had to submit her birth certificate, and that thereafter the case would be forwarded to the relevant centre for social work, which would then take the statement of acknowledgement of paternity and personal name.

In November 2008, an appeal against this decision was lodged to the Secretariat for Administration of Belgrade, requesting that the case be re-submitted for reprocessing. However, in December 2008 the Secretariat for Administration in Belgrade issued a decision rejecting the appeal as lodged by an unauthorized person. According to this body, *Leonard* is not authorized to take any actions in the procedure on behalf of **Leontina**

An action was brought in the District Court in Belgrade in late December 2008. The action it stated that in this specific case it was obvious who the party in the administrative procedure of subsequent registration was and that *Leonard*, as the father, had to be accepted as **Leontina's** legal representative.

It was not until May 2009 that the District Court in Belgrade passed the judgment accepting the action and cancelling the decision of the Secretariat for Administration of the town of Belgrade. In such a way the case was re-submitted for reprocessing. In the meantime, the procedure for establishing the fact of

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birth of **Leontina's** mother *Valentina* was started at the Fifth Municipal Court in Belgrade, after consultations that Praxis made with the judge.

While awaiting the decisions of authorities, *Valentina* and **Leontina** are deprived of their fundamental human rights.

SANIJE

Discriminatory Attitude of Public Authority

Sanije is 19. She was born at home in Novi Sad, Serbia, where she still lives with her parents and brothers in one of the illegal settlements. **Sanije's** birth was not registered with the relevant authority.

UNHCR's partner Praxis' legal team submitted a request for **Sanije's** subsequent registration in the birth registries in November 2008. They enclosed a photocopy of her mother's birth certificate, photocopies of her father's birth certificate and citizenship certificate, photocopies of identity cards of both parents, statements of witnesses of birth and the photocopy of the decision on amending the data in the electoral list for **Sanije's** mother.

In January 2009, the relevant administrative body in Novi Sad passed a decision rejecting the request as unfounded, explaining such a decision by the fact that her parents had permanent residence registered in Titov Veles in the former Yugoslav Republic of Macedonia at the moment of **Sanije's** birth. Certified statements of witnesses accompanying the request and other evidence were not analysed at all. The administrative body in Novi Sad did not obtain any evidence confirming that **Sanije** was born on the territory of the former Yugoslav Republic of Macedonia. Their decision was based on pure assumption.

An appeal against the above decision was lodged to the Ministry for Public Administration and Local Self Government in late January 2009. They revoked the decision and returned the case to be reprocessed in late April 2009.

However, only a few days later, the administrative body in Novi Sad rejected **Sanije's** request claiming the lack of jurisdiction again. This time, in the statement of reason this body went even further, stating

that the reason for rejecting the request was the current situation in Novi Sad, the increasingly large inflow of Roma and fear that a hasty solution of this case would result in a mass inflow of similar requests. Apart from this, the body stated that the procedure had been initiated through the Ministry of Foreign Affairs to check whether **Sanije** was registered in the birth registries in the former Yugoslav Republic of Macedonia (in the place of permanent residence of her parents at the moment of her birth). However, this body passed their decision before any results of such check arrived. "Reasonable doubt" that the child was born in the former Yugoslav Republic of Macedonia and the "existing situation" in Novi Sad were sufficient for the administrative body to reject **Sanije's** request for subsequent registration in the birth registries in the repeated procedure too.

Sanije submitted, in early June 2009, a supplement to her appeal to the Ministry of Public Administration and Local Self Government in form of the certificate of not being registered in the birth registries in the former Yugoslav Republic of Macedonia in the place of permanent residence of her parents at the moment of birth. **Sanije's** parents obtained this certificate.

It remains uncertain whether in **Sanije's** attempt to exercise her constitutionally guaranteed right to legal subjectivity the decisive factor will be the evidence and application of the law, or doubts, fears and discriminatory attitude of Novi Sad administration.

DJULIJAN AND SENAD

Living and Dying as Legally Invisible Persons

Djulijan was born in Fushë Kosova/Kosovo Polje, Kosovo in 1999. He was not registered in the birth registries. He was admitted to a Belgrade hospital and received treatment using somebody else's health booklet in 2006. As a "legally invisible" person **Djulijan** was not eligible for health insurance and therefore his parents had no other choice but to "borrow" the health booklet of **Djulian's** cousin **Senad**, born and registered in the birth registries in Kragujevac in 2001. Both families are returnees to Kosovo and their permanent residence is in Fushë Kosova/Kosovo Polje.

In August 2006 **Djulijan** died in hospital and consequently, the birth and death registries noted **Senad's**, instead of **Djulijan's** death. In their efforts to prove that **Senad** is still alive, **Senad's** parents

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turned to UNHCR's partner Praxis for legal assistance.

The required evidence was obtained, and in April 2007 the motion for proving death was submitted and the out-of-court procedure started at the court of residence of the proponent. After the final court judgment, the administrative procedure will have to be initiated to strike the fact of **Senad's** death out of the birth and death registries.

The court which has jurisdiction in this case is the Municipal Court of Prishtine/Pristina, which is dislocated from Kosovo in Nis. In spite of many requests for urgency, the judge in charge of this case has not scheduled the hearing yet.

Senad is 8 and lives his life as a "legally dead" person. That's why he cannot go to school with his peers; he cannot get medical treatment or exercise any other right.

On the other side **Djulijan** lived and died as a "legally invisible" person.

GANIMETA

Forty Years Without Personal Documents

Ganimeta was born in Podgorica in 1967. Her parents were born in Gjakova/Djakovica, Kosovo and they moved to Podgorica before the breakdown of the Socialist Federal Republic of Yugoslavia. **Ganimeta** spent her whole life in Montenegro, owns a house and has a Montenegrin identity card. She never had full time employment. She married Muharem, a Roma from Kosovo in Danilovgrad in 1988. They had four children, all of whom were born in Podgorica.

In order to obtain a new identity document, after Montenegro proclaimed independence in 2006, **Ganimeta** filed her application, only to find out that she had never been registered as a citizen of Montenegro in the Montenegrin citizenship registry book. However, she was issued a birth certificate which contains an entry confirming her Montenegrin citizenship. Convinced that the birth certificate with the entry confirming that she was a Montenegrin citizen and the "old" identity card would suffice, **Ganim-**

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eta submitted the request for a “new” identity card. However, she was told that she had to submit a certificate that she was not registered in the citizenship registry book in the Municipality of Gjakova/Djakovica, where her parents were born. It was also explained to her that, after obtaining such a certificate, she would have to initiate a procedure for admittance to Montenegrin citizenship.

Ganimeta applied to the registry for the Municipality of Gjakova/Djakovica, dislocated in the municipality of Jagodina in Serbia. There she was issued with a certificate stating that the registry books for the municipality of Gjakova/Djakovica were destroyed during the Kosovo conflict. In order to start the procedure for restoration of the registry books data (re-registration), she had to submit birth certificates of her parents, which were also destroyed during the conflict. Thus, there is no way for **Ganimeta** to collect the documents she needs for the restoration of data.

Ganimeta could only submit the certificate she obtained in Jagodina confirming that the registry books had been destroyed. Thus she initiated the



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procedure for admittance to Montenegrin citizenship. Her application was rejected with the explanation that she had to finalize the procedure for the restoration of registry books data in Serbia first which would prove she is not a citizen of Serbia. Only then she could apply for Montenegrin citizenship.

Although born in Montenegro where she has been living for her whole life, **Ganimeta** found out that she does not actually have Montenegrin citizenship. If she fails to complete the procedure for the restoration of the registry books data in the municipality of Jagodina, **Ganimeta** will find herself with no personal documents. She will not be able to obtain identification documents neither in Montenegro nor in Serbia, and so will become a legally invisible person. Her freedom of movement will be restricted; she will be deprived of the right to health care, employment and all the other rights enjoyed by other citizens of Montenegro.

VLAZNIM

Rigid Procedures

Vlaznim is a displaced person from Kosovo, who lives in Podgorica, Montenegro with his wife and son born on 14th January 1995 in the General Hospital in Pejë/Pec, Kosovo. However, although the boy was born in hospital, his parents failed to register him in the birth registries.

In March 2009 **Vlaznim** applied to UNHCR's partner the Legal Centre for help in the process of subsequent registration of his son in the birth registries in the Municipality of Pejë/Pec, dislocated in Kragujevac, Serbia.

In March 2009 the Legal Centre sent a request for subsequent registration of the child in the birth registries to the City Administration of Kragujevac. They enclosed the following documents: a certified copy of hospital discharge letter from the Health Centre in Pejë/Pec; a certificate that the boy is full time enrolled at a primary school; copies of displaced person's identity card; the passport and birth certificate of the boy's mother; a copy of the birth certificate for the father who was born in Albania; and the marriage certificate of the parents from the Monastery of Deçanit/Decani, Kosovo.

The City Administration of the Municipality of Kragujevac sent, on 15th April 2009, a letter asking **Vlaznim** to supply certain additional documents. Since both parents were born in the Republic of Alba-

nia, it was impossible to obtain the requested documents within the envisaged deadline. **Vlaznim** also got an invitation to jointly with his wife visit the City Administration of Kragujevac on 5th May 2009 to make the required statements. However, they were unable to respond to the invitation due to medical and financial reasons.

Since **Vlaznim** did not submit the requested documents within the prescribed timeframe and as he and his wife did not come to Kragujevac as requested, the City Administration of the Municipality of Kragujevac passed a decision on 20th May 2009 rejecting the request for subsequent registration of the boy in the birth registries as unfounded.

The Legal Centre lodged an appeal against this decision to the Ministry for Public Administration and Local Self Government of the Republic of Serbia in Belgrade and the procedure is in progress.

ISMET

Registration in the Birth Registries with the Support of the Ministry of Interior

Ismet is a Roma who lives with his six children in Niksic, Montenegro. When he contacted UNHCR's partner the Legal Centre for the first time in February 2009, none of his children were registered in the birth registries and in the citizenship registry book. Two of the six children were born in hospital and they had hospital discharge letters, while four were born in their family house in Niksic.

On 11th February 2009, the Legal Centre submitted a request to the regional unit of the Ministry of Interior in Niksic for the subsequent registration of **Ismet's** four youngest children: *Albertine*, born in 1993, *Melinda*, born in 1995; *Sabit*, born in 1999 and *Neđad*, born in 2000 and for his two children over 18: *Alfred*, born in 1988 and *Ramadan*, born in 1990. The Legal Centre also supplied the following evidence: certified copies of the parents' identity cards; the birth and citizenship certificates of both parents; the parents' marriage certificate; two hospital discharge letters for the children born in hospital; statements of both parents on accepting maternity and paternity; statements of two witnesses and certified copies of their identity cards.

In February and March 2009 the Ministry conducted verification of the data in the General Hospital in Niksic and in the field so as to establish the veracity of the statements. These completed, the decision was

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passed in April 2009, to order the registrar for the Municipality of Nisic to register subsequently the births of the children in the birth registries. Thereafter, another decision was passed – the decision to register the children in the citizenship registry book. As a result, the children were registered and thus became legally visible persons for the first time.

BEATA

Administrative Fees - Obstacle to Exercising Rights

A large number of Roma from Kosovo live on the territory of Bosnia and Herzegovina with recognized refugee status. However, apart from the refugees from Kosovo there is also a certain number of Roma from Serbia who have never regulated their status in Bosnia and Herzegovina. Although they have been living in the country for more than a decade these persons do not have any identification documents.

One of them is **Beata** from Bihac, born in Serbia in the early 1980ies. Although she was a minor when she arrived in Bosnia and Herzegovina and although she has been living in Bihac for the most part of her life, she has never had an identity card. She never attended school and her residence was never registered. Her parents divorced and she does not know their current addresses.

Beata lives in Bihac since 11 years in a common-law marriage with a citizen of Bosnia and Herzegovina who has fathered her four minor children. Not having any identification documents, she was not entitled to health care and **Beata** thus borrowed someone else's health booklet each time she gave birth. Consequently, a different woman's name was entered into the birth registries for each of her children.

If she want to initiate a court proceeding to establish maternity, **Beata** would first have to obtain personal identity documents. A precondition for that would be to obtain a birth certificate and a citizenship certificate from her place of origin, Serbia.

However, according to the Serbian Law on Identity Cards, all persons above the age of 16 are required to possess and carry an identity card. Those who do not abide by this law are held liable for misdemeanour and can be fined up to 50,000 Serbian Dinars (about €600) or sentenced to prison up to 30 days. In addition, **Beata** would need about 500 Bosnian Convertible Marks (about €250) for a DNA analysis which is

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required for establishing maternity. Although UNHCR's partner Vasa prava BiH has obtained necessary documents from Serbia for **Beata** to initiate a procedure, **Beata** is not willing to proceed further and refuses continued assistance due fear of the high penalties under the Serbian law and due to the high fees.

As a result, she has neither identity documents nor health insurance nor right to work legally. While her children have identity documents, other persons are registered as their mothers.

SAFIJA AND SADIJA

Birth Certificate With Wrong Mother Registered

Safija and **Sadija** were born in Zenica, Bosnia and Herzegovina, in 1993 and 1995 respectively. Their mother Amela gave birth to them with someone else's health booklet. Due to the on-going conflict in Bosnia and Herzegovina at the time of their birth, the civil authorities were not fully functional no children's names were registered on the birth certificates. Moreover, under the entry "the name of the mother" the names of two different women were entered in the birth registries and not the name of their biological mother, while the name of the biological father is entered only in **Sadija's** case

After the war ended, **Safija** and **Sadija** moved with their mother to Kiseljak. In the meantime, the common-law marriage of their mother and their father dissolved and they lost contact with their father.

Regardless of the fact that their registration in the birth registries was not complete, the local primary school in Kiseljak admitted **Safija** and **Sadija** and they are able to receive education as other children of their age.

In 2007, UNHCR's partner Vasa Prava BiH started the procedure of establishing their biological mother **Amela's** maternity in the Municipal Court in Kiseljak. Following one year of procedures the Court ruled that **Amela** is the mother of the minor children **Safija** and **Sadija**. The judgment was sent to the relevant register for registration in the registry books where it was registered in 2008.

Safija's and **Sadija's** paternity remains un-resolved as they have been unable to re-connect with the father.

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