

CIVIL
REGISTRATION
AND THE
PREVENTION OF
STATELESSNESS:

A SURVEY OF ROMA,
ASHKAEIA AND
EGYPTIANS IN
MONTENEGRO



May 2009



Publishers

United Nations High Commissioner Refugees – UNHCR
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United Nations Children’s Fund – UNICEF
Vladike Danila 28, 81000 Podgorica, Montenegro

Design

Studio Mouse, Podgorica

Printed

M Print, Podgorica

Print run

2,000

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I LIST OF ACRONYMS

RAE	Roma, Ashkaelia, and Egyptian
NGO	Non-Governmental Organization
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNDP	United Nations Development Programme
MONSTAT	Statistical Office of Montenegro
MIAPA	Ministry of Internal Affairs and Public Administration of Montenegro
SFRY	Socialist Federal Republic of Yugoslavia
FRY	Federal Republic of Yugoslavia
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
PRSP	Poverty Reduction Strategy Paper

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II FOREWORD

Civil Registration and the Prevention of Statelessness: A Survey of Roma, Ashkaelia and Egyptians (RAE) in Montenegro presents the results of a study carried out in 2008 by UNHCR, with support from the European Commission, and UNICEF.

The survey, conducted by the NGO Legal Centre of Montenegro, provides baseline data on the possession of personal documentation among RAE population groups. It covers a total of 7,166 RAE -- both local and refugee/displaced¹ populations -- representing approximately 70% of the RAE population living in Montenegro. It is the largest survey of its kind to date.

Being recognized as a person before the law is an internationally accepted and fundamental human right.² Those who are not registered are at risk of being denied basic rights and opportunities: without documentation they may face difficulties in accessing or finishing school, in receiving adequate medical care, in finding employment, in owning property, and even in moving freely.

RAE populations in South East Europe are amongst the poorest and most vulnerable members of society, and are particularly affected by a lack of personal documentation. Registration is an essential element of national planning for children and adults, and provides the demographic base upon which effective strategies can be built. In this way, a lack of personal documentation can serve as a driver for further exclusion and marginalization³.

¹ For the purposes of this booklet, the term "refugees/displaced" is used for those persons who fled Kosovo to Montenegro to seek protection from escalation of violence during 1998 and 1999. They hold "internally displaced persons" (IDP) or "displaced persons (DPs)" status which was issued to them by the then Commissariat for Displaced Persons, the predecessor agency of the Bureau for the Care of Refugees (BCR). Their status in Montenegro is presently under re-consideration and will be defined according to relevant legislation and international standards.

² "Everyone has the right to recognition everywhere as a person before the law."
Article 6 of the Universal Declaration of Human Rights (1948); Article 16 The International Covenant on Civil and Political Rights (1966)

"The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless"

Article 7, paragraphs 1 and 2, Convention on the Rights of the Child (1989)

³ See Implementation Handbook on the Convention on the Rights of the Child

In 2008, UNHCR, UNICEF, and UNDP signed a Memorandum of Understanding on the occasion of World Roma Day, in the presence of the Deputy Prime Minister for European Integration of the Government of Montenegro, with the aim of strengthening cooperation in searching for durable solutions for the RAE through the facilitation of birth certificates and personal documents, as a pre-condition for their access to social security services and to further enable their social inclusion.

The findings of the survey presented in this booklet reveal the need for an urgent and concerted effort within and beyond Montenegro to support RAE in claiming their rights. UNHCR and UNICEF are confident that this report will contribute to the efforts of governments in South East Europe, international organizations, civil society, and RAE groups, towards achieving civil registration and social inclusion.

III KEY FINDINGS

- The aggregated results show that from a total of 7,166 persons surveyed, 61.4% (4,399 persons) have appropriate documentation and are registered in Montenegro and/or in Serbia. For the purposes of this survey, registration in the registry books is only considered complete if a person possesses both birth and citizenship certificates.
- From those surveyed, 38.6% (2,767 persons), have incomplete personal documentation, and will need to initiate some kind of legal procedure, i.e. subsequent or renewed registration in the registry books.
- Of the 2,767 people still to be registered, 1,928 are children⁴. Children, therefore, represent more than two-thirds of all those surveyed who need to be registered (714 in the birth registry and 1,214 in the citizenship registry books).
- Refugees/displaced represent 66% of those who need to be registered. Three quarters (1,376) of all refugees/displaced without registration are children, of whom the most affected are those born in Montenegro and whose parents fled from Kosovo in 1999.
- The RAE refugee/displaced population is more affected by the problem of incomplete personal documentation than is the local RAE community, but the latter still faces challenges in registration.
- The registration of RAE refugees/displaced is more problematic regarding citizenship than it is for birth registries. A relatively small number of the RAE refugees/displaced surveyed (13.8%) need to renew registry books that have disappeared or that have been destroyed during the conflict in Kosovo.
- More than one third of the RAE refugees/displaced require birth registration in Montenegro. Children affected by a lack of birth registration make up 80% of the RAE refugees/displaced who need to be registered in the birth registry.
- The issue of RAE refugees/displaced registered at birth, but not entered into the citizenship registry, is almost solely connected with those whose country of origin is Serbia (Kosovo). It is sometimes very difficult to confirm citizenship in the country of origin, because of complex procedures surrounding subsequent registration in citizenship registry books. This can have the effect of rendering a person effectively

⁴ For the purpose of this booklet the following definition of a child is being used: “..a child means every human being below the age of eighteen unless under the law applicable to the child, majority is attained earlier.” Article 1, Convention on the Rights of the Child (1989)

stateless. The data on age shows that children make up more than 85% of the RAE refugees/displaced who need to be registered in the citizenship registry books.

- Of the 945 local RAE who have incomplete documentation, more than three quarters (76.3%) are not registered in the citizenship registry books.

IV SOCIO-ECONOMIC CONTEXT FOR RAE

The RAE populations are amongst some of the poorest and most vulnerable minority groups in Montenegro. Preliminary updated statistics estimate that there are about 10,619⁵ RAE living in the country (see *Figure 18*). As of 31 October 2008, the *Bureau for the Care of Refugees (Table 2)* reported that there are 4,458 RAE refugees/displaced from Kosovo residing in Montenegro, which represents some 40% of the total estimated number of this population.⁶

Montenegro is on track to achieve most of the Millennium Development Goals, but the development indicators for RAE, provided by survey data, indicate that they do not enjoy the same rights and opportunities as the majority of the population. They are a younger population, but have a shorter life expectancy. They usually live in larger households with 6 members on average.⁷ They are disadvantaged and marginalised in all spheres of life including housing, education, health protection, nutrition, labour, cultural and political life. Chronic and inter-generational poverty is perhaps the biggest problem for most of the RAE families that live below the poverty line – unemployment rates are very high (43.3%), and RAE families are nearly five times more likely to be poor than average Montenegrin families.⁸ One of the consequences of poverty and social marginalisation is a relatively high incidence of child labour, which is another issue of concern.⁹

Chronic and intergenerational poverty is perhaps the biggest problem for most of the RAE families that live below the poverty line.

In terms of education, approximately 80% of RAE are illiterate¹⁰ and only 18% of RAE children complete primary education. Currently there are only 36 RAE students registered in secondary education in Montenegro.¹¹ These facts, together with a lack of civil registration and personal documentation, are recognised as one of the primary causes for their social exclusion and a constraint in fulfilling their fundamental human rights and freedoms. Poverty and social exclusion affects the health of the majority of RAE, especially those living in settlements with poor or non-existent basic infrastructure. This is reflected by a higher incidence of chronic diseases and the frequent perception they have poorer health/hygiene than the rest of population.¹² The RAE language, history and culture are not formally included in the standard school curriculum. In terms of political participation

5 Statistical Office of Montenegro - Monstat, 2008, Preliminary data

6 Other, unofficial sources, estimate higher numbers of RAE in Montenegro

7 Institute for Strategic Studies and Prognoses, 2003, Household Survey on RAE, Refugees and IDPs PRSP 2003,

8 Institute for Strategic Studies and Prognoses, 2003, Household Survey on RAE, Refugees and IDPs

10 PRSP 2003

11 Ministry of Education and Science, 2009

12 Institute for Strategic Studies and Prognoses, 2003, Household Survey on RAE, Refugees and IDPs

and representation, there are only a few RAE representatives working within Montenegrin ministries, and there are no RAE parliamentarians. Social exclusion affects the vast majority of the RAE population, with children and refugees/displaced being particularly vulnerable. This prevents them from fully developing their capacities to contribute in a substantial way to the economic and social development of the country. Their lack of documentation is a main reason for RAE marginalization and lack of opportunities.

A Protective Legal Framework

The Constitution of Montenegro provides a foundation for the protection of basic human rights and freedoms in the country. It guarantees human rights and freedoms to all citizens, prohibits the generation of hatred and all other forms of discrimination and gives precedence to international legal instruments over national legislation¹³. In addition, Montenegro has ratified the main international human rights instruments including: the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Montenegro has accepted international obligations to initiate programmes and activities in order to ensure adequate protection of the rights of the RAE population and to guarantee them additional rights whilst recognising their particularly vulnerable position in society. This commitment is reflected by the adoption of a number policy documents and strategies which have been introduced over the past several years, aimed at improving the quality of life for the RAE population. These include the Decade for Roma Inclusion, the Strategy for Improving RAE status in Montenegro, 2008-2012, the PRSP (2003), and the Innovative Strategy for Poverty Reduction (2007).

The main challenges remain in the full and timely implementation of existing legislation, policy documents and strategies and in ensuring the inclusion of RAE refugees/displaced and those at risk of statelessness.

13 *The Constitution of Montenegro, 2007, Articles 6-9*

V THE SURVEY - SCOPE AND METHODOLOGY

The survey was conducted in order to determine the number of RAE who are not registered in birth and/or citizenship registries, and who therefore need to initiate procedures for subsequent registration/renewal of registration in the registry books in either Montenegro or Serbia. There were two phases, both implemented by the NGO, Legal Centre. In the first phase, UNHCR supported a survey amongst the RAE refugee/displaced population from Kosovo who live in Podgorica. In the second phase, UNICEF supported a survey amongst the local RAE in Podgorica and all the RAE living in 16 municipalities in Montenegro.

The survey was conducted by a team of 10 legal advisers and around 15 field assistants using a questionnaire with 56 questions grouped in two groups: *A. Data about the respondent*; and *B. Data about the parents (I. Data about the father, and II. Data about the mother)*. The members of the teams interviewed people directly whilst visiting settlements, areas and villages where, according to available data, RAE populations live. In the case of children, data was provided by parents or, when parents were absent, by another adult in the household. During the course of their work, the interviewers received invaluable support from the local RAE leaders and from a number of RAE NGOs. Once the data collection in the field was completed, the collected data was entered into the electronic database and processed. Finally, after data processing, the survey findings were disaggregated according to the following variables: gender, age, local RAE, RAE refugees/displaced, and by regions and cities of residence.



The first phase of the survey was conducted in Podgorica from 21st January to 5th March 2008. It included 2,168 RAE refugees/displaced living in Konik I and Konik II camps and the areas of: Konik, Vrela Ribnicka, Kakaricka Gora, and Tuzi. The survey was conducted through the regional IPA programme "*Social Inclusion Of and Access to Human Rights for Roma, Ashkaelia, and Egyptian Communities in the Western Balkans*" funded by the European Commission.

The survey included in total 7,166 persons, of which 3,546 (49.5%) were local RAE and 3,620 (50.5%) were RAE refugees/displaced from Kosovo

The second phase, supported by UNICEF, was broader in scope and covered sixteen (16) municipalities in Montenegro, from 15th August to 15th October 2008. The survey included a total of 4,998 persons, of which 3,546 were local RAE and 1,452 were RAE refugees/displaced. In the second phase, the following municipalities were included: Bijelo Polje, Berane, Rozaje, Pljevlja, Andrijevica, Savnik (northern region); Bar, Ulcinj, Budva, Herceg

Novi, Tivat, Kotor (southern region); Podgorica, Danilovgrad, Niksic and Cetinje (central region). The municipalities were selected based on high concentrations of RAE populations, with Podgorica having the largest number of RAE inhabitants, followed by Niksic, Berane, Ulcinj, Herceg Novi, Tivat, Bijelo Polje, Bar, Budva, Cetinje Rozaje, Pljevlja, Kotor, and Danilovgrad (Figure 16).

The survey included, in total, 7,166 persons, of which 3,546 (49.5%) were local RAE and 3,620 (50.5%) were RAE refugees/displaced from Kosovo (Figure 1).

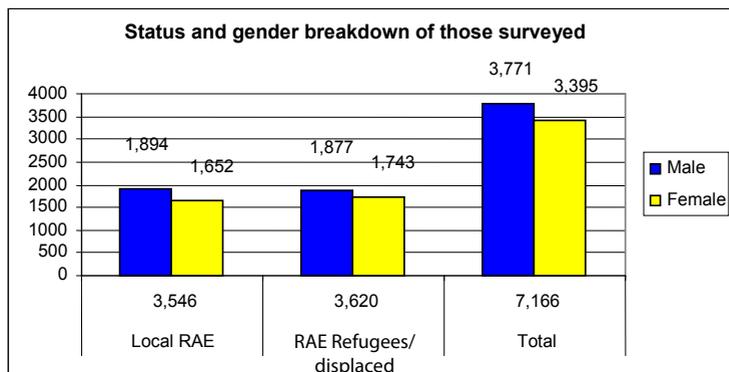


Figure 1: Status and gender breakdown of those surveyed

Detailed Findings

The aggregated results show that from a total of 7,166 person surveyed, about two-thirds of them or 4,399 (61.4%) are registered in the registry books in Montenegro and/or in Serbia.

The remaining 2,767 persons (38.6%) have incomplete personal documentation, and will need to initiate some kind of legal procedure, i.e. subsequent or renewed registration in the registry books (Figure 2). For the purposes of this survey, registration in the registry books is only considered complete if a person possesses both birth and citizenship certificates.

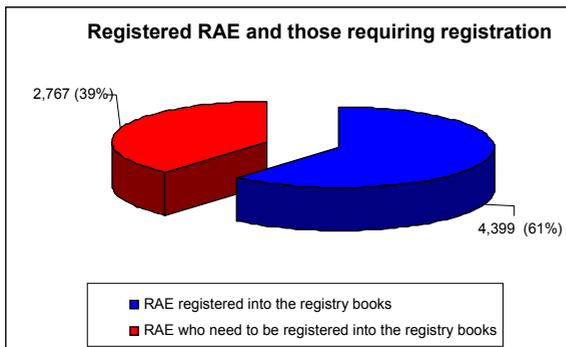


Figure 2: Registered RAE and those requiring registration

Of the 2,767 people still to be registered, 1,928 are children (Table 1). Children therefore represent more than two-thirds of all those surveyed who still need registration - 714 (37%) of them in the birth registry and 1,214 (67%) in the citizenship registry books (Figures 8, 9, 10, 13, 14 and 15).

RAE children who lack personal documentation						
	Boys	%	Girls	%	TOTAL	
					Number	%
Local RAE	307	15.92	245	12.71	552	28.6
RAE refugees/ displaced	737	38.23	639	33.14	1,376	71.4
TOTAL	1,044	54.15	884	45.85	1,928	

Table 1: RAE children who lack personal documentation

RAE children are particularly affected by a lack of registration and this can have serious consequences for their health and well-being. The fact that a child is not registered formally

means that the child is at risk of being de facto invisible in the system of child and social protection, and this can limit access to health and education. Non registered children can be marginalized from birth and are vulnerable to abuse, neglect and even trafficking.

The survey shows that the incomplete personal documentation problem affects RAE boys slightly more than RAE girls (Figure 3).

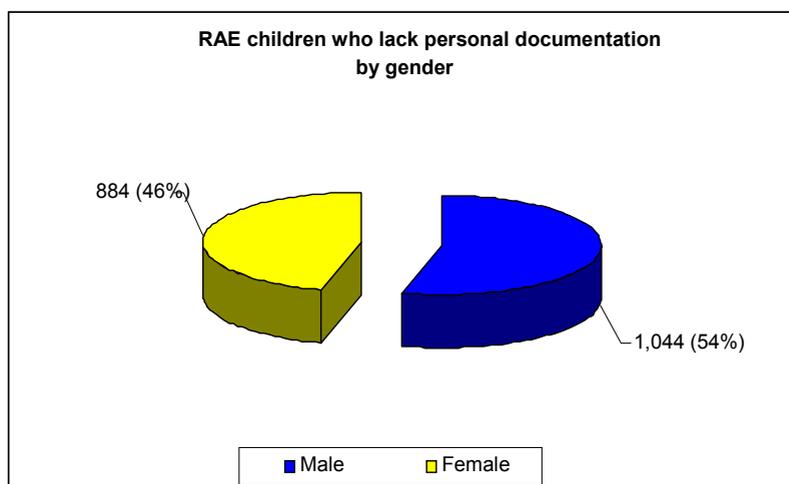


Figure 3: RAE children who lack personal documentation by gender

The RAE children who are the most affected by a lack of documentation are the children born in Montenegro to parents who fled from Kosovo in 1999. A significant number of these children were born at home, and their births were often not registered. The situation in the Podgorica municipality can be given as an example: 682 RAE refugee/displaced children were born in Podgorica, and 103 of those children were not properly registered at birth. Only 15 of those children were born inside the health system, while 88 were born outside the health system (Figure 4).

The RAE children who are the most affected by a lack of documentation are the children born in Montenegro to parents who fled from Kosovo in 1999

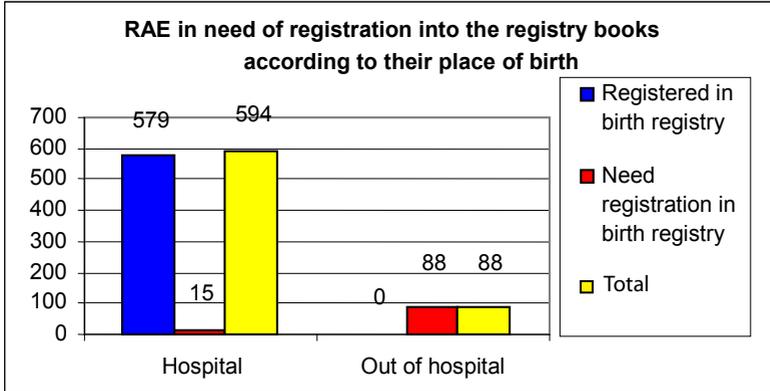


Figure 4: RAE in need of registration into the registry books according to their place of birth



Furthermore, a great number of the children born in hospital and registered in the birth registry, were registered in the "citizenship" column as citizens of "FR Yugoslavia", "Serbia and Montenegro" or "Serbia". The survey revealed that parents were not always aware or informed that this did not mean that those children held that citizenship, and that it was necessary to carry out a special procedure to re-register them in the citizenship registry to confirm their citizenship.

The RAE refugee/displaced population is more affected by the problem of incomplete personal documentation, but the same problem is also quite common among the local RAE population

The analysis of the lack of personal documentation of both local and refugee/displaced RAE shows that the RAE refugee/displaced population is more affected by the issue of incomplete personal documentation, but that the same issue is also common in the local RAE population (Figure 5).

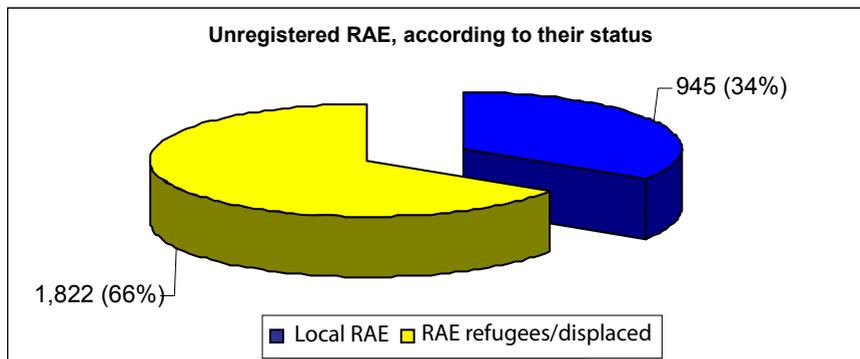


Figure 5: Unregistered RAE, according to their status

The next section of this document will present a breakdown of the specific characteristics and differences between the local RAE and the RAE from Kosovo, paying special attention to children.

The Specific Context of RAE Refugees/displaced

As of 31st October 2008, some 4,458 RAE refugees/displaced from Kosovo have resided in Montenegro, according to statistics provided by the Bureau for the Care of Refugees, the official governmental institution responsible for the registration of refugees/displaced from Kosovo.

The survey covers 3,620 RAE refugees/displaced from Kosovo, representing 81.2% of the total RAE refugee/displaced population in Montenegro. Among them, every second person has incomplete personal documentation or in total 1,822 people, and three quarters of them are children (Figure 6).

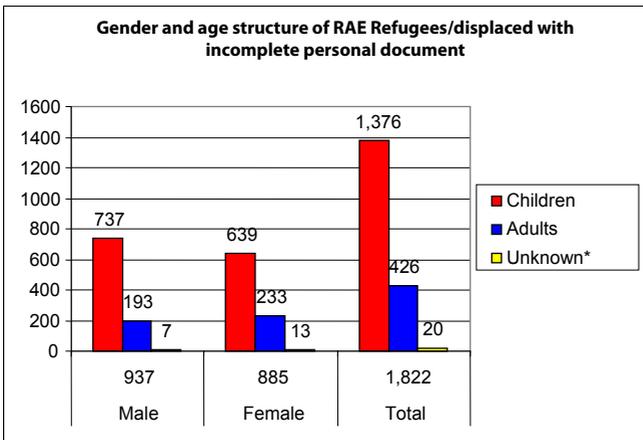


Figure 6: Gender and age structure of RAE refugees/displaced with incomplete personal documentation

* Some of those surveyed did not know either how old they (or in the case of some parents - their children) were. Because of that, the age of those surveyed was recorded as unknown in some of the tables

An analysis of the survey shows three categories of RAE refugees/displaced who lack personal documentation (Figure 7):

1. Persons who have never been registered in the birth or citizenship registries;
2. Persons who were registered in the birth registries, but not in the citizenship registries;



- Persons who have been registered in registry books, but whose books have been destroyed or disappeared during the 1999 conflict in Kosovo.

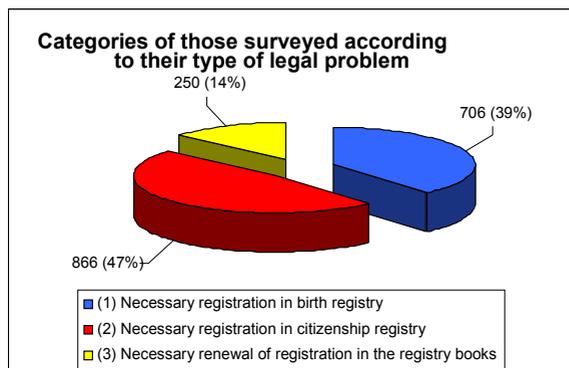


Figure 7: Categories of those surveyed according to their type of legal problem

The data from Figure 7 indicates that a lack of registration in the citizenship registry is more prevalent among RAE refugees/displaced than is a lack of registration in the birth registry. In addition, a small number of the RAE refugees/displaced who were surveyed (13.8%) need to renew their registry books which have disappeared or were destroyed during the Kosovo conflict.

A lack of registration in the citizenship registry is more present among RAE refugees/displaced than is a lack of registration in the birth registry

The following figures show the breakdown of results according to the territory where registration has to be carried out along with the age of persons who have incomplete personal documentation.

The data from Figure 8 indicates that nearly two thirds of RAE refugees/displaced (64.6%) who require birth registration need to be registered in the birth registry in Serbia, whereas one in three needs to be registered in Montenegro. Of these, children make up 80% of the RAE refugees/displaced who need to be registered in the birth registries.

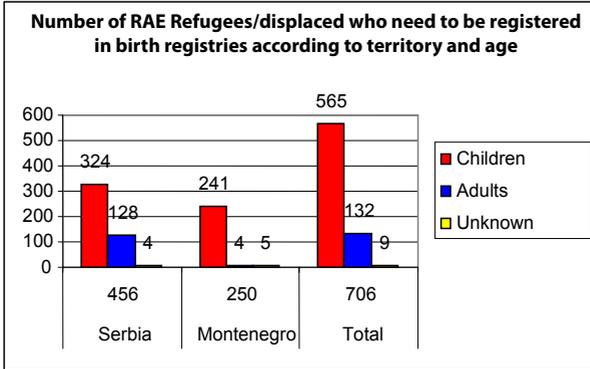


Figure 8: RAE refugees/displaced who need to be registered in birth registries according to territory and age

Of those RAE refugees/displaced who are only registered in the birth, but not in the citizenship registry, the issue is mostly connected to their documentation in Serbia (Kosovo) which is their country of origin. It is sometimes very difficult to confirm citizenship of the country of origin, because of complex procedures for subsequent registration in citizenship registry books. This lack of confirmed citizenship can lead to the appearance that a person is **stateless**. A breakdown, by age, shows that children make up more than 85% of the RAE refugees/displaced who need to be registered in the citizenship registry books (Figure 9).

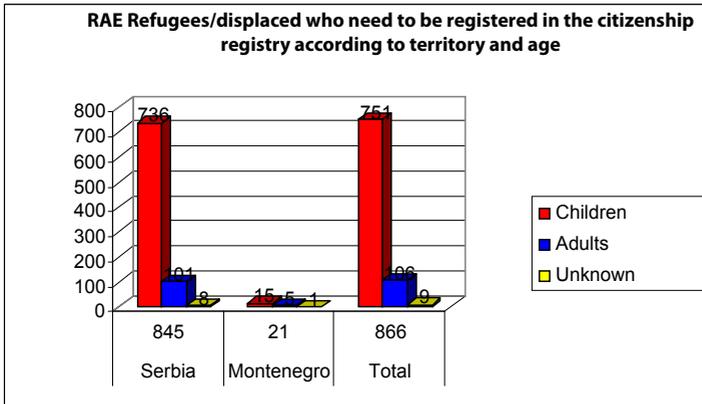


Figure 9: RAE refugees/displaced who need to be registered in the citizenship registry according to territory and age

The survey also identified 176 RAE refugees/displaced who need to renew their birth registration; 74 also need to renew the registration of their citizenship in Serbia (Kosovo) (Figure 10). This was significantly less concerning those who had never been registered in the registry books.

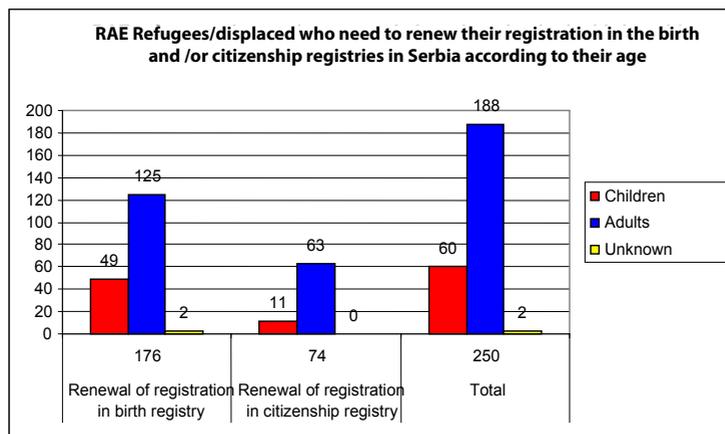


Figure 10: RAE refugees/displaced who need to renew their registration in the birth and /or citizenship registries in Serbia according to their age

The Specific Context of the Local RAE

There is a total of 10,619 RAE citizens living in Montenegro according to the preliminary results of the survey conducted by Monstat in 2008, designed to establish a database of the RAE population in Montenegro. If we subtract 4,458 RAE refugees/displaced from this number, it can be estimated that there is a population of approximately 6, 200 local RAE living in Montenegro.

Thus, UNHCR and UNICEF's joint survey included 3,546 local RAE, which represents 57.6% of the total local RAE population in Montenegro. Of these, 945 persons (26.6%) lack either a birth or citizenship certificate or both and almost 60% of them are children (Figure 11).

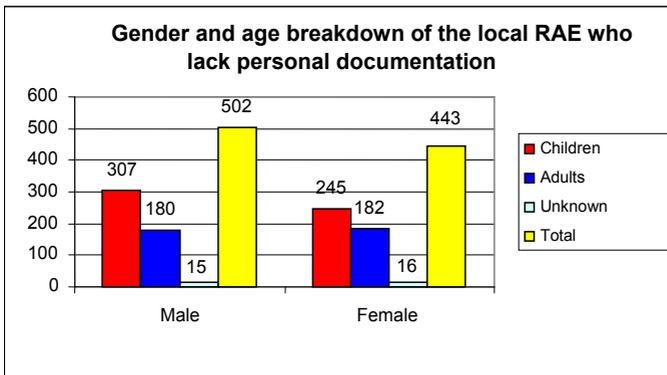


Figure 11: Gender and age breakdown of the local RAE who lack personal documentation

Many local RAE in Montenegro originate from Kosovo and migrated to Montenegro in the period between 1960 and 1980, before the break up of the SFRY. They have been living in Montenegro for the majority of or for the whole of their lives. The disintegration of the SFRY, and the later phased separation of Montenegro from the FRY and the State Union of Serbia and Montenegro, has made it very difficult for those born outside Montenegro to prove their genuine link to Montenegro and to obtain Montenegrin citizenship. The lack of a genuine link has also been inherited by the children of this group and this issue has become an inter-generational phenomenon. At the same time, this group has no real links with its place of origin, except for the fact that the people were born there. Some local RAE did not know the difference between citizenship and residency and were not aware of the importance of the acquisition of citizenship which has arisen due to the changes that have happened in the country. In addition, some of the RAE have never been registered in the birth registry in their place of birth, which creates a challenge today for the clearance of their documentation in Montenegro. Those RAE, although they have lived in Montenegro for decades, do not, therefore, possess any documents and have yet to have their nationality formally recognized.

Many local RAE in Montenegro originate from Kosovo and migrated to Montenegro in the period between 1960 and 1980

The analysis of the survey revealed three categories of local RAE who lack personal documentation, similar to the problems faced by the RAE refugees/displaced (Figure 12):

- (1) Persons who have never been registered in either birth or citizenship registries;
- (2) Persons who are registered in the birth but not in the citizenship registry; and
- (3) Persons who had been registered in the registry books, but that those books had been destroyed or had disappeared during the 1999 conflict in Kosovo.

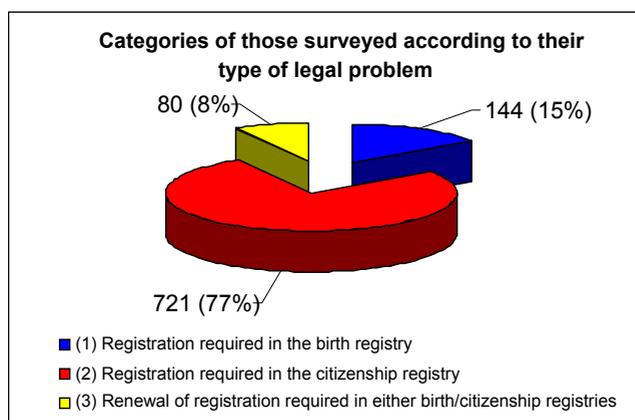


Figure 12: Categories of those surveyed according to their type of legal problem

The data in the Figure 12 confirms that the main problem amongst the local RAE population is a lack of citizenship registration. This is not surprising, bearing in mind the fact that most of them originated from Kosovo and migrated to Montenegro during the decades before the conflict.

The following figures show the breakdown of results according to the territory where registration has to take place and the age of persons who have incomplete personal documentation.

The largest problem among the local RAE population is a lack of registration in the citizenship registry

Figure 13 shows that there are twice as many local RAE who need to be registered in the birth registry in Montenegro as the number who need to be registered in the birth registry in Serbia (Kosovo). The data also shows that children make up almost 70% of the total local RAE who require birth registration.

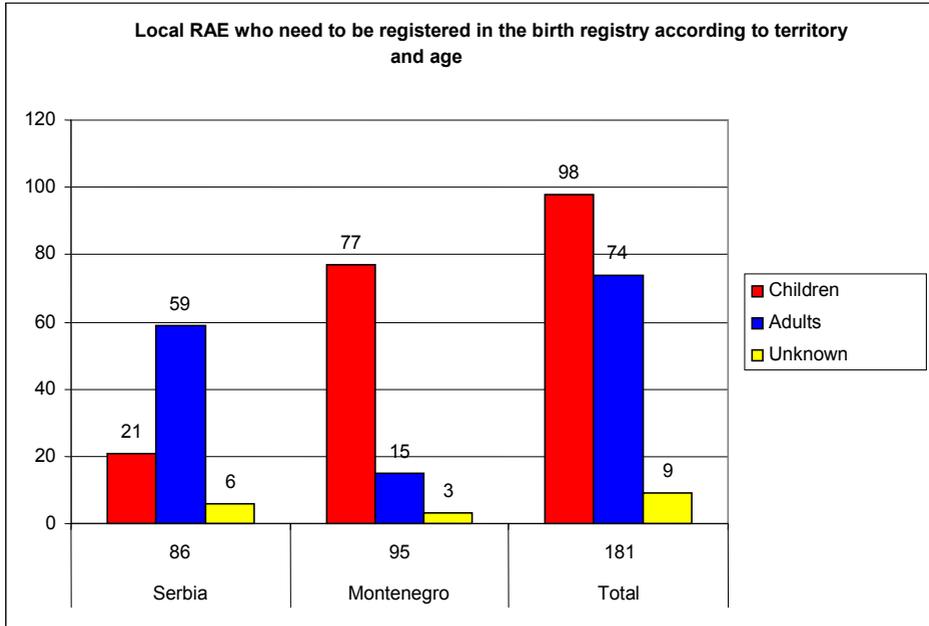


Figure 13: Local RAE who need to be registered in the birth registries according to territory and age

The fact that children make up more than 60% of the total of local RAE who lack citizenship registration shows that after the disintegration of the SFRY, the local RAE have not yet managed to regulate their citizenship status (Figure 14).

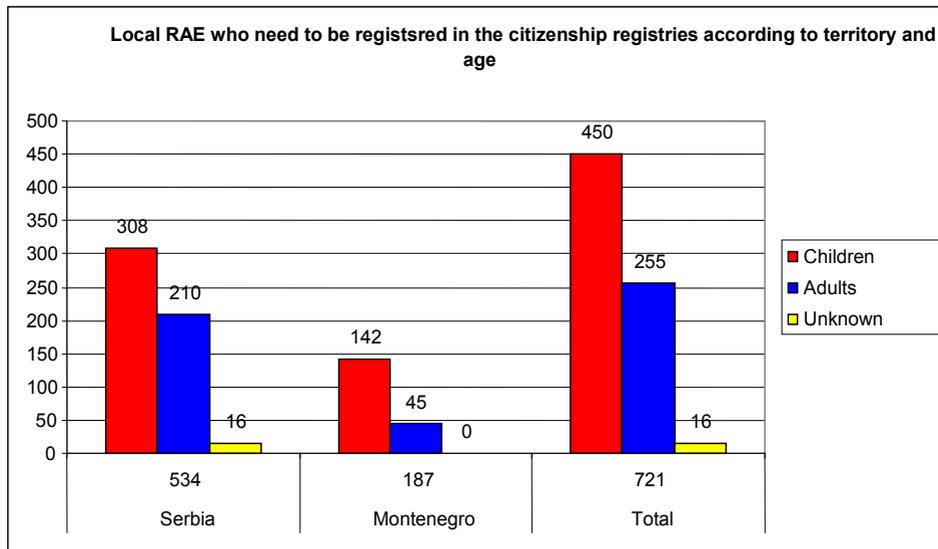


Figure 14: Local RAE who need to be registered in the citizenship registries according to territory and age

Amongst those surveyed, 56 were local RAE who need to renew their registration in the birth registry and 24 need to renew their registration in the citizenship registry in Serbia (Kosovo).

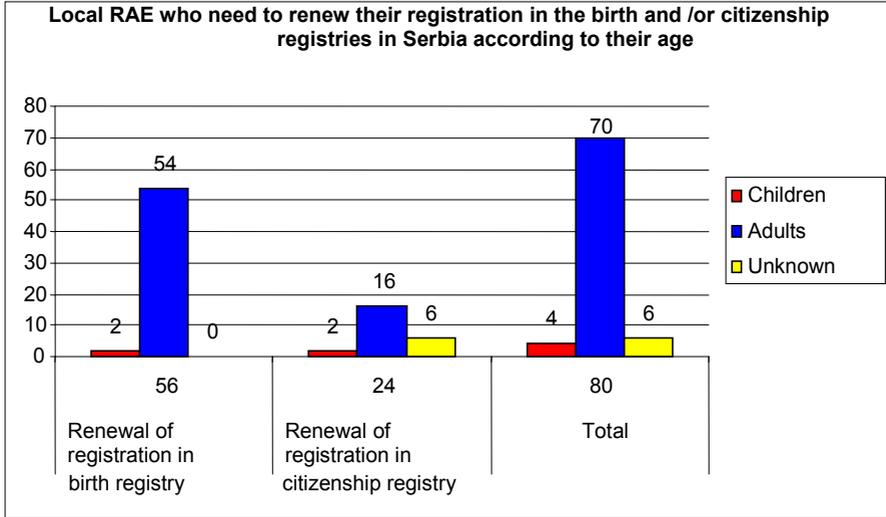


Figure 15: Local RAE who need to renew their registration in the birth and /or citizenship registries in Serbia according to their age

VI CONCLUSIONS

The survey has clearly demonstrated that birth and citizenship registration are essential issues that require concerted attention. The vast majority of RAE populations are interested in regulating their legal status in a country. Ways should be found to enable the RAE to surmount the logistical barriers that are currently constraining their ability to achieve full registration and documentation. A key part of the initiatives, aimed at finding durable solutions for resolving the problem of social exclusion for RAE populations, must not neglect the need to address the issue of a lack of civil registration amongst RAE populations. Although the problems and consequences resulting from a lack of registration are common to both local RAE and RAE refugees/displaced, the survey shows that refugees/displaced are additionally disadvantaged.

Coordinated and well-planned interventions by all stakeholders – the Government of Montenegro, UN agencies, NGOs, the RAE themselves, and other local and international partners, focusing on the registration of RAE are required. Without universal registration it is unlikely that the goal of social inclusion of Roma, Ashkaelia and Egyptians can be fully met.

Recommendations:

- As stipulated in Article 8 of the Constitution, state institutions should establish particular, time-bound procedures that would simplify the process of subsequent birth registration for RAE children born in Montenegro who were not registered at birth.
- The current steps and activities which aim to define the legal status of local and refugee/displaced RAE, as outlined in the *Strategy for the Improvement of the Situation of RAE Population in Montenegro 2008-2012*, should be accelerated and systematized.
- Additional resources should be allocated to regularise their legal status and for personal documentation, with special attention being given to the two most disadvantaged sub-groups within the RAE population: children and refugees/displaced.
- Support should be provided to complement the Government's efforts and registration campaigns through awareness raising campaigns, the provision of free legal counselling and proactive outreach activities, such as mobile teams made up of local authority officials and RAE mediators, to carry out outreach work in RAE settlements.
- The procedures for obtaining citizenship for RAE persons, who have established habitual residence in the territory of Montenegro before applying for citizenship, should be simplified.

- The introduction of amnesty agreements for legalising the status of unregistered RAE should be considered in order to safeguard and protect applicants against forced evictions or discrimination.
- The international community should continue, through UN agencies, regional organizations, bi-laterals and NGOs, to support the Government of Montenegro and other Governments in the region in their efforts which aim to prevent and eradicate the phenomenon of statelessness.

Podgorica, May 2009

VII “Real Lives” - Stories

A (32) and his common law wife fled from Kosovo to Montenegro in June 1999. Since then they have been living in Kakaricka Gora on the outskirts of Podgorica.

Since they arrived in Montenegro, A's wife has given birth to four children: *I* born in 1999, *M*. born in 2002, *A*. born in 2004 and *Z* born in 2007. *I*.and *Z*. were born in hospital and *M* and *A* were born at home. Even though *I* and *Z* were born in hospital, their father *A* has not registered them as he was obliged to, according to the law, partly because he was not familiar with the registration procedure.

In March 2008, during first phase of the survey, the only documents the children had were internally displaced person's identity documents. In cooperation with the registry office in Podgorica, the NGO Legal Centre successfully completed procedures for *I* and *Z*'s subsequent registration in the birth registry.

The Legal Centre faced greater obstacles in registering the birth of the other two children *M* and *A*. Since they were born at home in Kakaricka Gora, the procedure of their subsequent registration was much more complicated. The Legal Centre worked to obtain information about the documents and regarding the forms of proof needed for subsequent registration. In June 2008, after they had collected all the necessary documents for the parents from Serbia and a certificate confirming that the children were not registered in the birth registry at the parents' place of birth, the Legal Centre submitted a request for the subsequent registration of *M* and *A*, but were informed that proof of parentage was a prerequisite for consideration.

The Legal Centre then submitted a request, to the Basic Court in Podgorica, to investigate the facts concerning birth for *M* and *A*.

In mid-November 2008, a representative of the Legal Centre visited the Basic Court where the judge informed him that they had reached a decision to consider the request withdrawn as they were unable to deliver the court summons to *A* at his address. Following the judge's advice, the Legal Centre made a new request and gave a new "more reliable" address.

The Legal Centre is now in regular contact with the judge presiding over this case, and hopes that the Court will reach a favourable decision for this case and all the other similar cases which are still in the domain of "legal invisibility."

M was born on 1st January 1993, in Pristina, Kosovo. In 1999, together with her family, she fled to Montenegro and settled in Konik, Podgorica. On 6th September 1999, she was registered at the Montenegrin Commissariat for Displaced Persons (the present Bureau for the Care of Refugees) and assumed the status of an internally displaced person. Considering the fact that she was 6 at the time, the Commissariat issued an internally displaced person ID card without a photo. In 2007, her parents arranged a marriage between her and a local Roma boy from Niksic, who was born in 1990.

In March 2008, *M*, who was fifteen years old at the time, gave birth to a daughter in the General Hospital in Niksic. She went to the municipal registry office to submit a birth registration request for her daughter. She submitted the attestation from the hospital regarding her child's birth but was denied registration as her ID did not have her photo on it. She will have to wait three more years until she comes of age at 18 to get an ID with a photo. Only then will she be granted the right to register the birth of her daughter. At that time, she will have to undergo a subsequent registration procedure, which has not yet been defined.

G is a local Roma woman born in 1967 in Podgorica. Her parents were born in Djakovica, Kosovo and they moved to Podgorica in the time of the SFRY. *G* has been living in Montenegro all her life. She has a national ID and a house and used to be employed on a temporary basis. In 1988, in Danilovgrad, she married *M*, a Roma man from Kosovo. She gave birth to four children. All of them were born in Podgorica.

After Montenegro declared its independence, new national ID cards were introduced. *G* wanted to get a new ID card. Due to the fact that the certificate of citizenship of Montenegro was one of the documents needed in order to get a new ID, she requested her birth and citizenship certificates from the registry office in Podgorica. The registry office issued her with a birth certificate which stated that she held Montenegrin citizenship. She was not issued with a citizenship certificate because it emerged that she had not been registered in the citizenship registry of Montenegro. Convinced that the birth certificate, in which was written that she had Montenegrin citizenship, and her existing ID would be enough to get a new ID card, *G* submitted her application. However, she was informed that she should bring a certificate that could confirm that she was *not* registered in the citizenship registry in Djakovica, her parents' place of birth. In addition, she was informed that once she got that certificate, she would be obliged to start a procedure to obtain Montenegrin citizenship. *G* appealed to the registry office of Djakovica, now located in Jagodina. The

registry office in Jagodina issued her with a certificate that confirmed that all the record books for the municipality of Djakovica had been destroyed during the conflict in Kosovo. To renew the registry books, it would be necessary to submit her parents' birth certificates, which had also been destroyed during the war. Therefore, there was no way for her to collect the documents she needed for the registry book renewal.

G submitted the certificate issued in Jagodina in order to start the procedure for getting Montenegrin citizenship. Her request was denied with the explanation that she had to complete the registry book renewal procedure in Serbia first and that only then could she request Montenegrin citizenship, as it would be clear that she was not a citizen of Serbia.

Although she was born in Montenegro and had lived in the country for over forty years, G discovered that she did not, in fact, hold Montenegrin citizenship. If she failed to renew the registry books in Jagodina, she would have no personal documents. She would not be able to get either Montenegrin or Serbian ID, which would limit her freedom of movement, her right to health care, and her right to work.

In February 2009, the Legal Centre submitted a request to the MIAPA Branch office in Niksic, for subsequent registration, into the birth registry book, for four children who were not previously registered:

1. *H. V.* born on 01.01.1993 in Niksic;
2. *H. K.* born on 03.06.1995 in Niksic;
3. *H. R.* born on 17.04.1999 in Niksic; and
4. *H. V.* born on 26.09.2000 in Niksic.

Two of the children were born in hospital and possessed release forms, but two of them were born at home. The MIAPA Branch office in Niksic checked the release forms from the hospital and heard witnesses' statements in order to establish the facts of birth for the children born at home. After the facts of birth had been established for all the children in April 2009, the Ministry issued a decision directing the registrar of the Municipality of Niksic to complete the subsequent registration of the children into the birth registry book – a happy ending and a start on their path to social inclusion.

Annex 1 – The RAE Population in Montenegro, According to Where They Live

In October 2008, MONSTAT, in cooperation with the National Roma Council and in coalition with the Roma NGO, "Roma Circle", conducted its first research in order to establish a database about the RAE population in Montenegro as it is envisaged by the Strategy for the Improvement of the Situation of the RAE population in Montenegro.¹⁴ Preliminary results of the research, published in December 2008, showed that there are 10,619 RAE living in Montenegro (Figure 16). This number includes both local RAE and RAE refugees/displaced from Kosovo.

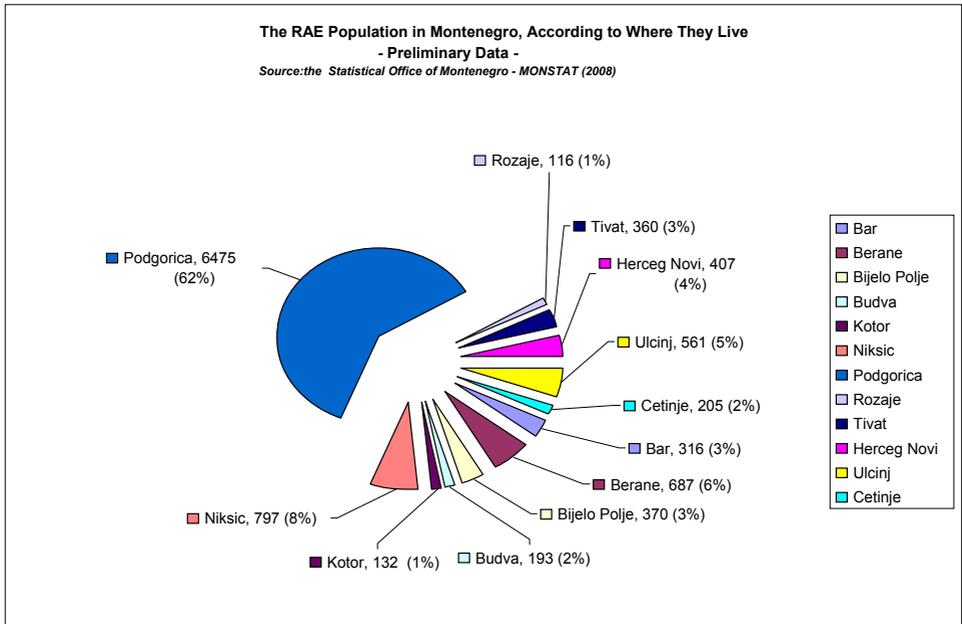


Figure 16: The RAE population in Montenegro, according to where they live.¹⁵

¹⁴ The Strategy for the Improvement of the Situation of the RAE Population in Montenegro 2008-2012: Official statistics, the database of number, position, life conditions, and the main problems of the Roma population in Montenegro; October 2007

¹⁵ Statistical Office of Montenegro, 2008, Establishing data base on RAE - Preliminary data

Annex 2 – RAE Refugees/displaced in Montenegro

The table, below, shows the number of RAE refugees/displaced in Montenegro, according to where they live.

Municipality	Roma	Egyptians	Ashkaelia	Total
Bar	200	4	0	204
Berane	339	116	0	455
Bijelo Polje	57	0	0	57
Budva	6	8	0	14
Cetinje	8	0	0	8
Herzeg Novi	59	1	0	60
Kotor	7	0	0	7
Niksic	127	263	0	390
Pljevlja	25	0	0	25
Podgorica	2,064	768	38	2,870
Rožaje	45	82	0	127
Tivat	16	126	4	146
Ulcinj	54	4	28	86
Unknown	9	0	0	9
Total	3,007	1,372	70	4,458

Table 2: RAE refugees/displaced in Montenegro, according to where they live.

Annex 3 – Legislation on Personal Documentation in Montenegro and Serbia

Montenegro

- **The Law on Registry Books of Montenegro (“Official Gazette of MNE”, No. 47/08 dated 07th August, 2008)** states the following:

Article 19

‘The birth of a child, in a maternity or any other health care institution, must be registered by the health care institution, as a rule electronically.

The birth of a child outside a hospital must be registered by the father of the child, or by the mother if she is able to do it.

If the persons mentioned in paragraph 2 of this article are not able to register the birth, the birth must be registered by the person who assisted with the childbirth or was present during it, i.e. the person in whose house the child was born.

Paragraphs 2 and 3 of this article state that, in addition to the application, a declaration regarding the birth of the child, signed by a doctor, must be submitted.

The content of the application, from the paragraph 1 of this article, as well as the way of submission, has been prescribed by the Ministry of Internal Affairs and Public Administration.’

Article 20

‘The birth of a child must be registered within 3 days from the date of birth...’

Article 32

‘Subsequent registration of a birth or death, or other facts declared after the expiration of 30 days from the day the event took place is performed by the registrar based on the decision of the Ministry of Internal Affairs and Public Administration.’

Article 34

‘If, due to a force majeure or other similar reasons, information cannot be recorded in the registry books, information can only be registered later date following a decision made by the Ministry of Internal Affairs and Public Administration.’

- **The Law on Montenegrin Citizenship (Official Gazette of MNE, No.13/08)** in articles 5-18, regulates the ways in which Montenegrin citizenship can be obtained. The analysis of legal provisions indicates that the acquisition of citizenship by origin is the most common basis, whilst the acquisition of citizenship by birth in Montenegro is possible only if one of the parents is Montenegrin citizen (Article 5). According to Article 7, a child born or found in the territory of Montenegro, of unknown parents or whose parents are of unknown citizenship or who have no citizenship, or if a child remains without citizenship, has the right to acquire Montenegrin citizenship. Praxis shows that such persons should start the procedure of acquiring citizenship in the country of their parents. Only if that country refuses to grant citizenship, will they gain the right to request Montenegrin citizenship.

Serbia

- **The Law on Registry books of Serbia ("Official Gazette of the Republic of Serbia", No. 15/90, 8/94, 57/03)** states the following:

Article 25

'The birth of a child in a hospital must be registered by the health care institution. The birth of a child outside a hospital must be registered by the father of the child, and if he is not able to do it, it should be done by another household member, i.e. the person in whose house the child was born or by the mother as soon as she is able, or by the midwife or the doctor who assisted with the childbirth, and if there are none of these aforementioned persons or they are not able to register the birth, a person who has been informed of the birth of the child. The birth of a child should be registered within 15 days of the date of birth.'

Article 14

'If the facts of a birth or death are reported within 30 days from the day of the event, or if due to force majeure or any other similar reason, some facts and information are not registered in the registry books, the registrar can only complete a subsequent registration following a decision made by the authorities responsible for the registry book in whose territory the registry book is located.'

- **The Law on Citizenship of the Republic Serbia (Official Gazette of the Republic of Serbia, No. 135/04 from 21.12.2004, 90/07 from 1.10.2007.)** in articles 7-26,

prescribes the ways in which citizenship of the Republic of Serbia can be acquired. The analysis of the legal provisions indicates that the acquisition of citizenship by descent is the most common way, whilst the acquisition of citizenship by birth in the territory of the Republic of Serbia is possible only if one of the parents is a citizen of the Republic of Serbia (Article 7). According to Article 13, a child born or found in the territory of the Republic of Serbia acquires citizenship of the Republic of Serbia if both his parents are unknown or of unknown citizenship, or are without citizenship, or if the child is without citizenship. A child that has acquired citizenship of the Republic of Serbia in that way will be considered as a citizen of the Republic of Serbia from the time of birth.

Annex 4 – Registry Offices relocated from Kosovo to Serbia Proper

Registry Offices in Kosovo	Place of relocation in Serbia
Gnjilane, Kamenica, Novo Brdo, Vitina	Bujanovac
Djakovica, Decani	Jagodina
Istok, Klina, Pec	Kragujevac
Mitrovica, Leposavic, Srbica, Vucitrn, Zubin Potok, Zvecan	Kraljevo
Dragas, Orahovac, Prizren, Suva Reka	Krusevac
Kacanik, Stiplje, Strpce, Urosevac	Leskovac
Glogovac, Kosovo Polje, Lipljan, Obilic, Podujevo, ZPristina	Nis

Table 3: Registry Offices relocated from Kosovo to Serbia

Annex 5 – Contact Information for Legal Assistance in Obtaining Personal Documentation

Town	Street	Telephone no.
Podgorica	VII Omladinske brigade	+ 382 20 227 640
Berane	Miljana Vukova 2	+ 382 51 234 286
Bar	Vladimira Rolovica 15	+ 382 30 234 286

Table 4: NGO Legal Centre - Contacts

- UNHCR**
Nicka od Rovina 51, Podgorica
+ 382 20 238 066
- UNICEF**
Vladike Danila 28, Podgorica
+ 382 20 224 277
- UNDP**
Beogradska 24 b, Podgorica
+ 382 20 231 644
- Nacionalni savjet Roma**
Kralja Nikole 41, Podgorica
+ 382 20 623 807
- NVO Enfants**
Talum bb, Berane
+ 382 51 235 951
- NVO Romski krug**
Slobode 26, Podgorica
+ 382 20 231 172