

**DECADE OF ROMA INCLUSION 2005 – 2015**  
**PRESIDENCY OF THE REPUBLIC OF**  
**MACEDONIA**  
**ADDRESSING THE PROBLEMS OF**  
**PERSONS WITHOUT DOCUMENTS**  
**AND ACCESS TO RIGHTS**

**11 – 12 APRIL 2012, SKOPJE, REPUBLIC OF**  
**MACEDONIA**

The Law on Registry Books adopted on 18 March 2009 introduced a series of significant novelties in this field of state administration, ensuring easier and faster exercise of the rights of citizens along with compliance with the legality of procedures and legal certainty in case of entries in the registry books or issuance of relevant certificates from the registry books.

Among other things, in accordance with the Constitution of the Republic of Serbia concerning guaranteed rights of the child (Article 64), the solutions contained in this Law secured all necessary normative assumptions for the exercise of the right to enter the fact of birth in the registry books of births.

To be precise, in relation to the former regulations applicable in this field, the adoption of the Law on Registry Books from 2009 especially improved the exercise of the right to enter the fact of birth in the registry books of births, whether it is about a child whose parents are known, a child whose parents are not known, a child without parental custody or an adopted child. In this sense, the provisions of this Law may also be assessed as further implementation of the rights guaranteed by the United Nations Convention on the Rights of the Child, primarily the provisions making it possible to enter the fact of birth being registered upon the expiration of the legal term, namely subsequent entry of the fact of birth in the registry books of births.

It is important to stress that positive effects of the application of the new Law on Registry Books from 2009 were established in the supervision over the implementation of jobs related to subsequent entry of the fact of birth in the registry books of births and through monitoring the conditions in this field, since the largest number of applications for the subsequent entry of the fact of birth in the registry books of births was received and resolved in 2009 – 9,573 applications and in 2010 – 7,996 applications. In view of the achieved results during the first two years of the application of this Law, a considerably smaller number of applications for the subsequent entry of the fact of birth in the registry books of births was received and resolved in 2011 – 774 applications.

In view of the above mentioned number of resolved applications, it is not possible to identify which of these entries relate to the members of the Roma national minority, for the Constitution of the Republic of Serbia guarantees the freedom of expression of national affiliation, as well as that no one is obliged to express his/her national affiliation. Thus, the data on national affiliation shall not be entered in the registry books of births.

The procedures for the exercise of this right are clearly and precisely prescribed by this Law and in the Instructions on Keeping of Registry Books and in the registry book forms, in the manner providing equal protection of the rights of all citizens as the right guaranteed by the Constitution (Article 36 paragraph 1), which also means the rights of the members of national minorities, including the Roma national minority, too, before the competent bodies.

It should be pointed out here that in addition to an appeal in administrative procedure to be filed to the Ministry of Human and Minority Rights, State Administration and Local Self-Government, because the town, namely the municipal administrations are the first instance bodies deciding on the entry of the fact of birth in the registry books, the court control of the administration activities is also provided for administrative proceedings before the Administrative Court may be initiated by means of an action against the final decision.



The fact that the entry into the registry book of births is carried out according to the application for the entry submitted by a health organization should not be neglected, either, if a child had been born at the health organization concerned, namely by a party (usually one of the parents, a household member, but also other persons prescribed by law), if a child had been born outside the health organization, in other words, in the same manner as done in other member states of the Council of Europe and the European Union.

We find it important to mention that the Law on Amendments and Supplements of the Law on Identity Card had been adopted, which provides that the citizens having the right to identity cards but not having registered permanent residence in the territory of the Republic of Serbia, shall be issued identity cards on the grounds of established temporary residence to be valid for the period of two years.

The new Law on Permanent and Temporary Residences of Citizens was also adopted, which makes it easier for the citizens, also including the Roma, to register their residence. Namely, the provisions of this Law prescribe that in case a citizen may not register his/her permanent residence on the grounds of property right over a flat, the contract on flat rent or on some other legal grounds, the competent body shall by a decision establish his/her permanent residence at the address of the institution of his/her permanent accommodation or at the address of the social welfare centre in the area of which he/she is located, together with an application of the citizen to the institution concerned, namely to the centre concerned that his/her address will be at the address of the institution or the centre.

However, the very existence of normative framework, without any campaign for the Roma to learn about the procedures of entries and for legal aid rendering in the relevant procedures is not sufficient to overcome the existing problem, which is that certain number of persons had not been entered in the registry books of births.

Proceeding from the fact that the activity aimed to this aid rendering is of extreme importance for the members of the Roma national minority who had not been entered in these basic official records, the Ministry of Human and Minority Rights, State Administration and Local Self-Government – the Directorate of Human and Minority Rights, has announced a tender for the projects implemented by the associations whose activities are aimed at the improvement of the status of the Roma, with the objective to identify the persons who had not been entered in the registry book of births and to render legal aid in the procedures of subsequent entries in the registry books of births. The associations meeting the tender requirements have been granted the funds in the total amount of EUR 50,000 for the implementation of this project.



Also, within the previous period the Ministry actively monitored the conditions in the field of exercise of the right to subsequent entry in the registry books of births and accomplished the co-operation with both the competent state authorities and the representatives of international institutions and non-governmental sector. All these contacts and co-operation have been of exceptional significance for the definition of further steps that should contribute to resolution of problems.

(a)

A meeting with the representatives of the international community (the EU Delegation to Belgrade, the United Nations Co-ordinator in the Republic of Serbia and the representatives of UNDP, UNHCR) and the Ombudsman was held on 10 March 2011. The result of the agreement reached at this meeting was:

- to address to the Ministry of Finances a proposal for the amendment and supplement of the Law on Republic Administrative Fees in the part relating to release from payment of administrative fees for the documents and activities concerning the exercise of the right to subsequent entry of the fact of birth in the registry book of births. In respect of this proposal, after the conduct of the relevant procedure, in July 2011 the National Assembly adopted the Law on Amendments and Supplements of the Law on Republic Administrative Fees;



- Also, not only the Ombudsman but the representatives of associations dealing with the protection and promotion of human and minority rights as well indicated that the exercise of the right to entry in the registry book of births was considerably effected by the lack of separately prescribed court proceedings in cases of those who may not exercise the right concerned in administrative procedure.

Wishing to resolve the issue of entry in the registry books of births in the manner to be satisfactory for the citizens together with legal certainty, in June 2011 a proposal was addressed to the Ministry of Justice to undertake necessary measures and activities that would result in the adoption of amendments and supplements to the Law to prescribe adequate court proceedings for the establishment of the fact of birth and entry in the registry book of births in case the fact concerned may not be evidenced before an administrative body.

A request for the amendment and supplement of the Law on Court Fees was addressed to the same Ministry at the same time, for the release from payment of fees in all proceedings conducted before the courts for the purpose of establishment of the fact of birth for entry in the registry books of births;

- All administrative bodies performing the assigned jobs of registry books received an opinion on the application of the provisions of the Law on Registry Books and secondary regulations adopted on the grounds of this Law prescribing the procedure of subsequent entry in the registry book of births. It is of course understood that the Ministry shall also render an opinion on the application of the provisions of the regulations concerned under individual requests by the bodies performing the assigned tasks;

- The Instructions on the method of activities of the bodies deciding on the applications for the subsequent entry of the fact of birth in the registry books of births in the first instance administrative procedure in the field of registry books have been issued, with attachments – a specimen of certificates to be issued to parties on the occasion of submission of applications for the subsequent entry of the fact of birth for the purpose of exercise of the right to release from the payment of fees prescribed by law for the documents and activities concerning the exercise of this right and information on the procedure for the exercise of this right, which the body is obliged to submit to the applicant for the subsequent entry in the registry book of births;

- All administrative bodies performing the assigned jobs of registry books received an opinion on how to act in cases the evidence before the competent body conducting the procedure for the subsequent entry of the fact of birth in the registry books of births shall cause non-proportional expenses.

(b)

A meeting was held with the Roma coordinators with the local self-government units in order to inform them about the activities of the Ministry and to include them in the activities of the Ministry that should enable the persons not entered in the registry books yet to be entered into the books concerned.



The conclusion of the Memorandum of Understanding ( held on 9 April 2012) between the Ministry of Human and Minority Rights, State Administration and Local Self-Government, the Ombudsman and the United Nations High Commissioner for Refugees – the Representative Office in Serbia is of extreme importance.



The Memorandum shall establish the grounds of co-operation between the above mentioned institutions with the aim to render legal aid and technical assistance to the members of the Roma national minority in the procedure of the subsequent entry of the fact of birth in the registry books of births.

The activities will be also focused on identification of reasons for which the persons had not been entered in the registry books of births, on monitoring of the activities of the competent bodies and elimination of observed irregularities and failures in the activities of the bodies concerned until the final solution of this issue.



The preparation of the Action Plan for the implementation of the Strategy for the Improvement of the Status of the Roma in the Republic of Serbia for the period 2012-2014 has also been in progress, in which a separate part is dedicated to the measures and activities the implementation of which should contribute to the resolution of the issues concerning personal documents (Part 6), and not only of the issue of the subsequent entry in the registry books, but also of the issues of permanent residence, issuance of identity cards, court proceedings, etc.