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**AD HOC COMMITTEE OF EXPERTS ON ROMA<sup>1</sup> ISSUES (CAHROM)**

**THEMATIC REPORT ON  
SOLVING THE LEGAL STATUS OF ROMA FROM EX-YUGOSLAVIA AND  
THEIR LACK OF PERSONAL IDENTITY DOCUMENTS  
(further to the CAHROM thematic visit to Rome, Italy, from 28 to 30 April 2014)**

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<sup>1</sup> The term "Roma" used at the Council of Europe refers to Roma, Sinti, Kale and related groups in Europe, including Travellers and the Eastern groups (Dom and Lom), and covers the wide diversity of the groups concerned, including persons who identify themselves as Gypsies.

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Note: National, European and international standards and reference texts are available in an Addendum

## I. INTRODUCTION

### *1.1 Context of the thematic report*

The implementation of a thematic group on solving issues relating to the legal status of Roma and their lack of personal identity documents was proposed as a follow-up to the field visit to a Roma camp organised during the 6<sup>th</sup> CAHROM plenary meeting hosted by UNAR in Rome on 28-31 October 2013.

On that occasion, the Committee took note that Italian authorities considered of primary importance to solve the issue of the legal status of Roma, Sinti and Caminanti living in Italy, and in particular the legal status of Roma from ex-Yugoslavia living in Roma camps. At the beginning of 2014, a letter confirming the invitation sent to the CAHROM's group of experts to visit the country was received and Bosnia and Herzegovina, Croatia, Montenegro, Serbia and "the former Yugoslav Republic of Macedonia" expressed their willingness to participate in the thematic visit and share their national experience with Italy on solving the lack of personal documents and providing Roma with a clear legal status.

The purpose of the thematic visit to Rome was to provide additional evidence that persons without personal documentation face problems proving their nationality, accessing basic human rights and that they are at risk of becoming stateless. Numerous studies and reports already demonstrated that these individuals are very often denied basic rights, such as access to employment, housing, education and health care. Due to a lack of personal documents, many Roma are barred in practice from registering to vote, registering residences, and accessing rights to health care, education, employment and social benefits. Undocumented persons are not allowed to register birth of their children and simply do not exist in their respective societies and, without formally recognized citizenship and other identifying documents, Roma communities' access to health insurance, health care and social assistance is severely limited. The lack of one document leads to the inability, in many cases, to access others and it can indeed lead to individuals' imprisonment in a vicious circle of social exclusion. The inability of Roma to access such basic personal documents has given rise to a situation in which their ability to access services crucial to the realisation of a number of fundamental rights and freedoms is threatened and, in many cases, denied. Roma living in regions affected by state succession and massive forced migrations, such as the war-affected former Yugoslav countries, are particularly vulnerable to this phenomenon.

### *1.2. General introduction to the topic*

In one of his position papers published on 30 May 2010, the Commissioner for Human Rights of the Council of Europe recalled that "authorities urgently need to take steps to provide documents to those Roma lacking basic documents, such as birth certificates, personal identity documents, local residence papers and documents related to health and social security benefits. Administrative and financial obstacles preventing Roma from obtaining such basic documents should be removed and awareness raising measures taken to provide Roma with information about procedures for acquiring them. Special attention should be paid to the plight of the thousands of Roma and their families who were forced to move from or within the area of the former Yugoslavia, and who remain in host states for a number of years as legal ghosts"<sup>2</sup>.

UNHCR estimates that there are approximately 680,000 stateless persons residing in Europe today. All of them are individual stories of deprivation of rights. The effects of being statelessness are particularly detrimental on children. Though every child has a right to a nationality, you may still find stateless children in Europe. Their statelessness may have been caused by discrimination in laws, administrative practice, conflicting nationality legislation or insufficient safeguards against statelessness. Some of the stateless children in Europe may have migrated to the region with their parents. But statelessness in Europe is not only found amongst migrants. It is also found amongst persons who have lived in Europe for decades. Children are even born into statelessness in Europe today. Because of laws and practices in Europe that do not

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<sup>2</sup> See CommDH/PositionPaper(2010)3.

provide sufficient solutions, children can remain stateless during their entire childhood. They lack documentation, often reside unlawfully in the country, and may be denied health care, education and social welfare. Stateless children are often invisible and therefore more vulnerable to exploitation and abuse. When they become adults themselves, they in turn pass on their statelessness to their children. Many nationality laws at first sight provide adequate safeguards that should avoid children being born into statelessness, or at least resolve this over time.

In this context it was reminded that the UNHCR called for the eradication of statelessness by 2024, an objective which is realistic in Europe, should political leaders and law makers acknowledge their responsibility to address this human rights problem and take the necessary steps to achieve this goal.

### *1.3 Aims and expectations*

The CAHROM thematic visit covered a number of issues, such as:

1. Collecting information on the present situation of Roma from ex-Yugoslavia living in Italy;
2. Examining current proposals under discussion in Italy to legalize their status;
3. Sharing experience with countries from ex-Yugoslavia which are engaged, together with the UNHCR and civil society organisations, in solving the lack of personal/ID documents.

Among their expectation of the thematic visit, the experts of the thematic group mentioned their wish to obtain a clearer definition of the existing problems related to the Roma status regulation, as well as to find tips and best solutions for overcoming current problems regarding the establishment of identity and issuance of documents to persons originating from the region of ex-Yugoslavia, taking into consideration legal frameworks of countries participating in the thematic visit.

Prior to the thematic visit, two questionnaires were circulated, one to the hosting country (Italy) and the second to partner countries from ex-Yugoslavia (Bosnia and Herzegovina, Croatia, Montenegro, Serbia and "the former Yugoslav Republic of Macedonia").

#### **Questionnaire addressed to Italian authorities:**

- What is the present situation of Roma from ex-Yugoslavia living in Italy (historical presence, geographical location in Italy, estimated number, countries of origin - i.e. successor states of ex-Yugoslavia, etc.)?
- What is the current situation as regards the legal status and personal/identity documents of Roma from ex-Yugoslavia living in Italy?
- What are the challenges encountered by Roma from ex-Yugoslavia in accessing a legal status and personal/identity documents IDs?
- Does it prevent them from accessing proper housing, employment, education, health care and social services?
- What are the current plans and proposals under discussion within the Italian government to legalize the status of Roma from ex-Yugoslavia?
- Which are the ministries and institutions at state, local and regional levels involved?
- Do Roma from ex-Yugoslavia living in Italy require personal/identity documents from their country of origin? Do they face obstacles to obtain them?
- Which role countries of origin from ex-Yugoslavia could play to facilitate the legalization process and the access to personal/identity documents?
- What are the current perspectives in terms of legalising their status and provision of personal/identity documents? What are the steps and timeframe envisaged?
- What are the current proposals envisaged by Italian authorities to legalise the status of Roma from ex-Yugoslavia living in Italy (circular, legal reform, new legislation, etc.)?
- Once Roma from ex-Yugoslavia have a legal status (papers), which follow-up role is envisaged for relevant ministries, public institutions at state, regional and local levels in terms of facilitating access to housing, employment, etc.?
- What do you expect from the CAHROM thematic visit of partner countries' experts? What are the questions you would like to address to Bosnia and Herzegovina, Croatia, Montenegro, Serbia and "the former Yugoslav Republic of Macedonia"?

**Questionnaire addressed to partner countries' experts:**

- What are the challenges in your respective country encountered by Roma originated from other countries of ex-Yugoslavia in accessing a legal status and personal/identity documents IDs?
- Does this lack of status/personal documents prevent them from accessing proper housing, employment, education, health care and social services?
- What kind of measures are taken or projects implemented in your respective country to provide personal/identity documents for Roma who need them (for example for displaced Roma from ex-Yugoslavia, and for Roma living abroad, with specific focus on Roma from ex-Yugoslavia living in Italy)?
- Are there any examples of existing bilateral/multilateral cooperation between your respective country and other countries from ex-Yugoslavia in terms of solving the legal status of Roma and the issuance of personal/identity documents (birth certificates, etc.)?
- Could you quote some useful guidelines (international standards, declarations and/or reports that could be useful as reference documents for the thematic report (e.g. Zagreb Declaration, Roma Decade Workshops, UNHCR or CoE Conferences related to statelessness, legal status or ID documents, etc.)?
- Are there any examples of bilateral cooperation between your respective country and Italy to solve the legal status and lack of personal/identity documents of Roma from ex-Yugoslavia living in Italy?
- Which role your respective country could play to facilitate the legalization process and the access to personal/identity documents of Roma from ex-Yugoslavia living in Italy?
- What do you expect from the CAHROM thematic visit? What are the questions that you would like to address to Italian authorities?

*1.4 Programme of the thematic visit*

The agenda included on the first day a preliminary meeting with Prefect Riccardo Compagnucci and Council of Europe Secretariat representatives, aimed at fixing the main objectives of the meeting. After that, there was an introductory session with all the experts of the CAHROM thematic visit. In the afternoon a field visit was organised by the Ministry of Interior to the Roma camp "Camping River", in the northern part of Rome, via Tiberina. This visit provided the opportunity for a discussion on the spot between partner countries' experts, Italian authorities and representatives of associations working with Roma in the "Camping River" formal camp, as well as with Roma living in the camp. The experts were able to meet the persons responsible for the general organisation of the camp, a representative of the Municipality of Rome, and several NGO representatives involved in the assistance of the residents. The morning of the second day was taken up by a presentation of the Observatory for the protection against discriminatory acts (OSCAD) and then it continued with a feedback from the participants about the field visit. In the second part of the morning the participants provided a description about the current situation in the countries from ex-Yugoslavia, focusing on the measures implemented to provide personal/identity documents for Roma who need them (for example for displaced Roma and for Roma living abroad with specific focus on Roma from ex-Yugoslavia living in Italy) and also on specific examples of existing bilateral/multilateral cooperation between countries from ex-Yugoslavia in terms of solving the legal status of Roma and the issuance of personal/identity documents and between countries from ex-Yugoslavia and Italy to solve the legal status and lack of personal/identity documents of Roma from ex-Yugoslavia living in Italy. In the afternoon a meeting was held in the regional office of the UNHCR with civil society representatives (Italian Council for Refugees, Association "21 luglio", Association ASGI, Comunita Sant'Egidio), which was useful for recalling the international framework, as well as for discussing the role of civil society and associations who are facilitating the legalization process. A representative of the Holy See attended that meeting. In the morning of the third day there was an informal debriefing meeting in the Ministry of the Interior between Italian experts and partner countries' experts of the CAHROM thematic group. The detailed programme of the thematic visit is reproduced in an Appendix to this report.

## II. SITUATION AND POLITICAL AND LEGISLATIVE FRAMEWORK

### *Italy*

According to UNAR and the Council of Europe, Roma, Sinti and Caminanti are estimated to be around 160,000 in Italy; about half of them (70,000) are Italian citizens and belong to groups that have lived in Italy for centuries, whilst the other half (about 90,000) are foreigners though some of them have been living on a permanent basis in Italy for decades.

The first group consists of Italian Roma (residing in all Italian regions) and Sinti (especially in the North and Centre) who are Italian citizens.

The second group is made of some 40,000 Roma who migrated to Italy from the Balkans, mainly the countries of the former Yugoslavia, especially during the 1990s. The migration flows mainly concerned Roma from today's Bosnia and Herzegovina, Serbia, and Kosovo<sup>3</sup> as well as, to a lesser extent, from Croatia and Montenegro. Following the creation of new states in the Western Balkans, many of them are still in a state of *de facto* statelessness, although there is also a part that has a passport and is in a situation of administrative regularity. The thematic report focused on this particular group of Roma.

The third group concerns more recent arrivals from Romania and Bulgaria, most of whom live in the vicinity of the major cities. Their number is estimated to be around 50,000.

Roma living in Italy are characterized by their heterogeneity as for groupings, dialects and specific linguistic varieties and cultures. For example, the Roma who arrived in Italy more recently often live in disadvantaged conditions, on the edge of town. The degree of inclusion of these groups in the Italian social structure remains, indeed, limited, even though there are some important positive effects of variables such as age, gender, nationality and place of residence. In these conditions, the lack of personal documents aggravates their social vulnerability, pushing their expectations of integration and social inclusion.

About 15000 Roma children born in Italy find themselves in a condition of legal invisibility and without basic rights, even though their families have been living for decades in Italy. The most relevant issue is that a significant proportion of Roma people who came to Italy from the former Yugoslavia in the 1960s and 70s and during the war in the 1990s still lives in Italy today without Italian or any other citizenship. Many of them are stateless persons without any legal status or undocumented persons at risk of statelessness. The problem arises from the dissolution of Yugoslavia itself, which made it difficult, and in some cases even impossible, for the former citizens of the Socialist Federal Republic of Yugoslavia to obtain citizenship from the new States which emerged following the conflict.

Among the Roma arrived in Italy from ex-Yugoslavia, some were already stateless while still living in their country and others lost their nationality after the nation's collapse. Various types of common situations have been identified:

- a) People arrived in Italy without identity documents (they have lived here for many years, but always without papers). Although they are often "known" to the Italian authorities (perhaps with different aliases) they do not possess a nationality;
- b) Children born in Italy from persons without identity documents: often registered by parents in the offices with rather "imaginative" names; they grew up in Italy, but they have neither identity papers nor citizenship. Often they can provide "evidence" of their continuous stay in Italy (vaccinations, school certificates, etc...), but this does not help them to solve their status.

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<sup>3</sup> All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

- c) People who arrived in Italy with "regular Yugoslav documents", but who have not obtained new documents: they fell into irregularity, living here for years. They are without identity documents and without citizenship;
- d) Children born in Italy from parents with "regular Yugoslav documents", or children of parents who did not get a regular status for several reasons (and therefore without the passport of the country of their parents): they were born and raised here, sometimes included in the residence permit of parents, they "disappear" and they become "invisible".
- e) Special Situations: parents spouses (sometimes following traditional weddings) or partners of Italian citizens who fail to regularize their position as they have no identity documents and there are also cases of non-registration or registration with fake names of the parents; individuals who cannot, therefore, even trace their birth certificates: though really born in Italy, there is no trace of their identity.

All these people face significant problems in their daily lives and often they don't have access to basic social rights. Without ID docs, they become invisible and the entire community closes his eyes and become blind to each of their needs.

Roma people have only one way to finally become visible, moving from a condition of de facto statelessness to a condition of de jure statelessness. Unfortunately this is something very difficult to obtain for Roma. In Italy the recognition of the statelessness status can be achieved either through an administrative procedure or through a judicial procedure. The administrative procedure requires the necessary acquisition of the following documents: a birth certificate; the evidence of the residence in Italy and some forms of documentation about issued by the diplomatic authorities of the origin country or, if considered necessary, also of the country where the concerned person resided for the last time showing that he/she does not possess that citizenship. The requisite most often missing is the demonstration of residence. Although the law refers to the requirement of residence and not of legal residence, the Ministry of Interior requires the submission of a residence permit and of a record of a residence from a General Register's office to initiate the procedure. The foreign documents must be duly translated and legalized. The Ministry of the Interior is also entitled to acquire supplementary documents, should this be deemed useful to ascertain that the applicant does not possess any citizenship. In particular, elements demonstrating the full personal details and the citizenship record of the applicant's parents can be requested. In this phase, the application can be declared inadmissible, in case the documents from the origin country are not submitted or are insufficient to prove unequivocally the condition of statelessness. When it is shown that the person does not possess any citizenship, statelessness is certified by the Central Director of Civil Rights, Citizenship and Minorities. This measure is a mere recognition of a condition which unequivocally appears to exist on the basis of the documents provided by the concerned individual, who must show not to be a citizen of any of the States with which he/she had a meaningful connection, as well as that it is actually impossible to obtain the recognition (or the reacquisition, in case of citizenship loss) of the foreign citizenship, including by means of appropriate administrative procedures. It seems obvious that the Roma are almost never able to satisfy the documentation requirements needed to succeed in this procedure. They don't have personal documents, they don't have connections with their country of origin, and they were often born, as a second or third generation, from people who didn't have their own citizenship. The second way is the judicial certification of the status of statelessness before the judicial authorities, particularly when "documentary evidence is lacking, as judges of ordinary courts can rely on all instruments of enquiry to ascertain the status of the applicant". But also this is a difficult path for Roma, also because the only court having jurisdiction is the one in Rome, where are the Ministry of the Interior's offices, and the assistance of a lawyer is required.

The Roma situation is exacerbated by two main factors. First of all, Italian legislation includes demanding prerequisites for the procedure for the recognition of stateless status, resulting in an administrative procedure which in practice is extremely difficult to complete. Undertaking the judicial procedure is equally complex, also due to the lack of specific regulation. There is a sort of vicious circle in the Italian system. Stateless persons are not able to provide documentary evidence necessary for the recognition of their status for a simple reason: because they are stateless. This condition implies that they usually

don't have ID documents, they face objective difficulties in obtaining documents from their countries of origin and for them it is necessary to return physically to that country. The undocumented status of many of these people can make such a return unfeasible: if they leave Italy, they may not be allowed to return, and may even risk that their child be stopped at the border. This vicious circle determines for Roma to stay in a condition of uncertainty that has been going for decades, leaving three generations of Roma people in a sort of permanent limbo.

We have also to consider that we are talking, in most cases, about young Roma people, born in Italy and without any direct connection with the Balkans countries. Unfortunately, children born in Italy are the ones who pay the greatest price for the consequences of the various situations discussed here. Born to displaced families from the former Yugoslavia, they have lived in Italy for their entire lives. Often they profess to love Italy, the Country where they were born, but where they have no access to a recognized legal status and where, because of their irregular position they cannot even obtain Italian citizenship. Many of these problems affect second and third generations.

The **Italian Constitution** states in its third article that "all citizens have equal social status and are equal before the law, without regard to their sex, race, language, religion, political opinions, and personal or social conditions". This rule guarantees the Roma from any discrimination based on their belonging to a common ethnic group. At the moment, there is no specific law protecting minorities in the Italian legislation which provides for and regulates the inclusion and acknowledgement of the Roma population in the concept of ethno-linguistic minority. Law No. 482/1999, containing provisions to protect the historical and linguistic minorities, permits the regions and autonomous provinces to pass legislation aimed at protecting and promoting the development of the language and culture of the Albanian, Catalan, German, Greek, Slovenian and Croat populations, as well as those speaking French, Franco - Provençal, Friulian, Ladin, Occitan and Sardinian. Roma are still excluded from the scope of this law and — unlike all recognised minorities in Italy — are covered by no other national law affording them overall protection. The official reason for this exclusion is to be found in the principles established for the definition of linguistic minority, that are summarized in the criteria of ethnicity, historicity, language and territory. Following a thorough parliamentary debate, the reference to the Roma and Sinti, initially included in the draft law, was eliminated for non-compliance with the principle of territoriality. Therefore today, in Italy, the absence of a territory reference deprives them of recognizing the status of linguistic minority. For lack of such national legislation the legal protection enjoyed by Roma is less effective than that from which persons belonging to recognised minorities benefit. Indeed, several Regions have attempted to fill the gap in national legislation, approving regional laws about Roma protection (Lazio, Lombardy, Tuscany, Umbria, Veneto, Marche, Emilia-Romagna, Sardinia, Piedmont, Friuli-Venezia Giulia, Liguria, Calabria and Autonomous Province of Trento).

In implementing the system of governance envisaged by the **National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities<sup>4</sup> in Italy 2012-2020**, Italy has chosen to apply an interdisciplinary and inter-ministerial approach, whilst ensuring the involvement of representatives of the Roma community and non-governmental organisations active on these issues. All the authorities involved in this exercise, including the Office of the UNHCR are ready to cooperate.

**A Juridical Table was set up at the National Office against Racial Discrimination (UNAR)** within the Presidency of the Council. The table was — until the last general elections of early 2014 - led by Prefect Compagnucci from the Ministry of Interior and included representatives from civil society and the Office of the United Nations High Commissioner for Refugees (UNHCR). The objective of the Juridical Table is to identify, understand and solve the main issues relating to the recognition of a legal status to the Roma community living in Italy. Since its inception in January 2013, the above mentioned Table set out to examine, in particular, the situation of *de facto* stateless persons and their children born in Italy; to develop proposals; to indicate possible initiatives (regulatory, administrative and diplomatic) to be submitted to the Political Control Room, in order to fill the existing regulatory gap concerning the numerous Roma and Sinti (including third-generation children) who arrived in Italy in the 90's.

<sup>4</sup> The term "Nomadi" is no longer officially used. Roma, Sinti and Caminanti are estimated to be around 140,000 in Italy; half of them are Italian citizens.



### III. CONCLUSIONS, LESSONS LEARNT AND GOOD PRACTICES IDENTIFIED

#### 3.1 Conclusions and lessons learnt

##### *3.1.1 Conclusions as regards the preparation and organisation of the thematic visit*

##### Positive aspects:

- An official invitation letter and a draft agenda were sent on time;
- The possibility was given to the CAHROM Secretariat and to partner countries' experts to provide comments on the draft agenda;
- The agenda of both the round table and the field visit the Roma camp were focused;
- The good atmosphere during the visit and the personal commitment of Italian interlocutors, and of Prefect Compagnucci in particular, allowed for open discussions;
- All partner countries' experts had a chance to express themselves though not necessarily all at the same time of the thematic visit;
- The group of experts had an opportunity to meet with various key interlocutors (representatives of the Ministry of the Interior, OSCAD and UNAR, UNHCR and Holy See representatives, civil society representatives (Roma and non Roma) and associations helping Roma, inhabitants and service providers in the Roma camp, etc.);
- Local transport and interpretation were provided by the hosting authorities;
- The UNHCR-Office in Rome offered the venue for the meeting with civil society and arranged a video conference with one of the interlocutors who could not come to Rome.

##### Shortcomings:

- The thematic visit took place in a context when UNAR and therefore the Juridical Table set up by UNAR to address the problem of legal status had no political leadership (Minister for Integration, Ms Kyenge, was not replaced after the elections);
- The discussions took place almost exclusively with interlocutors from the Ministry of Interior and UNAR. Other ministries (Justice, Education, Labour, Health, etc.) that may have a role to play regarding access of these Roma families to certain basic rights were not part of the discussion.

##### *3.1.2 General conclusions and recommendations*

The group of experts wished to recall that each individual, regardless of his/her background, has a right to personal documentation and underlined that it is not acceptable that people in Europe are in effect deprived of their right to a nationality — a basic human right. As a general recommendation, European States that have not done so are called on by the UNHCR to accede to the two UN Statelessness Conventions<sup>5</sup> and the two Conventions of the Council of Europe that address statelessness and nationality<sup>6</sup>, as well as to make sure they are implemented. The 1961 UN Convention on the Reduction of Statelessness specifically calls on member States to avoid statelessness at birth. It was reminded during the thematic visit that 20 member States of the Council of Europe are not yet State Parties to the 1961 Convention. The group of experts recommended that countries amend their national laws and practices to make sure that stateless persons on their territory are identified and can enjoy basic human rights. They also need to make sure all children are registered at birth, regardless of their parents' legal status, and that children born in these countries acquire a nationality if they are otherwise stateless.

<sup>5</sup> See the 1954 UN Convention Relating to the Status of Stateless Persons and the 1961 UN Convention on the Reduction of Statelessness.

<sup>6</sup> See the Council of Europe Convention on Nationality (ETS no. 166) and the Council of Europe Convention on the avoidance of Statelessness in relation to State Succession (ETS no. 200). See also the Committee of Ministers Recommendation on the nationality of children adopted in 2009 and the Parliamentary Assembly Recommendation and Resolution on Access to Nationality and the Effective Implementation of the European Convention on Nationality.

Concrete situations in Europe have come to UNHCR's and, during the thematic visit, to the group of experts' attention showing the gap between law and practice. For example, in some countries of South-Eastern Europe, a child acquires the nationality of the country automatically when he or she is born in the country from stateless parents. This is an excellent law piece of legislation. However in practice, for that safeguard to kick in, parents need to show their statelessness status, which in many cases proves to be difficult for them to do. Consequently stateless persons in these countries, many of whom have lived there for decades and were even born there themselves, cannot help their children. This particular safeguard in the nationality law therefore has limited benefits in reality.

Administrative obstacles also contribute to the perpetuation of statelessness. For example, the children of undocumented stateless Roma parents in South Eastern Europe are born stateless. Because their parents have no identity documents, marriage certificate or residence permit, the birth of the child cannot be registered. This leaves the child without any documentation confirming his or her identity and without proof of the links to country or countries that may consider the child a national.

Moreover, many Roma adults have no identity cards, either because their births or marriages were never registered with the state authorities, or, in the case of many Roma displaced during the recent conflicts in the Balkans, because their documents are not recognized by the state in which they now live.

Often the only option is a DNA test that would have to be acknowledged in court. But most of the families cannot afford to take such expensive steps.

The thematic visit proposed by the Italian Ministry of the Interior was seen as a very positive experience both by the Italian experts and the partner countries' experts. The CAHROM thematic visit to Italy confirmed that the situation of Roma from ex-Yugoslavia living in camps without a clear legal status and personal documents remains an unsolved issue in Italy for more than 30 years. Following the split of ex-Yugoslavia in the 90s, the situation has worsened as it multiplied the number of countries involved in solving. It takes time for administration and public authorities of countries that were at war to re-establish bilateral cooperation.

All these are complex issues which often require long term procedures, lengthy consultation processes, legislative amendments involving governments and parliaments, cross-border cooperation at bilateral and/or multilateral levels, etc.

For Roma individuals living in these camps trying to obtain a personal document or even access a basic service often results in vicious circles.

### *3.1.3 Conclusions and lessons learnt concerning Italy*

The experts noted during the field visit to the Roma River Camp that the lack of ID documents is a very widespread problem and that there were very different situations among the residents of the camp. In general terms, it was highlighted that often they have no citizenship neither a formal recognition of their statelessness status. In these conditions, they have to face severe difficulties in the access of basic social rights. The visit provided a confirmation, through personal and specific cases, of the magnitude of the problem. The Roma residents have also shown an overall lack of confidence in relation to the possibility of solving a problem that, in many cases, comes from very early times.

Partner countries' experts consider that Italian authorities need to take immediate steps to address the lack of passports and residence permits among members of the Roma communities, especially Roma originating from the Western Balkans who still have no clear legal status although they have been living in Italy for several decades in the worst scenario. They recalled that many of these Roma are not in possession of any identity document. In theory they are at permanent risk of being deported under the immigration legislation; in practice, however, they cannot be expelled from the country since they have no identity documents. It is equally impossible for these persons to integrate into Italian society as their lack of official documents prevents them from finding legal work or housing, from accessing public services and a fortiori from obtaining Italian citizenship. They are thus in a particularly invidious situation, being de facto stateless. Yet, because Italy does not recognise these persons as stateless, it seems that

they also do not enjoy in practice the rights set out under the Convention relating to the Rights of Stateless Persons, to which Italy is nonetheless a party.<sup>7</sup>

The group of experts took note that until recently children born in Italy of parents with no identity documents obtained an Italian birth certificate. However, even where they hold such a certificate, Roma living on campsites are often unable to show that they fulfil all the conditions for subsequent granting of Italian citizenship (particularly the residence requirement) and have no choice other than to seek recognition as stateless persons first, without any guarantees as to the outcome of this procedure or of any subsequent naturalisation application.<sup>8</sup>

The experts of the thematic group acknowledged that over the recent years, Italy has become more aware about the presence of these abovementioned vicious circle and the limbo situation in which these Roma families find themselves. They took note with great interest of the impetus given to these issues through the setting-up of the **Juridical Table at the National Office against Racial Discrimination (UNAR) within the Presidency of the Council**.

In implementing the system of governance envisaged by the **National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities<sup>9</sup> in Italy 2012-2020**, Italy has chosen to apply an interdisciplinary and inter-ministerial approach, whilst ensuring the involvement of representatives of the Roma community and non-governmental organisations active on these issues. All the authorities involved in this exercise, including the Office of the United Nations High Commissioner for Refugees (UNHCR), are now ready to cooperate.

The objective of the Juridical Table is to identify, understand and solve the main issues relating to the recognition of a legal status to the Roma community living in Italy. Since its inception in January 2013, the above mentioned Table set out to examine, in particular, the situation of de facto stateless persons and their children born in Italy; to develop proposals; to indicate possible initiatives (regulatory, administrative and diplomatic) to be submitted to the Political Control Room, in order to fill the existing regulatory gap concerning the numerous Roma and Sinti (including third-generation children) who arrived in Italy in the 90's.

However, following political elections of early 2014, there was no State Secretary appointed by the Government to deal with the national Roma policy leaving UNAR and therefore the Juridical Table in a vacuum, delaying once again the overall process to find solutions for Roma from ex-Yugoslavia living in those camps. The group of experts wished to signal through this report the need to re-appoint as soon as possible a political person responsible to supervise Roma integration issues and to resume the work of the Juridical Table<sup>10</sup>.

From a strategic-operating point of view, Italian authorities decided to explore the opportunity of a general legal reform. In this context, it was decided to set up a sub-group involving, in particular, the legislative offices of the Ministry of the Interior and the Ministry of Justice, together with the UNHCR and UNAR, in order to review previous legislation and to proceed with possible proposals.

A reform of the administrative practice seems, however, the shortest and the most politically acceptable route. In this field, the sub-group is now working on the drafting of a ministerial directive (circular) that defines a new residence registration procedure. This would include the possibility of subsequent registration of habitual residence for past period, or the registration of residence in social welfare offices for person residing in informal settlements, as well as new solutions to facilitate civil registration with a more flexible interpretation of the rules, which make it possible to register residence and birth certificate regardless from the possession of the residence permit. It is also needed a more flexible interpretation of the concept of "registered residence" in the territory, such as de facto proofs of

<sup>7</sup> See ECRI third report on Italy.

<sup>8</sup> ECRI last report on Italy.

<sup>9</sup> The term "Nomadi" is no longer officially used. Roma, Sinti and Caminanti are estimated to be around 140,000 in Italy; half of them are Italian citizens.

<sup>10</sup> The Italian Ministry of Labour and Social Policy was recently given this mandate.

domicile or residence in the territory. In a third level it would be also relevant to improve meaningful cooperation between Italy and the states of the former Yugoslavia, even starting from a bottom-up approach, and on the basis of practical cases, also assuring a closer cooperation between government institutions.

There are several good practices in this field and also practical measures like the deployment of mobile teams in "the former Yugoslav Republic of Macedonia", Montenegro and Croatia which are considered useful to help Roma people to get their documents, also crossing over national borders. Italian authorities intend also to use the results of these intergovernmental activities and this was seen as a good sign.

In conclusion, although the situation for Roma from ex-Yugoslavia living in Italy is still a very difficult and challenging issue, the group of experts noticed that in recent times the Italian authorities have started to become more aware of the problems, starting some activities aimed at the drafting of a comprehensive reform of their statelessness determination procedures, taking into account that about 15,000 children are waiting for the right to live decently. The group of experts noted that the Juridical Table led by Prefect Compagnucci was effective, inclusive (with the participation of many associations) and was seriously examining different options to solve the issue. The group of experts was hoping that the current lack of political leadership for Integration issues would be soon resolved so that the Juridical Table could start again its work and come up with concrete proposals.

### *3.2 Good practices identified*

The group of experts identified inter alia the following good practices:

- The setting-up of the Juridical table which involves key actors (Ministry of the Interior, UNAR, UNHCR and civil society) in Italy;
- The work of OSCAD in training police on anti-discrimination in Italy;
- Sports programme activities for Roma children in the River Camp in Rome, Italy;
- The adoption of a Strategy for durable solutions for displaced and internally displaced persons in Montenegro (with special attention to Konik settlement);
- The signature of a memorandum of understanding between the Ministry for Human and Minority Rights, Public Administration and Local Self-governments, the Ombudsman and the UNHCR which created a technical working group in Serbia for solving issues related to registration in birth registry books of unregistered Roma (which involved the Ministry of Labour and Social Policy);
- The signature of a memorandum of cooperation between the Ministry of the Interior, the Ministry of Labour and Social Affairs and the UNHCR in Montenegro in order to permanently solve the problems of displaced and internally displaced persons and which provide a mobile biometric station for receipt of applications;
- Mobile teams for solving ID documents at national level (in Croatia and "the former Yugoslav Republic of Macedonia");
- A cross-border cooperation agreement between Montenegro and Kosovo<sup>11</sup> on mobile teams to help Roma getting ID documents;
- Free legal aid provided to Roma in Serbia, in Bosnia and Herzegovina (through "Your Rights" project) and in Montenegro (with the Law Centre non-governmental organisation);
- Training of Roma NGOs, civil servants from the social welfare in Bosnia and Herzegovina and training of civil registrars and deputy civil registrars in Serbia;
- Involvement of Roma mediators in identifying lack of ID documents and contributing to solving their legal status (Bosnia and Herzegovina);
- A large set of legal framework addressing the needs of persons lacking legal status and ID/personal documents (Bosnia and Herzegovina and Croatia);

<sup>11</sup> All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

- The possibility given to Roma without IDs to register free of charge during a period of time and to obtain citizenship for those requesting it (Montenegro);
- The fact that children can enrol into primary and secondary school without regulating their status in Croatia;
- The CIPS (Citizen Identification Protection System) in Bosnia and Herzegovina;
- The fact that aliens who have been granted temporary stay on humanitarian grounds can access labour market without any special permit, and may register at welfare services and health insurance institute to be entered into the health insurance register, with the obligation to pay a minimum fee covering emergency medical treatments (Croatia);
- Media and awareness-raising campaigns in Serbia to explain to the Roma population how to exercise their right to register in birth registry books.

### 3.3 *Immediate and mid-term follow-up*

A concrete follow-up to the thematic visit was to include Italy in regional meetings held among countries of ex-Yugoslavia under the auspices of the UNHCR or the Decade for Roma Inclusion and in any future discussions aimed at providing Roma with personal/identity documents and legalising their legal status based on the Zagreb Declaration adopted in 2011 and conclusions of the 2013 Podgorica Conference.

As regards the way forward, the representative of the Italian Ministry of Interior, Prefect Riccardo Compagnucci, said that he will take into account some of the suggestions made by the group of experts and will further examine, in the context of the Juridical Table, some of the abovementioned good practices identified in partner countries. He also indicated his intention to solicit the Italian government to adopt a specific legislation aimed at the adoption of a more simplified and generalized procedure intended to recognize the status of statelessness for all Roma people (and eventually other relevant people) from ex-Yugoslavia who need it. Furthermore, he was willing to consider possible bilateral or multilateral cooperation in promoting collaborative activities aimed at the activation of mobile teams in Italy and trans-frontier mobile teams that could help collecting necessary data to provide personal identity documents to Roma, avoiding Roma people to travel (having in mind that in practice many of them cannot do so due to the lack of necessary documents).

The presentation made by the Observatory for the protection against discriminatory act (OSCAD) made during the thematic visit resulted in a proposal for future collaboration through the organisation of a training session for Italian law enforcement bodies addressing specifically discrimination against Roma and anti-Gypsyism. In co-operation with the OSCE-ODIHR, OSCAD and the Ministry of Interior of Italy, a training session for Italian police forces will be organised in Rome on 9-10 December 2014. In the meantime, on 19-21 November 2014, the Council of Europe will organise together with the Criminal Law Department and the SOGI Unit of the Council of Europe a training of trainers for law enforcement bodies/police forces on anti-discrimination with a focus on Roma and LGBT.

The expert from "the former Yugoslav Republic of Macedonia" ensured at the concluding session of the thematic visit that Italy would be invited to the Regional Workshop between relevant ministries and UNHCR offices to be held in Skopje on the issue of solving ID documents. The authorities of "the former Yugoslav Republic of Macedonia" will indeed organise the six meeting of the working meeting for Roma inclusion and Roma refugees in Skopje on 13 November 2014. The aim of these regular meetings is to monitor the level of implementation of the Action Plan for Roma inclusion and Roma refugees we would like to invite you to participate in the sixth working meeting for Roma inclusion and Roma refugees. The meeting is organised in close cooperation between the Ministry of Labour and Social Policy, the Cabinet of the Minister without Portfolio and National coordinator of the Roma Decade and the Roma Strategy, the Secretariat for European Affairs and the Delegation of the European Union based in Skopje.

This particular meeting will address EU Roma Policies and the possibilities of support through IPA Component (DG Enlargement); actions for registering people who are not registered in birth registry; the future of the Decade of Roma Inclusion; as well as the process of visa liberalization (DG Home).

Good practices identified during the thematic visit (see above) will be introduced by the CAHROM Secretariat in the online Council of Europe database on Roma-related policies and good practices. The Secretariat will also put the ROMED Team in contact with the Italian mediator working with Roma children in the River Camp and involve him as far as possible in future ROMED activities in Italy.

**Appendix 1: Programme of the thematic visit to Rome, Italy**



**FINAL AGENDA**  
**CAHROM THEMATIC GROUP OF EXPERTS' VISIT ON**  
**SOLVING THE LEGAL STATUS OF ROMA (FROM EX-YUGOSLAVIA) AND THEIR LACK**  
**OF PERSONAL/IDENTITY DOCUMENTS**  
**Rome, Italy, 28-30 April 2014**

**Sunday, 27 April 2014**

**Venue:** Target Restaurant, Via Torino 33, I-00184 Roma, Tel. +39 06 474 0066  
<http://www.targetrestaurant.it/>

20h00-22h00                      Informal dinner with the experts of the thematic group and the CAHROM Secretariat (reservation made on M. Guet's name).

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**Monday, 28 April 2014**

**Venue:** Italian Ministry of Interior, Piazza del Viminale, 1st floor, Room 60.

9h45-10h00                      Meeting with Mr Riccardo Compagnucci and Council of Europe Secretariat representatives.

10h00-13h00                      **INTRODUCTORY SESSION: AGENDA, OBJECTIVES AND PARTICIPANTS OF THE CAHROM THEMATIC VISIT**

**Interventions:**

- **Mr Riccardo Compagnucci, Italian Ministry of Interior:** welcoming statement. Introduction of Italian participants and presentation of the agenda of the CAHROM thematic visit.
- **Mr Michaël Guet, Secretary of CAHROM, Council of Europe:** aims of the CAHROM thematic visit.
- **Brief tour de table:** introduction of partner countries' experts from Bosnia and Herzegovina, Croatia, Montenegro, Serbia and "the former Yugoslav Republic of Macedonia".

- **Mr Riccardo Compagnucci, Italian Ministry of Interior:** general introduction to the topic:
  - Present situation of Roma from ex-Yugoslavia living in Italy (historical presence, geographical distribution in Italy, estimated number, countries of origin - i.e. successor states of ex-Yugoslavia);
  - Current situation as regards the legal status and personal/identity documents of Roma from ex-Yugoslavia living in Italy;
  - Current proposals under discussion of Italian authorities to legalize their status.
- Discussion.

**13h00-14h15                      Lunch break (Macedonian experts joint the group)**

**14h15-17h00                      FIELD VISIT TO ROMA CAMP “CAMPING RIVER”**

**14h15: Meeting point at Piazza del Viminale.**

**14h30: Departure to formal Roma camp “Camping River” in the northern part of Rome, via Tiberina.** Local transportation provided by the Italian organisers.

Discussion on the spot between partner countries’ experts, representatives of the Italian authorities, of the Municipality of Rome, of UNAR, of associations working with Roma in the “Camping River” formal camp, as well as with Roma from ex-Yugoslavia living in the camp. Examples of issues to be addressed:

- Challenges encountered by Roma from ex-Yugoslavia in accessing a legal status and personal/identity documents IDs. For example, does it prevent them from accessing proper housing, employment, education, health care and social services? Do Roma from ex-Yugoslavia living in Italy require personal/identity documents from their country of origin? Do they face obstacles to obtain them?

**16h30 Return to Piazza Viminale.**

**17h00 Close of the first day meeting agenda.**

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**Tuesday, 29 April 2014**

**Venue: Italian Ministry of Interior, Piazza del Viminale, 1st floor, Room 60.**

**09h00-09h30                      Arrival and registration of participants**

Chair:                              Representative of the Ministry of Interior

**09h30-09h45                      OPENING AND BRIEF TOUR DE TABLE TO INTRODUCE PARTICIPANTS**

**09h45-10h30                      OBSERVATORY FOR THE PROTECTION AGAINST DISCRIMINATORY ACTS (OSCAD)**

- Presentation of the Observatory for the Protection against Discriminatory Acts (OSCAD) by Mr Stefano Chirico, Senior Police Officer.
- Questions and answers

**10h30-11h30                      FEEDBACK FROM THE FIELD VISIT**

- Feedback from the participants from the field visit, followed by a general discussion.

**11h30-11h45                      Coffee break**

**11h45-13h00                      THE SITUATION IN COUNTRIES FROM EX-YUGOSLAVIA (PARTNER COUNTRIES)**

Chair: Mr Riccardo Mattei, Council of Europe.

**Interventions from partner countries' experts:** issues to be addressed:

- Measures implemented in partner countries to provide personal/identity documents for Roma who need them (for example for displaced Roma and for Roma living abroad with specific focus on Roma from ex-Yugoslavia living in Italy);
- Examples of existing bilateral/multilateral cooperation between countries from ex-Yugoslavia in terms of solving the legal status of Roma and the issuance of personal/identity documents (birth certificates, etc.);
- Examples of possible bilateral/multilateral cooperation between countries from ex-Yugoslavia and Italy to solve the legal status and lack of personal/identity documents of Roma from ex-Yugoslavia living in Italy;
- Role of countries of origin from ex-Yugoslavia to facilitate the legalization process and the access to personal/identity documents.
- Discussion.

**13h00-13h15                      CONCLUDING REMARKS**

- Italian hosting authorities and Council of Europe.

**13h15-14h30                      Lunch break**

**14h30                                Departure by local public transport**

**15h00-17h00                      MEETING WITH CIVIL SOCIETY REPRESENTATIVES AND  
INTERNATIONAL ORGANISATIONS**

**Venue: UNHCR Office Via A. Caroncini, 19, I-0197 Roma**

Interlocutors: UNHCR and civil society representatives, including CIR (Consiglio Italiano per i Rifugiati), Associazione 21 Luglio, ASGI, Comunità Sant'Egidio, Federazione Rom et Sinti.

*Exchange with UNHCR on:*

- The international framework and legal protection of Roma living in camps.
- Possible individual situations of statelessness. How to address them?

*Skype exchange (to be confirmed) with ASGI lawyer, Alessandro Maiorca*

- The legal assistance to Roma, in particular those living in camps

*Exchange with civil society representatives on:*

- The role of civil society and associations in Roma camps and in facilitating the legalization process and the access to personal/identity documents.

*Exchange with Holy See representative (to be confirmed) and Comunità di Sant'Egidio on:*

- The role of charity organisations, of the Catholic Church and other Churches/Confessions.

**17h00    End of the second day.**

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**Wednesday, 30 April 2014**

**Venue: Italian Ministry of Interior, Piazza del Viminale, 1st floor, Room 60.**

**10h00-12h00**                      **INFORMAL DEBRIEFING MEETING** between Italian experts and partner countries' experts of the CAHROM thematic group.

Issues to be addressed:

- Main conclusions as regards the way forward (in Italy and in partner countries).
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- Main issues and conclusions to be highlighted in the thematic report.
- Lessons learnt regarding the topic and the organisation of the thematic visit.
- Good practices identified in the requesting/partner countries to be highlighted in the thematic report.
- Possible follow-up envisaged to the CAHROM thematic visit and information about the preparation and presentation of the CAHROM thematic report.
- Additional information and documents to be provided by requesting/partner countries.
- Timeframe for the preparation and presentation of the thematic report and input desirable from each requesting/partner country's expert.

**12h00**                              **End of the CAHROM thematic visit.**

**Lunch and/or departure.**

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