



OSCE/ODIHR Contact Point for Roma and Sinti Issues

## **SUMMARY REPORT**

### **Expert seminar on access to identification and civil registration documents by Roma in Ukraine**

*hosted by the OSCE/ODIHR Contact Point for Roma and Sinti Issues*

*in co-operation with the*

*Ukrainian Parliament Commissioner for Human Rights*



Kyiv, Ukraine  
19-20 November 2015

**Disclaimer**

This report should neither be interpreted as official OSCE recommendations based on a consensus decision, nor as an opinion of the OSCE Office for Democratic Institutions and Human Rights or of any particular OSCE participating State. The content of this report reflects opinions expressed by participants in the expert seminar on access to identification and civil registration documents by Roma in Ukraine held in Kyiv on 19 – 20 November 2015.

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## INTRODUCTION AND BACKGROUND

The 2014 OSCE/ODIHR “Situation Assessment Report on Roma in Ukraine and the Impact of the Current Crisis” recognized the lack of identification and civil registration documents, such as birth certificates or passports, as one of the key challenges Roma continue to face in Ukraine.<sup>1</sup>

In order to support the Ukrainian authorities in their efforts to gain a deeper understanding of the obstacles Roma face in obtaining civil registration and identification documents, and to identify concrete steps to overcome those obstacles, the OSCE/ODIHR Contact Point for Roma and Sinti Issues (CPRSI), in co-operation with the Office of the Ukrainian Parliament Commissioner for Human Rights, hosted an expert seminar on access to identification and civil registration documents by Roma in Ukraine on 19-20 November 2015 in Kiev.

The seminar brought together 35 representatives from national and regional authorities (especially the State Migration Service and the Department of State Registration), representatives from Roma and non-Roma civil society, mediators and lawyers who provide legal aid and support to Roma communities, and international experts. For the very first time, it provided a forum for discussion in Ukraine between the authorities and Roma civil society to (i) identify obstacles and practical solutions to address the ongoing lack of personal identification and civil registration documents among Roma in Ukraine; (ii) share working practices from different parts of Ukraine; (iii) present good practices and lessons learned from other parts of the OSCE region that can be translated into the specifically Ukrainian context; and (iv) to develop concrete recommendations in line with OSCE commitments and international human rights standards to ensure that all Roma in Ukraine can obtain civil registration and identification documents.

This report provides a brief overview of the discussion and the main conclusions and recommendations guiding national authorities, civil society and international organizations in their future work in this area. The OSCE/ODIHR is grateful for the support of the United Nations High Commissioner for Refugees (UNHCR) and the Kiev-based International Renaissance Foundation (IRF) for facilitating the participation of international experts and Roma civil society representatives from different regions in Ukraine. The OSCE/ODIHR is also grateful for the active engagement of the Ukrainian authorities, especially the State Migration Service of Ukraine and the Department of State Registration, in the organization and conducting of the seminar.

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<sup>1</sup> See OSCE/ODIHR, “Situation Assessment Report on Roma in Ukraine and the Impact of the Current Crisis”, August 2014, in particular pp. 19-21 and 35, <http://www.osce.org/odihr/124494>.

## **Background**

The “Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area”<sup>2</sup> and subsequent OSCE Ministerial Council<sup>3</sup> decisions contain a comprehensive set of commitments to eradicate discrimination against Roma and Sinti and to ensure, among other things, equal access and opportunities in education, employment, housing and health services, to enhance participation in public and political life, and to protect the fundamental rights of Roma in crisis and post-crisis situations. Moreover, the OSCE Action Plan specifically recommends participating States to “be proactive in ensuring that Roma and Sinti people, like any other inhabitants, have all the necessary documents, including birth certificates, identity documents and health insurance certificates”; and it strongly advises participating States to work in partnership with Roma and Sinti civil society organizations in resolving problems related to the lack of basic documents.<sup>4</sup>

Equal access to identity and civil registration documents is essential for the realization of the right to recognition as a person before the law and the right to birth registration as enshrined in international human rights standards.<sup>5</sup> It has been widely recognized that birth registration, which should be part of a comprehensive civil registration system, must be accessible to all and free of charge, as well as flexible and responsive to the circumstances of families,<sup>6</sup> and that there is a need for simple administrative procedures, regular awareness- raising campaigns, and other measures such as proactive outreach to rural or remote locations to make civil registration accessible<sup>7</sup>.

Across the OSCE region, national and international stakeholders have documented and recognized that Roma in marginalized situations are particularly vulnerable to lacking civil registration and documentation<sup>8</sup>. While much remains to be done to fully eliminate “legal invisibility” among Roma and ensure the protection of the rights of those who do not have personal documents, steps taken in recent years, in particular in the Western Balkans region, can serve as useful reference points for developing effective measures to address the problem in Ukraine.

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<sup>2</sup> OSCE Ministerial Council, Decision No. 3/03, “Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area” (OSCE Action Plan), Maastricht, 1-2 December 2003, <http://osce.org/odihr/17554>.

<sup>3</sup> OSCE Ministerial Council Decisions No. 6/08 adopted in Helsinki on 5 December 2008, No. 8/09 adopted in Athens on 2 December 2009 and No. 4/13 adopted in Kyiv on 6 December 2013, available at <http://www.osce.org/odihr/154691>.

<sup>4</sup> See OSCE Action Plan, *op. cit.*, note 2 paragraph 87. In connection with recommendations concerning access to education, the Action Plan also recommended participating States develop policies that address the full range of factors contributing to low school attendance by Roma and Sinti children, including ensuring Roma and Sinti families have the same necessary documentation for registration as any other inhabitants (paragraph 77). Furthermore, it tasked OSCE/ODIHR with developing programmes aimed at fostering the registration necessary for full political participation (paragraph 99).

<sup>5</sup> Articles 16 and 24(2) of the International Covenant on Civil and Political Rights (ICCPR) and Article 7 of the Convention on the Rights of the Child (CRC), amongst others.

<sup>6</sup> UN Committee on the Rights of the Child, General Comment No. 7, UN Doc. CRC/C/GC/7/Rev.1, 20 September 2006.

<sup>7</sup> UNHCR Executive Committee, Conclusion on civil registration, No.111 (LXIV)-2013.

<sup>8</sup> See “Access to Civil Documentation and Registration in South Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration”, report based on research conducted by Stephanie Woldenberg, consultant, available at <http://www.refworld.org/pdfid/5280c5ab4.pdf>; see also “Zagreb Declaration of the Conference on the Provision of Civil Status Documentation and Registration in South Eastern Europe” (Zagreb, 26–27 October 2011), available at: <http://www.osce.org/hcnm/85249>. The Zagreb Conference was jointly organized by the OSCE High Commissioner on National Minorities (HCNM), the United Nations High Commissioner for Refugees (UNHCR) and the European Union. It brought together government representatives from Bosnia and Herzegovina, Croatia, Kosovo, Montenegro, Serbia and the former Republic of Yugoslavia as well as civil society and representatives of international organizations. A follow-up conference held on 25 October 2013 in Podgorica, Montenegro examined developments since the Zagreb Declaration. The Co-Chair conclusions and a background document presenting an analysis of the situation in each country with an overview of remaining challenges and best practices are available at: <http://www.osce.org/hcnm/108842>. See also, for example, “UNHCR drives effort to reduce statelessness in south-east Europe”, available at <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=4ea977ad6&query=Roma+statelessness>, as well as further information on UNHCR actions to prevent statelessness at: <http://www.unhcr.org/pages/49c3646c155.html>.

According to the OSCE/ODIHR 2014 situation assessment report,<sup>9</sup> many Roma in Ukraine are without identification and civil registration documents and are therefore prevented from accessing basic services, e.g., in the areas of housing, health care, employment and education, and cannot fully exercise a range of other fundamental human rights, such as the right to participate in public and political life. In the context of the current crisis, this concern is further compounded by the fact that many Roma displaced persons lack documents, which hampers their ability to confirm their displacement, to register as internally displaced persons (IDPs), to apply for social security benefits and to receive humanitarian assistance.

Information OSCE/ODIHR has continued to receive from various sources since the publication of its assessment report indicates that the problem and the serious effects it has on the situation of Roma in Ukraine remain acute.<sup>10</sup> With a view to improving the situation of Roma in accordance with Ukraine's commitments as an OSCE participating State, the OSCE/ODIHR situation assessment report specifically recommended the authorities remove obstacles to obtaining documents, simplify procedures for obtaining documents, and recognize the particularly vulnerable situation Roma face in displacement due to a lack of identification and civil registration documents.<sup>11</sup> Other international institutions, including a number of United Nations treaty bodies, have made similar recommendations in connection with their review of Ukraine's compliance with international human rights standards over the past few years.<sup>12</sup>

The national "Strategy on the Protection and Integration of the Roma national minority into Ukrainian Society up to 2020" (Strategy), approved by the Ukrainian government in April 2012, and the subsequent "National Action Plan on Implementation of the Strategy" (NAP) both recognize that a significant number of Roma have no identification documents and there is a need to address this situation with specific policy measures. However, as there has been little progress so far to implement the Strategy and NAP in general,<sup>13</sup> no concrete steps have been undertaken yet by the authorities to map the situation of Roma as regards their access to

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<sup>9</sup> See OSCE Situation Assessment Report on Roma in Ukraine, *op. cit.*, note 1.

<sup>10</sup> For example, a survey conducted by the World Health Organization (WHO) in cooperation with international and local non-governmental organizations in Kharkiv, Lugansk and Odessa found that the vast majority of Roma IDPs interviewed had lost their personal documents or never had any, which prevented them from accessing health care services; see "WHO and partners increase focus on Roma population in Ukraine", 23 April 2015, <http://www.euro.who.int/en/countries/ukraine/news/news/2015/04/who-and-partners-increase-focus-on-roma-population-in-ukraine#>. See also, for example, the statement by the Ukrainian Parliament Commissioner for Human Rights of 18 December 2014 following a monitoring visit to Kharkiv Region noting the considerable problem of lacking civil registration documents, <http://www.ombudsman.gov.ua/en/all-news/pr/261214-qn-problems-which-roma-face-arent-in-general-unique-for-the-kharkiv-regio/>, and the report on the civil society monitoring of the National Action Plan ("Implementation of state policy towards Roma"), published in July 2015 with the support of the Ukrainian Parliament Commissioner for Human Rights, the International Renaissance Foundation (IRF), the European Roma Rights Centre (ERRC) and the Kharkiv Institute of Social Researches, [http://issuu.com/irf\\_ua/docs/rpi-2015-2\\_engl](http://issuu.com/irf_ua/docs/rpi-2015-2_engl). See also ADC Memorial, "Roma and war in Eastern Ukraine – Refugees, displaced persons, victims of violence", 2015, <http://adcmemorial.org/wp-content/uploads/RomaENGwww.pdf>; and International Charitable Organization Roma Women Fund "Chirikli", "Monitoring the human rights situation of Roma in Ukraine", September 2014, <http://chirikli.com.ua/index.php/en/library/item/93-monitoring-the-human-rights-situation-of-roma-in-ukraine>.

<sup>11</sup> OSCE/ODIHR Situation Assessment Report, *op.cit.* note 1, pp. 6-7.

<sup>12</sup> For example, the UN Committee on Economic, Social and Cultural Rights (CESCR) requested Ukraine in May 2014 to simplify procedures and remove existing obstacles to ensure that all Roma are provided with personal documents which are necessary for them to enjoy their fundamental rights; see UN Doc. E/C.12/UKR/CO/6, 13 June 2014. The Human Rights Committee (CCPR) did so in 2013; see UN Doc. CCPR/C/UKR/CO/7, 22 August 2013. The Committee on the Elimination of Racial Discrimination (CERD) urged Ukraine to issue as a matter of priority the necessary identification documents to all Roma in order to facilitate their access to the courts, legal aid, employment, housing, health care, social security, education and other public services; see UN Doc. CERD/C/UKR/CO/19-21, 14 September 2011. Furthermore, the Committee on the Rights of the Child (CRC) called upon Ukraine to intensify its awareness-raising campaigns to encourage and ensure the registration of all Roma children, see UN Doc. CRC/C/UKR/CO/3-4, 21 April 2011.

<sup>13</sup> See, for example, ("Implementation of state policy towards Roma", *op.cit.* note 10 and International Charitable Organization Roma Women Fund "Chirikli", *op.cit.* note 10.

civil registration documents, nor have concrete steps been taken to overcome the existing challenges in this regard.

The expert seminar is a very first step to take stock of the existing obstacles and challenges for the Roma and the authorities (the state migration service and state registration service) and to engage in a dialogue to overcome the challenges by looking at good practices from both Ukraine and other OSCE regions to sustainably ensure civil registration and identification documents for all citizens of Ukraine. In view of the ongoing reform and decentralization process in Ukraine, the reform of the identification management system, and the reform of the procedures for issuance of travel and identification documents, the conclusions and recommendations of the expert meeting therefore serve the international community, national stakeholders and civil society active in this field to direct their further work securing access to fundamental rights for Roma in Ukraine.

## **SUMMARY OF DISCUSSION**

Opening the expert seminar, representatives of the OSCE/ODIHR Contact Point for Roma and Sinti Issues (CPRSI), the Office of the Ukrainian Parliament Commissioner for Human Rights, and the State Migration Service of Ukraine stressed the importance of addressing the lack of personal identification and civil registration documents given the difficult situation of Roma in Ukraine. The lack of official data prevents a full understanding of the issue on a national level, including understanding the scale of the problem. However, according to experiences from the field, the causes and consequences of not having personal documents vary between different regions in Ukraine. Several participants stressed the need to proactively address this issue, which is in many ways further compounded by the current circumstances and ongoing conflict in the country.

Following the opening session, the expert seminar looked into the impact of the lack of personal identification and civil registration documents on the enjoyment of human rights (**Session 1**) and the challenges Roma face in their access to personal identification and civil registration documents (**Session 2**). In the course of the discussion, several participants stressed the negative impact that lack of civil registration and personal identification documents has on the Roma population, especially on the future lives of Roma children. Those without birth registration and other personal documents remain “legally invisible” and are, as a result, barred from fully exercising a range of fundamental human rights and from accessing education, health care and other basic services on an equal basis with other members of society. This perpetuates existing inequalities and marginalization and endangers the integration of future generations of Roma into Ukrainian society.

Representatives of the State Migration Service and of the Department of State Registration provided an overview of the procedures in place for the issuance of civil registration and personal identification documents and the documentary requirements for applicants in different situations, including with respect to birth registration, late birth registration, re-issuance of birth certificates that may have been lost or are otherwise not available, and applications for identification documents and passports. They informed participants about provisions to overcome difficulties in the birth registration of children who are born outside of medical institutions and of children whose parents do not possess identification documents; incentives for immediate birth registration, namely, the provision of child benefits; and the ongoing transfer of the population registry system to an electronic database and other reforms that will contribute to simplifying the process of issuing travel and identification documents in future.

Presenting their perspectives on the issue, civil society representatives reiterated their concern that in practice, serious obstacles remain for many Roma who do not possess civil registration and personal identification documents and risk being caught in a vicious circle. While a birth certificate is usually needed in order to obtain a passport or other personal identity documents,

proof of identity through valid documents is required for the issuance of a birth certificate. At the same time, the unavailability of identification documents in practice also represents a major hurdle in accessing the courts, e.g. in order to obtain a court decision confirming the fact of a birth.

Given the complexity of the matter, the following categories of cases are observed as posing specific obstacles for Roma and requiring distinct responses in order to eliminate their “legal invisibility”:

- Cases of people who have never had any documents, neither a birth certificate nor other personal identification documents, and who are therefore at risk of statelessness;
- Cases of people whose birth has been registered but who do not possess a passport or other personal identification documents;
- Cases of people who are in possession of an old Soviet passport, but do not have a Ukrainian passport or other documentation; and
- Cases of people who have lost their personal documents or whose documents are otherwise unavailable due to their displacement.

In this context, participants identified a number of key obstacles leading to the lack of civil registration and personal identification documents among Roma. Amongst others, participants highlighted the following aspects:

- General lack of trust between Roma communities and public authorities, which deters many Roma who do not possess civil registration and personal identification documents from applying for such documents.
- Lack of awareness within the Roma community about the importance of having civil registration and personal identification documents, about their fundamental rights in this context, and about how to claim their rights.
- Inconsistencies in the legal framework and complicated administrative procedures for resolving cases where the standard evidentiary documentation required for issuance of civil registration or personal identification is unavailable, which often leads to lengthy processes in obtaining civil registration and personal identification documents.
- Dependency on the attitude and good will of local authorities and the judiciary in resolving such cases, as well as a lack of clear instructions from the state to local officials, which in many cases results in the arbitrary application of rules and regulations during the issuance of civil registration and personal identification documents.
- Obligatory imposition of fines, without possibility of waiver, for not being in possession of personal identification documents, which does not motivate but deters people who have never had any documents from applying for them.
- General marginalization, the vulnerable situation of the Roma population in Ukraine, and the need for proactive measures that take the specific needs of Roma into consideration are often not recognized by public officials: For example, the isolated locations of many Roma settlements makes their access to regional administration centres and registration offices more difficult; their housing situations and dwelling in irregular settlements results in their lack of residence registration, which represents an obstacle in obtaining civil registration and personal identification documents; and low levels of education and high levels of illiteracy among the Roma population mean that many Roma require specific support in administrative procedures for obtaining civil registration and personal identification documents which is not proactively provided.
- Specific problems encountered by Roma who have been displaced as a result of the current conflict in Eastern Ukraine: Many internally displaced persons (IDPs) who have never had documents or who have lost their documents have difficulties in obtaining documentation that proves their displacement and are, as a consequence, left without access to humanitarian assistance. In addition, Roma coming from areas in the East may be afraid to disclose their places of origin for fear of persecution, both at the place to which they have been displaced and upon return to their original homes.

While it was noted that the State Migration Service and the Departments of State Registration and their territorial subdivisions are the main institutions responsible for addressing the issue, participants agreed that all stakeholders, including Roma and non-Roma civil society, other experts, and international organizations, needed to work together in close partnership to resolve the lack of civil registration and personal identification documents among Roma in Ukraine. With the input and contribution of a number of international experts in civil registration matters, the subsequent sessions of the seminar focused on lessons learned in other OSCE participating States (**Session 3**) and on examining good practices that may be replicated in the Ukrainian context (**Session 4**).

Based on experiences from Serbia and from Montenegro, where a considerable part of the Roma population and Roma displaced persons from the conflicts in the Western Balkans has no personal documents, the experts presented an overview of actions that have been taken to address the issue. While much remains to be done to protect the rights of legally invisible persons in these countries, joint efforts by state authorities, civil society, and the international community have led to significant improvements in recent years.

The targeted initiatives included advocacy campaigns to raise awareness about the vulnerabilities of legally invisible persons and the need to reduce the risk of statelessness; the establishment of a technical working group comprising representatives of the central and municipal authorities, the Ombuds institution, UNHCR, other international actors, and civil society, to devise and coordinate activities to address the issue; changes to the legal framework, especially to lower the evidentiary requirements for the issuance of birth certificates (namely, to allow for the issuance of a birth certificate on the basis of the testimony of two witnesses confirming someone's date and place of birth should other documentation not be available); as well as pro-active outreach to Roma communities on civil registration matters to build trust, raise awareness and provide support, including free legal aid and regular visits to Roma settlements by mobile civic registration teams. Political will by the central authorities to resolve the issue and strong partnership with international community and civil society in taking steps towards this aim was a prerequisite for the success of such measures in Serbia and in Montenegro.

In the course of the ensuing discussion, participants considered a number of concrete steps that could be replicated in Ukraine, especially the creation of a technical working group or other coordinating mechanisms to devise and implement targeted actions to resolve the lack of civil registration and personal identification documents among Roma. Representatives of the State Migration Service and the Department of State Registration reported on a number of measures and good practices that are already being carried out in different regions of Ukraine, for example, as regards cooperation between regional and local authorities and civil society in providing legal support to Roma. Participants agreed that such practices should be continued and further promoted. Participants also stressed that a coordinated, more systematic approach was needed to step up efforts with a view to achieving tangible improvements in future, and that closer cooperation between all actors involved – central, regional and local authorities; Roma and non-Roma civil society; and the international community – was essential in this regard. Representatives of the State Migration Service and the Department of State Registration expressed their readiness to consider further measures based on the experiences shared by the international experts and to cooperate closely with all stakeholders with a view to their implementation.

On the basis of the discussions throughout the previous sessions, the final session was devoted to developing specific recommendations on measures the authorities and other stakeholders could take to resolve the lack of personal identification and civil registration documents among Roma (**Session 5**). The proposals made by participants during this session for overcoming existing obstacles and ensuring birth and personal identification documents for all are included in the consolidated set of recommendations from the seminar (see below).

## **GENERAL CONCLUSIONS**

Over the two days of the expert seminar, participants underlined that genuine political will at all levels – national, regional and local – was key to resolving the lack of civil registration and personal identity documents. Participants underlined that birth registration is a fundamental right and precondition for the enjoyment of many other rights with regard to protection, nationality, education, social and health services or political rights. They further stressed that birth registration is key for everyone to be recognized as a person before the law and that “legal invisibility” has an adverse impact on Roma enjoying their fundamental rights in Ukraine.

As a very first step, all stakeholders involved needed to recognize the problem and the importance of finding and implementing practical solutions. In doing so, a strictly human rights-based approach should be pursued that puts the rights of Roma who do not possess birth registration at the heart of all measures to address the issue and also solve obstacles to other documents (e.g., identity papers or passports). While the promotion, protection and fulfilment of human rights is the primary obligation of the participating State, several participants recalled that it was also in the participating State’s own interest to eliminate the “legal invisibility” of part of its population and ensure that all Roma in Ukraine have civil registration and personal identification documents.

While participants stressed that further analysis should be carried out to understand the exact scope and specific patterns of the problem, there was agreement that proactive steps are essential in order to find and implement sustainable solutions to address the numerous obstacles that cause the lack of civil registration and personal identification documents among Roma as set out above. These include the lack of trust between Roma communities and the authorities; the deep-rooted marginalization and discrimination that Roma face in almost all spheres of life and that also impedes their access to such documents; and the inconsistencies in the legal framework and regulations that deter Roma from applying for documents, such as obligatory fines for not being in possession of personal identification documents.

Such steps should be taken in close collaboration and in partnership with all stakeholders involved, including the various authorities, Roma and non-Roma civil society, and intergovernmental organizations. Participants proposed a number of concrete recommendations towards this end that are summarized below, and re-affirmed their commitment to continue their cooperation with a view to achieve tangible progress in this important area.

## **RECOMMENDATIONS**

The following recommendations resulted from the discussions during the working sessions:

1. The Ukrainian authorities should demonstrate political will and leadership at all levels – central, regional and local – to proactively engage with and resolve the lack of personal identification and civil registration documents among Roma in Ukraine, in recognition of the fact:
  - (a) that the lack of a birth certificate represents a major impediment to the full enjoyment of human rights;
  - (b) that it is the participating State’s obligation to respect, protect and fulfil the rights of everyone under its jurisdiction, which also entails a positive obligation to take proactive steps to ensure the rights of those members of society who are disadvantaged and therefore face specific obstacles in exercising their rights;
  - (c) that it is also in the participating State’s genuine interest to ensure that its entire population is in possession of civil registration and personal identification documents; and

- (d) that persons without identification documents face particular challenges in registering as displaced persons and receiving humanitarian assistance.
2. In doing so, the Ukrainian authorities should reaffirm their commitment to work together with Roma representatives and civil society to find sustainable solutions to effectively address this issue and should dedicate the necessary resources for that purpose.
  3. All key stakeholders in this area – including central and regional authorities, the Office of the Ukrainian Parliament Commissioner for Human Rights, Roma representatives and civil society – should work in partnership. In particular, they should continue and step up the fruitful collaboration begun at the present expert seminar, with a view to:
    - a. creating appropriate coordination mechanisms;
    - b. initiating necessary mapping, needs assessment and analysis;
    - c. proposing and implementing measures for reform in law and practice;
    - d. conducting awareness raising, outreach, training and capacity building; and
    - e. ensuring the provision of legal aid for Roma in obtaining personal identification and civil registration documents.

International organizations should do their utmost to support these efforts.

*Creation of appropriate coordination mechanisms at the central, regional and local level*

4. Building on the present expert seminar, the State Migration Service of Ukraine and the Department of State Registration should jointly initiate the creation of a technical working group or coordinating mechanism at the central level to move towards a more unified effort from all relevant ministries and State institutions in addressing the issue.
5. The technical working group or coordination mechanism should be composed of experts from the relevant central ministries and State institutions, Roma representatives and civil society, legal experts, the Office of the Ukrainian Parliament Commissioner for Human Rights, and representatives of intergovernmental organizations, including OSCE/ODIHR, UNHCR and, as relevant, the Council of Europe and the European Union. Experts from regional and local authorities should also be included in the group.
6. The terms of cooperation through the technical working group or coordination mechanism should be formalized in a Memorandum of Understanding between all of the actors involved.
7. The technical working group or coordination mechanism may be tasked with:
  - instructing, requesting or guiding a mapping exercise of the current situation, a needs assessment, and an analysis of the legal framework by international and/or national experts in the area;
  - developing – on the basis of such mapping, needs assessment, and analysis – proposals for reforms in law and practice and overseeing their implementation;
  - developing practical tools for public officials dealing with applications for personal identification and civil registration documents (such as process flow charts, manuals, or guidelines for resolving cases where standard evidentiary documentation is unavailable) and a training curriculum for public officials based on those tools;
  - initiating and guiding awareness-raising and outreach activities to engage Roma communities, public officials, and other relevant actors; and
  - facilitating increased cooperation, coordination and communication between central, regional and local authorities and the sharing of knowledge and good practices between different regions and districts.

8. In addition, administrations in regions, districts and municipalities with significant numbers of Roma communities should give due consideration to establishing similar working groups – consisting of public officials, lawyers, social workers, Roma mediators and community representatives – to devise and implement operational steps at the regional and/or local level and to support, where possible, the resolution of individual cases where standard evidentiary documentation is unavailable.

*Mapping, needs assessment and analysis of the legal framework*

9. Through the technical working group or coordination mechanism, and in partnership with Roma and non-Roma civil society and other experts and key stakeholders in the area, the Ukrainian authorities should:
  - initiate a mapping exercise or baseline study to determine the exact scope and causes of the problem, the type of obstacles Roma – including Roma displaced from Eastern Ukraine or Crimea as a result of recent political developments - encounter across the country and in different regions, and their specific needs for obtaining personal identification and civil registration documents (data collection and analysis);
  - initiate a comprehensive analysis of the legal framework to identify any systemic issues leading to lack of civil registration and personal identification documents among Roma – including Roma displaced from Eastern Ukraine or Crimea as a result of recent political developments - and develop recommendations for reforms in law and practice (legislative and procedural framework analysis); and
  - develop a methodology and institute effective procedures for assessing progress in addressing the lack of civil registration and personal identification documents among Roma (monitoring and evaluation).
10. In the context of the analysis of the legislative and procedural framework and its impact on Roma communities in Ukraine, particular attention should be given to:
  - current procedures for registration of births that take place outside medical institutions and procedures for late birth registration;
  - the identification management system and procedures for issuance of travel and identification documents, which are currently undergoing reform;
  - the interconnection of and possible inconsistencies between different rules, regulations and requirements governing the issuance of birth certificates, of personal identification documents and passports, and access to legal remedies by individuals who are lacking personal identification documents or other proof of identity; and
  - the specific situation of Roma IDPs from Eastern Ukraine and Crimea and the obstacles they face in obtaining or restoring their documents and accessing humanitarian assistance.
11. In identifying possible responses and solutions to the problem on the basis of the mapping, the needs assessment, and the analysis of the legal framework, the Ukrainian authorities should draw on the experiences and lessons learned from other OSCE participating States and request assistance from international organizations if required.

*Reform in law and practice*

12. Without prejudice to the concrete findings of any mapping exercise and comprehensive analysis of the legal framework, Ukrainian authorities should carry out reforms in law and practice to:
  - simplify procedures for obtaining civil registration and personal identification documents;

- lower, where necessary, the evidentiary requirements for obtaining civil registration and personal identification documents;
  - increase the flexibility of the procedures in order to be able to swiftly resolve any cases where standard procedures are not practicable and evidentiary documentation is unavailable;
  - remove any fees or fines, including the obligatory imposition without possibility of waiver of fines for non-possession of passports or personal identity documents, as in practice this deters those who do not possess passports or other identity documents from applying for such documents due to fear of being fined; and
  - put the protection of the rights of those who are lacking civil registration and personal identification documents, including Roma IDPs from Eastern Ukraine and Crimea who have never had or lost their documents, at the very centre of the legal and administrative procedures in this area.
13. Furthermore, the central authorities should develop clear guidelines and instructions for local administrative offices to ensure coherent implementation of legal and administrative provisions across all regions in Ukraine and their fair application in an effort to guarantee full access to personal identification and civil registration documents for everyone, including members of marginalized groups such as Roma communities, on an equal basis.
14. In identifying and implementing the necessary reforms in law and practice as set out above, the Ukrainian authorities should actively involve Roma and non-Roma civil society, other experts, and key stakeholders in this area and, where necessary, seek the support of the international community.

*Awareness raising, outreach, training and capacity building*

15. The Ukrainian authorities, in partnership with Roma and non-Roma civil society as well as with national and international partners and the media, should conduct proactive outreach, public information and sensitization campaigns as well as training and capacity building to raise awareness about the impact that a lack of identification and civil registration documents has on the enjoyment of fundamental human rights; the obstacles many Roma face in obtaining such documents; how to overcome this situation; and the importance of doing so with a view to ensuring equal rights for everyone in Ukraine.
16. Awareness-raising activities should include public information campaigns aimed at Roma communities, especially those living in remote areas, irregular settlements, and in poverty, in order to:
- emphasize the importance of obtaining personal identification and civil registration documents and especially of registration at birth;
  - inform them about birth registration procedures, including as regards the registration of births that have occurred outside of medical institutions, as well as available procedures for late birth registration;
  - promote social welfare incentives for the immediate registration of new-born children; and
  - inform them in a transparent, user-friendly, culturally sensitive way about the requirements, procedures and institutions responsible for issuing personal identification and civil registration documents; how and where applications to obtain such documents can be filed; how to access assistance in filing applications; and how to access legal aid, especially if needed to resolve complex cases where standard evidentiary documentation is unavailable.

17. With the support of Roma and non-Roma civil society and Roma mediators, the Ukrainian authorities should engage mobile teams to proactively reach out to Roma communities. Such mobile groups should include representatives of regional, district or local branches of the State Migration Service and the Department of State Registration, civil society and Roma mediators and, where necessary, interpreters and other specialised staff. They should conduct regular visits to Roma settlements, especially those in remote locations, in order to build trust with the communities and facilitate access to information, support and assistance in obtaining personal identification and civil registration documents.
18. Awareness-raising and outreach activities should also be directed at public officials – including registry officials, law enforcement officers, judges and lawyers, social workers, and health care providers – as well as the society at large in order to improve general knowledge about Roma communities in Ukraine and their specific situation, and to overcome prejudicial views and negative stereotypes that fuel discrimination.
19. Such activities should be complemented by tailored training activities designed for public officials involved in issuance of personal identification and civil registration documents and members of the judiciary in order to ensure harmonized, unbiased and non-discriminatory application of laws and procedures in this area.
20. In carrying out such activities, particular attention should be given to the specific needs of Roma displaced from Eastern Ukraine and Crimea as a result of recent political developments who have never had or lost their documents and are therefore barred from humanitarian assistance.

*Provision of legal support and free legal aid*

21. In recognition of the fact that the provision of legal aid to those in need is primarily an obligation of the participating State, the Ministry of Justice and its regional departments, should examine how to scale up and improve its legal aid schemes to ensure that all Roma seeking to obtain personal identification and civil registration documents have effective access to the courts and fair judicial procedures they are entitled to under international and domestic law.
22. In particular, the Ministry of Justice and its territorial departments should examine how free legal aid schemes may be made more accessible to Roma in remote locations and how the capacity of public officials involved in providing legal aid in civil registration matters may be improved.
23. Furthermore, the Ministry of Justice and its territorial departments should closely involve civil society in examining ways to strengthen legal aid schemes and cooperate with civil society in delivering free legal aid.
24. Roma and non-Roma civil society members who are providing free legal aid on matters related to personal identification and civil registration documents on a voluntary basis are encouraged to continue their efforts in this field.

*Other operational steps at the regional and local level*

25. Regional and local authorities should actively involve Roma mediators in administrative procedures for issuance of civil registration and personal identification documents, especially in cases where standard evidentiary documentation for obtaining such documents is unavailable and where applicants require support, e.g., with filling out forms due to language barriers, illiteracy, or other grounds.
26. Territorial authorities and district offices of the State Migration Service and the Department of State Registration in areas with significant numbers of Roma

communities should create special focal points with staff that are specifically trained to provide support to Roma who are in need of specific assistance and to consider cases that cannot be easily resolved by the standard procedures. Where necessary, lower level administrative offices should refer such cases to these focal points or otherwise specialized officials for review and, if possible, swift resolution. Focal points or other specialized officials should also be part of mobile teams as described above.

27. Local administrative offices should consider setting aside, on a regular basis, dedicated times during their opening hours when focal points or other specialized officials are present to receive applications directly and, with the support of Roma mediators, advise on the procedure. Local administrative offices should also consider setting aside, on a regular basis, dedicated time to receive applications and provide advice to individuals from other groups with specific needs, such as IDPs.

## ANNEX I: AGENDA



**OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR)  
Contact Point for Roma and Sinti Issues**

**in cooperation with the**

**Ukrainian Parliament Commissioner for Human Rights**

*Participation of civil society representatives facilitated with the kind support of the  
International Renaissance Foundation (IRF)*

### **Expert seminar on access to identity and civil registration documents by Roma in Ukraine**

**19-20 November 2015**

**Venue: Office of the Ukrainian Parliament Commissioner for Human Rights in Kyiv  
(21/8, Instytutska str., Kyiv 01008, Ukraine)**

#### **AGENDA**

##### **Thursday, 19 November**

- 8:30 – 9:00** Arrival and registration of participants
- 9:00 – 9:30** **Opening session**
- Opening remarks – Ms Aksana Filipishyna, Representative of the Commissioner for observance of the rights of the child, non-discrimination and gender equality
- Welcoming remarks – Tetiana Sirenko, Chief Specialist, State Migration Service
- Introduction and outline of the program – Ms Mirjam Karoly, OSCE/ODIHR's Senior Adviser on Roma and Sinti and Chief Contact Point for Roma and Sinti Issues (CPRSI)

**9:30 – 11:00**

**Session 1: Stock-taking – impact of lack of personal identification and civil registration documents on enjoyment of human rights by Roma in Ukraine**

Moderation: Ms Mirjam Karoly, OSCE/ODIHR CPRSI

*Tour de table* and moderated discussion with particular attention to:

- the situation in different parts of Ukraine
- the specific situation of Roma IDPs from Eastern Ukraine and Crimea

**11:00 – 11:30**

***Coffee break***

**11:30 – 12:30**

**Session 2: Challenges in access to personal identification and civil registration documents by Roma in Ukraine**

Moderation: Mr Serhiy Ponomaryov, Secretariat of the Ukrainian Parliament Commissioner for Human Rights

The State perspective – Interventions by:

- Tetiana Sirenko, Chief Specialist, State Migration Service
- Elena Zavgorodnyaya, Head of the Unit of International Legal Assistance, Department of State Registration/ Ministry of Justice

The civil society perspective – Interventions by:

- Volodymyr Kondur, Roma Human Rights Center, Odesa
- Mykola Burlutsky, Roma NGO "Chachimo", Kharkiv

Open discussion

**12:30 – 14:00**

***Lunch break (Lunch provided for all participants at the venue)***

**14:00 – 15.30**

**Session 3: Lessons learnt from other OSCE participating States**

Moderation: Ms Mirjam Karoly, OSCE/ODIHR CPRSI

Presentations by international experts:

- UNHCR activities in the Western Balkans and specific experiences from Serbia – Mr Davor Rako, Associate Protection Officer, UNHCR Belgrade
- Civil registration of Roma in Belgrade – Ms Nataša Živković, Deputy Secretary of the Belgrade City Administration
- Specific experiences from Montenegro – Mr Slobodan Raščanin, Senior Protection Associate, UNHCR Podgorica
- The role of civil society in protecting the rights of legally invisible persons in Serbia – Ivanka Kostić, Executive Director of the NGO "PRAXIS", Belgrade, Serbia

Questions & answers

- 15:30 – 16:00**                    **Coffee break**
- 16:00 – 17:00**                    **Session 4: Identification of best practices for replication in the Ukrainian context**
- Moderation: Mr Serhiy Ponomaryov, Secretariat of the Ukrainian Parliament Commissioner for Human Rights
- Moderated discussion with facilitation by international experts
- 17:00**                                **Conclusion of first day**
- 18.00**                                ***Dinner for all participants hosted by OSCE/ODIHR (Restaurant “Lipsky Osobnyak”, 15, Lipskaya str., Kiev)***

**Friday 20, November**

- 9:00 – 10:15**                    **Session 5: Developing recommendations for authorities and other stakeholders**
- Moderation: Mr Adam Weiss, Legal Director, European Roma Rights Centre
- Rapporteur: OSCE/ODIHR CPRSI
- Recommendations for authorities
  - Recommendations for civil society
- Focused plenary discussion with elaboration of recommendations
- 10:15 – 10:45**                    **Coffee break**
- 10:45 – 12:00**                    **Session 5 continued**
- Moderation: Mr Adam Weiss, Legal Director, European Roma Rights Centre
- Rapporteur: OSCE/ODIHR CPRSI
- Recommendations for international organizations, OSCE/ODIHR
  - Specific recommendations to address the situation of Roma IDPs
- Focused plenary discussion with elaboration of recommendations
- 12:00 – 12:30**                    **Closing session**
- Conclusions, next steps and action points for future activities
- 12:30**                                ***Reception for all participants hosted by OSCE/ODIHR at the venue after the meeting***

## **ANNEX II: LIST OF PARTICIPANTS**

### **Representatives of participating State authorities**

#### *State Migration Service of Ukraine*

Serhii HUNKO	Head of the Information, Relations with Mass-Media Division
Tetiana SIRENKO	Chief Specialist of the Unit of Certification and Work with Citizens from the Temporarily Occupied Territories of Ukraine; Department of Nationality, Registration and Work with Citizens from the Temporarily Occupied Territories of Ukraine
Mykhailo RAK	Deputy Head of the Main Department of the State Migration Service in Zakarpattia region, Head of the Unit of Nationality, Registration and Work with Citizens from Temporary Occupied Territory of Ukraine
Ivan Bezkyshenko	Head of the Department of Citizenship, Registration and Work with Citizens from Temporary Occupied Territory of Ukraine of the Main Department of the State Migration Service in Odessa Region
Inga PANTSUR	Chief Specialist of Passport Work and Registration of individuals, Office of Nationality, Registration and Work with Citizens from Temporary Occupied Territory of Ukraine, Main Department of the State Migration Service in Kharkiv Region

#### *Department of State Registration/ Ministry of Justice*

Elena ZAVGORODNYAYA	Head of the Unit of International Legal Assistance
Lilia GRITSAY	Head of the Unit of State Registration of the Acts of Civil Status of the Department of State Registration, Department of Justice in Kharkiv Region
Lesia ULINETS	Deputy Head of the Unit of State Registration of the Acts of Civil Status of the Department of State Registration, Department of Justice in Transcarpathia Region
Tetiana SEREDA	Chief Specialist of the Unit of State Registration of the Acts of Civil Status of the Department of State Registration, Department of Justice in Odessa Region

#### *Legislative Institute of the Parliament of Ukraine*

Alla SANCHENKO	Chief of Division, Senior Researcher
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### *Ministry of Culture*

Andrij YURASH	Director of the Department of Religious Affairs and Nationalities
Volodymyr KHODAKIVSKII	Head of the Section of National Minorities and Ukrainian Diaspora of the Department of Religions and Nationalities
Olena YASYNETSKA	Chief Specialist, Department of Religions and Nationalities

### **Civil society representatives**

Petro BURLACHENKO	Regional NGO "Alliance of Cherkassian Roma", Cherkasy
Mykola BURLUTSKY	Roma NGO "Chachimo", Kharkiv
Maksim DZHUM	Roma mediator, Odessa
Volodymyr KONDUR	Roma NGO "Roma Human Rights Centre", Odessa
Zemfira KONDUR	International Charitable Organization "Roma Women's Fund Chiricli", Kyiv
Natalia KOZYR	Charitable Fund "Rozvytok", Mukachevo, Transcarpathian Region
Volodymyr NAVROTSKY	NGO "Vested", Uzhgorod, Transcarpathian Region
Olga RUDENKO	Roma mediator, Dzerzhynsk, Donetsk Region
Oleksandr SHVAIUN	International Renaissance Foundation (IRF), Kyiv
Adam WEISS	European Roma Rights Centre (ERRC), Budapest, Hungary

### **Experts and representatives of international organizations**

Davor RAKO	Associate Protection Officer, UNHCR Office in Belgrade, Serbia
Slobodan RAŠČANIN	Senior Protection Associate, UNHCR Office in Podgorica, Montenegro
Nataša ŽIVKOVIĆ	Deputy Secretary of the Belgrade City Administration, Belgrade, Serbia
Ivanka KOSTIĆ	Executive Director, NGO "PRAXIS", Belgrade, Serbia
Anna RICH	Senior Protection Officer, UNHCR Office in Kyiv
Dmytro BLAZHIEVSKY	Assistant Protection Officer, UNHCR Office in Kyiv

### **Secretariat of the Ukrainian Parliament Commissioner for Human Rights**

Aksana FILIPISHYNA	Representative of the Commissioner for Observance of the Rights of the Child, Non-Discrimination and Gender Equality
Serhiy PONOMARYOV	Deputy Head of Department for Observance of the Rights of the Child, Non-Discrimination and Gender Equality

**OSCE/ODIHR Contact Point for Roma and Sinti Issues**

Mirjam KAROLY	Senior Adviser on Roma and Sinti Issues, Chief of the ODIHR Contact Point for Roma and Sinti Issues
Johannes HEILER	Associate Programme Officer
Dearbhla EGAN	Consultant