



Blindspot: Kosovo Roma and the Decade

SERBIA, MONTENEGRO, MACEDONIA,
AND BOSNIA AND HERZEGOVINA

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Mensur Haliti

The views expressed in this publication are those of the author and do not necessarily reflect the opinion of the Open Society Foundations, the World Bank, the Decade Trust Fund, or other stakeholders involved in this project, or the Decade of Roma Inclusion 2005–2015.

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THE AUTHOR

Mensur Haliti is originally from Kosovo, but during the civil war he and his family moved to Belgrade, Serbia. During 2003–2005, Mensur worked as executive director of the Center for the Education of Roma in Serbia and Montenegro, a Roma NGO. In 2005 and 2006, Mensur worked as the local Contact Point for the Organization for Security and Cooperation in Europe (OSCE) on issues affecting Roma from Kosovo. From 2006, he served as the executive director of the Forum of Roma IDPs, a Roma NGO focused on the rights and organized voice of the Roma from Kosovo. Since February 2010, Mensur has been working as a fellow with the Open Society Roma Initiatives, concentrating on activities related to grass-roots organizing and advocacy in the Western Balkans.

THE FORUM OF ROMA IDPS

The Forum of Roma IDPs is a nongovernmental organization that works on the protection, improvement, and promotion of the human rights of Roma from Kosovo. The Forum was established in 2006 with the support of the OSCE's Office for Democratic

Institutions and Human Rights (ODIHR) and its Contact Point for Roma and Sinti Issues (CPRSI) under the program “Roma under the Stability Pact for South East Europe” and the project “Roma, Use Your Ballot Wisely.” The Forum was created through an open consultative process among Roma representatives from Kosovo. From its start, the Forum has had an open structure for the membership of Roma NGOs and individuals that deal with the Roma from Kosovo. From 2007, the Forum has received institutional support from the Open Society Roma Initiatives.

The Forum of Roma IDPs organizes activities in Roma communities displaced from Kosovo in several countries of the Western Balkans in order to provide a platform for constant debate about the issues, challenges, and solutions for the Roma from Kosovo. The Forum mobilizes the communities and community members to talk about their problems, to acknowledge the challenges, to take responsibility for the solutions, and to demand responsibility from their leaders or to identify new leaders, if necessary.

The Forum of Roma IDPs is currently advocating for the inclusion of the Roma from Kosovo in the framework of the Decade of Roma Inclusion 2005–2015. The Forum is seeking possible ways to include the Roma from Kosovo as beneficiaries of the programs implemented by the governments under the Decade. Moreover, the Forum is also trying to include representatives of the Roma from Kosovo in various Decade-related bodies at the national and local level.

Table of Contents

Foreword	7
Introduction	9
Kosovo Roma	11
1. Serbia	13
1.1 The Situation of the Roma from Kosovo	13
1.1.1 Personal Documents	13
1.1.2 Education	14
1.1.3 Housing	15
1.1.4 Health	16
1.1.5 Employment	17
1.2 Exclusion of the Roma from Kosovo by the Decade	17
1.3 Major Obstacles to Inclusion	18
1.4 Opportunities	20
1.5 Recommendations	23
2. Montenegro	29
2.1 The Situation of the Roma from Kosovo	29
2.1.1 Legal Status	29
2.1.2 Education	29
2.1.3 Housing	30
2.1.4 Health	31
2.1.5 Employment	31

2.2	Exclusion of the Roma from Kosovo by the Decade	32
2.3	Major Obstacles to Inclusion	33
2.4	Opportunities	36
2.5	Recommendations	39
3.	Macedonia	43
3.1	The Situation of the Roma from Kosovo	43
3.1.1	Legal Status	43
3.1.2	Education	45
3.1.3	Housing	45
3.1.4	Health	46
3.1.5	Employment	46
3.2	Exclusion of the Roma from Kosovo by the Decade	47
3.3	Major Obstacles to Inclusion	48
3.4	Opportunities	50
3.5	Recommendations	52
4.	Bosnia and Herzegovina	57
4.1	The Situation of the Roma from Kosovo	57
4.1.1	Legal Framework	58
4.1.2	Current Situation	58
4.2	Exclusion of the Roma from Kosovo by the Decade	59
4.3	Major Obstacles to Inclusion	59
4.4	Opportunities	60
4.5	Recommendations	62
5.	Conclusions	65
6.	Appendix—Commitments of the European Union	67
6.1	Refugees and Internally Displaced Persons in the Stabilization and Association Process	67
6.2	The Challenges of the European Union in Resolving the Issues of the Refugees and Internally Displaced Persons	70
6.3	European Union Instruments to Influence Resolving the Status of Refugees and Internally Displaced Persons	71
6.4	Policy Conditionality	72
6.5	Recent European Union Initiatives Targeting Roma	73

Foreword

During the conflict in Kosovo in 1999, more than 100,000 Roma were forced to leave Kosovo and seek refuge in Serbia, Montenegro, Macedonia, Bosnia and Herzegovina, and countries in Western Europe. They lost all their property and most of their possessions, and the drama of their displacement was an exceptional but underreported human tragedy.

But their problems did not end upon their arrival in safer neighboring states. The immediate trauma of “escaping” with their “bare lives” was worsened by the somewhat lesser but debilitating trauma of non-acceptance, ignorance, and outright neglect in their new home countries, where they often have been pushed to the very margins of society. After unexpectedly obtaining new identities as internally displaced persons or refugees, they faced a search for sufficient housing and the daily struggle for survival.

Eleven years after their expulsion, the Roma from Kosovo are still afraid and feel the injustice of being forced to leave. They are lost and without hope, knowing that their currently miserable living conditions are nearly impossible to surmount. They believe that neither integration nor return is possible. Their dire poverty is also a severe handicap when it comes to accessing both formal and informal institutional networks of social assistance. For instance, Roma from Kosovo are unemployed because they are poor and without skills and qualifications, and poor because they are unemployed or do the lowest paid jobs. Thus their circle of poverty is complete. The bases for their economic activities are at the edge of cities and often in containers adapted into living quarters near large landfills overflowing with garbage.

National governments have made some efforts to address the needs of their most vulnerable citizens, including the Roma from Kosovo. Despite these efforts, the Roma from Kosovo remain one of the most vulnerable groups still heavily affected by the consequences of the Kosovo conflict in 1999. The failure of governments to include the Roma from Kosovo in any programs or initiatives like National Strategies for the Roma

or Comprehensive National Strategic Documents for the accession of these countries to the European Union undermines any progress made so far.

The governments of Serbia, Montenegro, Macedonia, and Bosnia and Herzegovina have joined the regional initiative called the Decade of Roma Inclusion 2005–2015 (hereafter: the Decade). By doing so, these countries have assumed the obligation to work systematically and continuously on improving the situation of their Roma communities. However, while a considerable number of Roma from Kosovo live in these countries, and this initiative is also an opportunity for the inclusion of the Roma from Kosovo, this is not reflected in the programs so far conducted by the governments within the framework of the Decade. As a result, the Roma from Kosovo remain without the possibility to effectively use and access these programs.

The Balkan wars of the 1990s heavily influenced the relations between the European Union and these countries. The resolution of the status of internally displaced persons (IDPs) and refugees became one of the main issues on the political agenda of the European Union concerning these countries. The European Union has issued reports in which it determines the progress of the countries involved in the process of European Union accession, as well as reports which identify the measures that the governments must take for the Roma from Kosovo in order to achieve the desired progress. Still, there is serious concern about the process of return and integration. In practice, this process is not taking place at the desired speed. It is impossible to measure the results of the government programs targeting the Roma from Kosovo, whose living conditions are beneath human dignity and unacceptable for Europe in the 21st century.

Mensur Haliti
January 2011

Introduction

Blindspot: Kosovo Roma and the Decade is a publication produced within the framework of the Decade. The project was implemented by the Forum of Roma IDPs and funded by the Decade Trust Fund. The goal of the project was to prepare a proposal for the inclusion of the Roma from Kosovo in the broad goals and objectives of the Decade. The project was implemented in four countries: Serbia, Montenegro, Macedonia, and Bosnia and Herzegovina from November 2009 to September 2010. The implementation consisted of four principal activities: (1) a study tour, (2) the preparation of working documents for the workshops, (3) conducting the workshops, and (4) the publication of proposed measures for the inclusion of the Roma from Kosovo.

The following groups were interviewed in the course of the study tour through the countries covered in this report: (1) officials of the relevant institutions, (2) Roma representatives in state institutions, (3) representatives of international organizations that have a mandate to deal with the issues of IDPs and refugees, (4) representatives of Roma and non-Roma nongovernmental organizations (NGOs), and (5) members of Roma communities from Kosovo. The study tour aimed to gather all the necessary information about national governments' current policies, international organizations' initiatives, and European Union institutions that target the Roma from Kosovo, as well as to analyze the effects of these policies and initiatives on displaced Roma communities from Kosovo.

Working documents for each country were prepared from this collected information: these included an overall analysis of the situation of the Roma from Kosovo and all related policies as well as and proposals for the inclusion of the Roma from Kosovo in the Decade. Project workshops were then held to discuss possibilities for the inclusion of the Roma from Kosovo in the Decade with the above actors. The working documents were sent to the participants for their comments and suggestions beforehand, which allowed for effective discussion during the workshops.

The present publication has been created on the basis of all of the above activities. The publication contains, by country: (1) information about the situation of Roma from Kosovo, (2) an explanation for the exclusion of the Roma from Kosovo in the Decade, (3) the major obstacles to inclusion, (4) opportunities for inclusion, and (5) recommendations for inclusion. The countries covered are presented in the following order, according to their numbers of displaced Roma from Kosovo: Serbia, Montenegro, Macedonia, and Bosnia and Herzegovina. The appendix presents information about the role of the European Union towards these countries on the issue of IDPs and refugees in the process of stabilization and association.

Kosovo Roma

An avalanche of reports and studies made in the last decade clearly point to the fact that Roma populations in South Eastern Europe face serious problems that are manifested in a high degree of social exclusion. A combination of economic, social, geographical, cultural, and ethnic factors have contributed to this exclusion from society at large. But when evaluating the situation of the Roma in Serbia, Montenegro, Macedonia, and Bosnia and Herzegovina, it is the Roma from Kosovo who are in the most difficult predicament. They have not one but two problems: they belong to both the most discriminated against national minority group and they are IDPs or refugees, who left their homes against their will and sought refuge elsewhere because of the great peril to their lives.

The challenges for the Roma populations in any of these four countries are numerous. Poverty, although present in the majority of the population, is much higher among the Roma according to most estimates. Deep-seated discrimination is reflected in a series of obstacles that stand in the way of the Roma's enjoyment and exercise of basic civil, economic, and social rights. The segregation of the Roma is widespread and reflected in their exclusion from society and their unimaginable housing conditions.

Studies in these countries point to the fact that the socio-economic status of IDPs and refugees is much lower than average, and even more so among the most vulnerable minority ethnic groups. Most of them lost their property in Kosovo. Many have been forced to organize their own accommodation without any help from the authorities, others are struggling to pay high rents, and some are living in improvised structures made from salvaged materials. A large number of them primarily depend on external aid from state or international organizations. At the same time, many are confronting unemployment or low-wage jobs and have few skills or qualifications.

Moreover, compared with non-Roma IDPs and refugees from Kosovo, Roma from Kosovo are in a far worse position in terms of housing, employment, health, and many

other socio-economic indicators. Many of the Roma from Kosovo still lack the most basic personal identity documents. They nearly always work in the informal sector and in low-skilled jobs. The families of Roma from Kosovo tend to have a great number of inactive members and heavily depend on outside aid to feed their families. They are many times poorer than non-Roma from Kosovo and only occasionally receive some compensation from the state's social assistance budget. Their children easily drop out from school. Their inequality in the two vital pillars of social inclusion—education and the labor market—is clear.

The seriousness of the situation is highlighted by the fact that the exact number of Roma from Kosovo remains unknown (see Table 1). This situation is certainly made worse by the undetermined number of Roma from Kosovo who are undocumented and unregistered in these countries.

Table 1.
Number of Roma from Kosovo¹

Country	Number of IDPs/refugees from Kosovo	Government figures on the Roma from Kosovo	UN figures on the Roma from Kosovo	Other figures on the Roma from Kosovo
Serbia	224,881	40,000 (2009)	22,914 (2010)	50,000 UNHCR estimates
Montenegro	24,019	3,000–5,000	4,458 (2009)	7,000–10,000 Estimates of Roma NGOs
Macedonia	1,542	1,300 (2008)	1,493 (2010)	1,800–2,300 Estimates of Roma NGOs
Bosnia and Herzegovina	367	150–250	197 (2010)	600–800 According to Roma activists

¹ The data were collected based on estimates from UNHCR, national governments, the European Union, Roma NGOs, and Roma activists.

1. Serbia

1.1 THE SITUATION OF THE ROMA FROM KOSOVO

1.1.1 Personal Documents

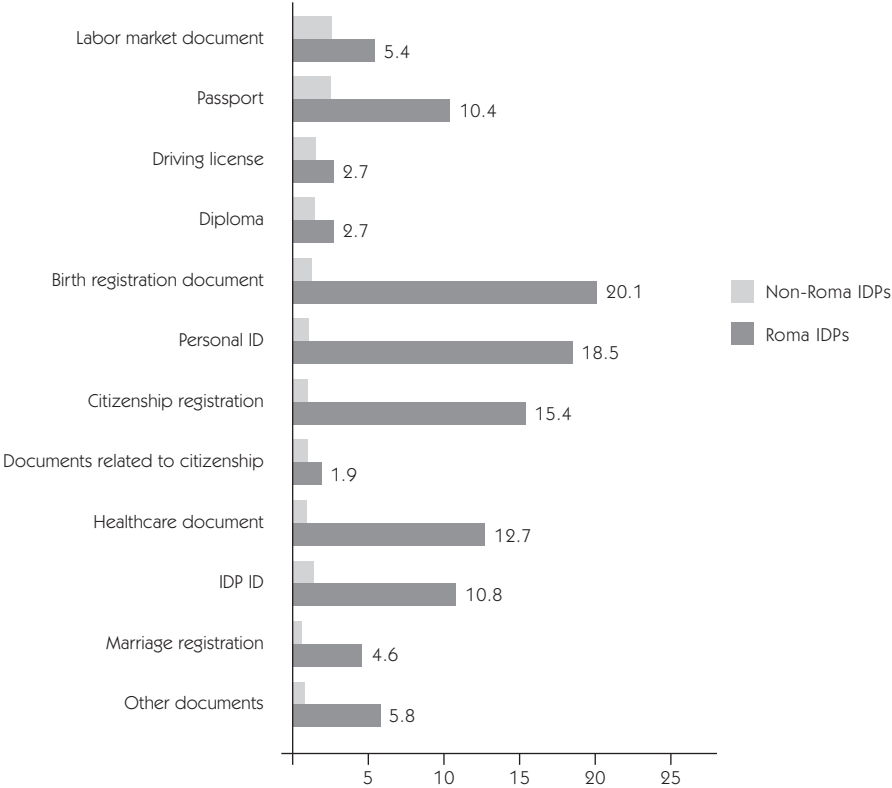
Many displaced Roma remain unregistered as IDPs because they lack basic identification documents such as identity cards. In addition to the same hurdles other IDPs face in obtaining or replacing documents, the situation of Roma IDPs is further complicated by a history of unregistration. Many families of the Roma from Kosovo never had any documents while living in Kosovo. Often, generations of Roma from Kosovo lack even basic documents like birth certificates. This creates a vicious circle. In order to obtain personal documents, one must prove that his or her mother or father was born in Serbia (including Kosovo), but this is impossible if one's parents were unregistered. This "chronic unregistration" particularly affects Roma from Kosovo.

The lack of adequate documentation is especially problematic for the Roma from Kosovo who live in informal or illegal settlements that do not legally qualify for registering an address (see Figure 1). Without an address recognized by the municipality, Kosovo Roma cannot register for an identity card. And without any civil documentation, they cannot register for an IDP card. And without an IDP card or an identity card, the Roma from Kosovo cannot access basic socio-economic rights like health and social care, employment, or education. In addition, parents who are without documentation cannot register their newborn children in the local birth and citizenship registries, thus creating a new generation without documents existing in a parallel world of unregistered people outside the system.²

² Minority Rights Centre, *Roma and the Right to Legal Subjectivity in Serbia*, Belgrade, April 2006.

This lack of documents can lead to a “snowball effect” whereby an individual cannot obtain any other documents, preventing him or her from regularizing his or her legal status or proving and establishing his or her citizenship. This especially affects newborn children and has led to cases of statelessness in contradiction to the Convention Relating to the Status of Stateless Persons of 1954³ and the Convention of the Rights of the Child of 1990.⁴ In this respect, the Roma from Kosovo are the most vulnerable.

Figure 1.
Personal Documents That IDPs Are Missing, in Percent⁵



³ “The Contracting States shall as far as possible facilitate the [...] naturalization of stateless persons.” Serbia has joined the Convention.

⁴ Article 7: “The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents [...]”

⁵ UNDP–UNHCR, *Social and Economic Position of IDPs in Serbia*, 2008.

1.1.2 Education

The majority of Roma IDP children do not attend schools (see Table 2). Many internal and external reasons may explain this phenomenon. First, these children have traditionally confronted open or covert discrimination in their access to educational institutions and larger integration into the national education system, in effect, the crystallization of prejudices that persist in the local community, language barriers that complicate their daily lives, and the deep poverty that they live in, exposing them to numerous chronic and preventable diseases. Likewise, the absence of an internal system of values in which the education of children is imperative for Roma parents is also evident.

Furthermore, teachers and school managers take direct part in the discrimination against these children by separating them in special classes, even referring them exclusively to schools for children with special needs. Roma pupils insufficient knowledge of the language of teaching, their frequent absence from classes due to chronic illnesses, as well as their poverty, apparent in their inadequate clothing and footwear and distinctive appearance, are all cited as contributing to discrimination in schools.

Table 2.
Level of Education by Age, Non-Roma and Roma IDPs, in Percent⁶

Age	Education							
	No school or incomplete primary school		Primary		Secondary		University and Degrees	
	Non-Roma	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma	Roma
15–29	1.2	71.3	31.1	21.3	39.5	3.5	5.9	*
30–44	0.8	56.8	10.6	33.2	72.8	9.1	15.8	1
45–59	2.3	62.4	18.6	27.5	56.8	10.1	22.3	*
60+	29.7	74	29.3	20	27.3	4	13.8	2

1.1.3 Housing

A majority of all registered Roma IDPs in Serbia live in Belgrade and are dispersed within the city among 150 Roma settlements, most of them informal or illegal in nature. The central and southern Serbian municipalities of Pozarevac, Kragujevac, Nis, Bujanovac,

⁶ UNDP–UNHCR, Social and Economic Position of IDPs in Serbia, 2008.

and Kursumlija also host a large number of Roma IDPs, as well as the town of Subotica in Vojvodina.

Securing adequate accommodation and living conditions are identified as the most pressing needs for the majority of Roma IDPs. A few Roma IDPs have been accommodated in recognized collective centers. Many Roma IDPs have moved into the existing local Roma communities, which are already in a precarious state (see Table 3). These communities are usually located within or adjoining landfills, under bridges, or in open fields. Roma IDPs frequently experience forced eviction and/or the threat of forced eviction.⁷ Those families who are threatened by forced evictions are left prey to pressure and threats by local investors, without any form of protection, except the *ad-hoc* interventions of international organizations and NGOs.

Table 3.
Living Conditions of Non-Roma and Roma IDPs, in Percent⁸

Living conditions components	Non-Roma	Roma
No living space	31.9	67.6
No roof	15.0	57.1
Damaged walls, floors	17.4	53.3
Damaged windows, doors	16.5	44.0

1.1.4 Health

There is no reliable information about the health of the Roma IDP population. This in itself represents a failure of the system. The general absence of knowledge of health and hygiene issues among Roma IDPs is compounded by their infrequent use of the healthcare system, scant trust in healthcare providers, and little appreciation of their rights in accessing public healthcare services. For example, Roma IDP children are often not immunized and most women do not visit a gynecologist for regular check-ups except for childbirth. In the case of sickness or injury, Roma IDPs usually visit primary care physicians, while some treat themselves, and in the majority of cases serious health conditions go untreated when diagnosed. At the same time, due to the living conditions in which socially imperiled Roma IDPs find themselves, they are prone to contagious

⁷ Amnesty International, *Serbia: Stop the Forced Evictions of Roma Settlements*. Available online: <https://www.amnesty.org/en/library/asset/EUR70/003/2010/en/13963dec-414d-4311-897b-57b0540dde75/eur700032010en.pdf>.

⁸ UNDP–UNHCR, *Social and Economic Position of IDPs in Serbia*, 2008.

diseases. In sum, Roma IDPs encounter both direct and indirect discrimination in the realization of their right to healthcare. Though Roma IDPs, in theory, have access to public healthcare, in practice, this access is all but denied.

1.1.5 Employment

Roma IDPs in Serbia encounter numerous obstacles in obtaining legal and gainful employment. Subsequently, a large percentage of IDPs work in the “grey economy” or as day laborers. This might allow families to survive hand to mouth but leaves them in a precarious position. Often they are at the mercy of the employers and outside the scope of any legal protection. Employers do not pay any pension, social, or health insurance, and they do not pay any income tax.

More than 90 percent of unemployed IDPs can be categorized as long-term unemployed (over two years). Among displaced persons of non-Roma ethnicity, a third of the households do not have a single employed member, while such households among Roma IDPs make up well over two-thirds of the total. In addition, within the population of IDPs, there are very distinct gender differences as well as differences between Roma and other displaced persons. Women in the Roma population have significantly lower employment rates. Among the displaced in Serbia, the Roma have the most difficulty in joining the formal economy, leaving no option but informal self-employment.

1.2 EXCLUSION OF THE ROMA FROM KOSOVO BY THE DECADE

Among the countries of South Eastern Europe, Serbia has been part of the Decade since its inception.⁹ The Serbian government has gone on to adopt four priority Action Plans for improving the position of Roma in Serbia. Of these, only the Action Plan on Housing¹⁰ addresses the specific needs of Roma IDPs, where it sets three targets: “(1) set up a welfare housing group to meet the needs of the Roma from Kosovo as part of the Housing Agencies envisaged by the Draft Law on Welfare Housing; (2) measures and actions conducive to the return of the Roma to Kosovo; and (3) measures and actions geared to long-term integration.”

⁹ Launched in February 2005, the Decade of Roma Inclusion 2005–2015 is “an unprecedented political commitment by Governments in Central and South Eastern Europe to improve the socio-economic status and social inclusion of Roma within a regional framework.” The initiative is supported by the European Commission, the World Bank, national governments, and major international donor organizations. Its action focuses on four priority areas: education, employment, health, and housing, with governments being encouraged to also take into account poverty, discrimination, and gender issues.

¹⁰ Government of Serbia, Roma Housing Action Plan, p. 3, [emphasis added].

Furthermore, the Action Plan for Education¹¹ notes the elaboration of special programs for working with special categories of Roma children—returnees from other countries. However, the same Action Plan and Action Plans for Employment and Health do not include any measures targeting the Roma from Kosovo.

1.3 MAJOR OBSTACLES TO INCLUSION

Personal Documents

- There is no legal mechanism in place for the chronically unregistered to become registered. There are numerous examples of persons wandering through the labyrinths of a passive and unyielding bureaucracy due to the absence of adequate legal solutions and government employees showing little sensitivity to their needs and problems. The legal system neither has secured sufficient access to documents nor does it have an effective mechanism for issuing new personal documents and replacing those documents that had been lost in the course of displacement. In this respect, the authorities have stalled when exhorted to take all the necessary measures to remedy the situation and failed to take any initiative to re-establish the destroyed or lost registries.

Education

- The competent authorities have failed to take all the measures necessary to include Roma IDP children and youth in the mainstream education system of the Republic of Serbia. One such substantial failure is that there is neither a legislative nor curricular framework in the existing education system in Serbia that would improve the opportunities for Roma IDP children to access public education. Additionally, there are no specific programs targeting Roma IDP children in their preparation for school or for learning the Serbian language before starting their schooling.
- After two years, the Ministry of Education has so far refused to publish an educational model prepared by the Forum of Roma IDPs in the *Official Gazette*—and in doing so allowing its use—even though two educational institutions (the Department to Improve and Promote Education and the Pedagogical Institute from Vojvodina), which have legal powers similar to the Ministry of Education, have a positive opinion and have adopted the same proposal.

¹¹ Government of Serbia, Common Action Plan for the Advancement of Roma Education in Serbia (JAP).

Housing

- Although measures for housing Roma IDPs are defined in the framework of the Decade through the Action Plan for Housing, and the authorities have invested quite a few resources in housing programs for IDPs, still any measurable results of these programs targeting Roma from Kosovo are unknown. The Roma from Kosovo live in informal or illegal settlements in most cases. Additionally, there is no legislation on evictions harmonized with relevant European and international standards, in order to prevent the forced eviction of IDPs from illegal or informal settlements without the provision of adequate alternative housing solutions. The authorities have no interest in ensuring that evictions do not result in individuals being rendered homeless or vulnerable to human rights abuses.

Health

- The authorities have not recognized the special needs and specific situation of Roma IDPs, so far rendering them unable to exercise their rights to basic healthcare under the same conditions as other Serbian citizens. This different treatment is particularly clear for Roma IDPs trying to secure their medical documents or seeking healthcare. The systemic rejection of persons without a registered address in the health clinics, especially in places with many IDPs, is extremely high. The situation of IDP women and children's access to primary healthcare is especially alarming.
- The Law on Healthcare and the Law on Health Insurance determine the Roma's right to health protection like any other Serbian citizen. Yet, for Roma IDPs, as persons with no permanent place of residence, Article 6 of the regulations on the procedure for exercising the right to compulsory health insurance determines that a person of Roma nationality, in addition to personal statements about his or her nationality, must also submit the application to the authorities at his or her place of residence when applying for compulsory health insurance. The same article regulates the procedures under which Serbia's compulsory health insurance is registered to family members of Roma nationality, who also need to apply to the authorities at their places of residence with their birth certificates and other documents—that for IDPs from Kosovo are simply unavailable. For this reason, a large part of this population is technically invisible to the healthcare system, except when it comes to emergency healthcare. In addition, many Roma IDPs are unfamiliar with the procedures relating to the provision of necessary documentation or to the right to compulsory health insurance, and the manner for exercising those rights.

Employment

- There is no system to monitor the position of vulnerable groups on the labor market, making it impossible to apply an appropriate affirmative action program in

the national employment policies or to measure the effects of any such affirmative measures targeting Roma IDPs.

- There are also unfavorable conditions for loans to Roma IDPs. Roma IDPs are rarely, if ever, beneficiaries of government programs for start-up loans for self-employment.
- The legal system has failed to ensure an effective mechanism that links workers' employment histories and the recognition of educational qualifications of IDPs. In this sector Roma IDPs also face problems related to their access to their personal documents, and particularly access to their employment booklet, along with registries on their years of service and any contributions paid by their former employers.

1.4 OPPORTUNITIES

Personal Documents

- In April 2009, the government of Serbia adopted the Strategy for the Improvement of the Position of the Roma in Serbia. This strategy, based on the signed declaration of the Decade, as well as international and domestic legal regulations, determines the strategic directions and activities needed to reduce the differences that now exist between the Roma and the majority population. Among others, the strategy places an emphasis on the special vulnerability of Roma IDPs, stating that they should be included in other programs for education, housing, health, employment, social protection, and issues related to personal documents. This provides a legal basis for including Roma IDPs in all the existing initiatives expressed in the other Action Plans for improving the position of the Roma, such as the strategic documents in the Decade.
- In 2009, the Commissariat for Refugees in Serbia prepared a revised draft National Strategy on the issue of refugees and IDPs. The Commissariat categorizes Roma IDPs "as displaced persons who require special needs." The Commissariat's strategy recognizes the special vulnerability of Roma IDPs and their difficulty in exercising their guaranteed rights in terms of civil status, health, education, employment, and housing, often because of the absence of personal documents, poverty, and the difficulty in accessing institutions. The same strategy stresses that a large number of Roma IDPs are living in slums and informal collective centers in difficult circumstances. Unlike the previous strategy, which did not recognize the special needs of Roma IDPs, this is an opportunity that can be used to define the effective mechanisms for the distribution of resources and assistance to Roma IDPs.
- In 2008, along with a group of experts, the Center for the Improvement of Legal Studies drafted model legislation for a Procedure for the Recognition of Legal Subjectivity. Accordingly, the aim of the legislation would be based on the recognition of

legal subjectivity in a simple and efficient procedure. The proposed model provides an effective procedure before the competent administrative bodies and contentious courts. This envisaged law would be an opportunity to enable Roma IDPs to obtain identity documents and thus begin the legitimate process of exercising their rights to citizenship and all other rights thereof.

- According to the Serbia 2009 European Union Progress Report,¹² “internally displaced groups, in particular the Roma, continue to face serious difficulties obtaining identification documents and thus access to basic social services, including health care.” The same report states that insufficient attention has been paid to resolving these problems. “There is still [a] problem with civil registration, particularly for Roma internally displaced persons. A special law to regulate the procedure for recognition of legal subjectivity and allow subsequent inclusion in citizens’ registries has not been adopted.” The fact that the European Union has recognized the special vulnerability of Roma IDPs and the significant resources allocated to the European Union’s Instrument for Pre-Accession Assistance (IPA) in Serbia are opportunities to be exploited in terms of developing a new policy framework that should be aligned with the existing national strategies and action plans (including the Decade Action Plans) and with initiatives at the European level. Additionally, this opportunity can be used to prepare the indicators and policy conditionality by which the position of Roma IDPs can be measured in accordance with the support and resources that are to be given to Serbian authorities by the European Union.

Education

- In 2008, the Forum of Roma IDPs, with the support of the Ministry of Education, the Council of Europe, and the Roma Education Fund (REF), prepared an educational model for the inclusion of Roma children of IDPs and returnees by reaching readmission agreements with the Serbian education system. This is a very good starting point for concrete work on the inclusion of the Roma IDPs and returnees in the Serbian education system, removing one of the biggest obstacles to learning: the language barrier.

Housing

- The Commissariat for Refugees—operating from the budget of the Republic of Serbia and in cooperation with international agencies and organizations, the governments of individual countries, and local governments—implements programs for durable solutions for refugees. Since 2002, according to the “national strategy for solving

¹² Commission of the European Communities, *Serbia 2009 Progress Report*. Available online: http://www.euraxess.rs/uploads/articles/euraxess_rs_sr_rapport_2009_en.pdf

the problems of refugees and internally displaced persons,” displaced persons are also included through: the complete development, construction, and partial self-construction of housing units and land donations for rural households, the assignment of prefabricated houses, assistance in the form of packages of construction materials for the completion of residential buildings, the construction of buildings for social housing in safe environments, reassigning collective centers as housing facilities for older persons, and the adaptation and expansion of the capacity of institutions of social protection. Until November 30, 2009, a total of 3,434 housing units were built for the accommodation of refugees, internally displaced persons, and vulnerable families. However, so far it has not been made public how much of this assistance has gone to Roma IDPs. This is an opportunity to initiate a discussion with all the involved actors about the measurable results of these programs.

Health

- Since 2009, the Serbian Ministry of Health has supported the Forum of Roma IDPs in the implementation of a project implemented with the support of the Open Society Foundations’ Roma Health Project to establish the specific conditions for the improvement of healthcare in Roma IDP communities by preparing: (1) a proposal of measures for improving healthcare for Roma IDPs based on the analysis of the existing legal regulations, current practices, and research in the community; (2) (baseline) population research on the specific needs, problems, and restrictions in the area of healthcare for Roma IDPs; and (3) the conditions for the creation and establishment of sustainable institutionalized instruments for the inclusion of Roma IDPs in the Serbian healthcare system. While the above measures have not been adopted yet, the next point elaborates on a proposed alternative that could provide suitable access to healthcare for the Roma from Kosovo who have no official place of residence and thus are unable to access healthcare.
- In 2008, the Institute for Health Insurance devised a scheme and regulations for the implementation of healthcare for children and youth at reception stations and shelters. It proposes the procedures for the application of compulsory health insurance for children up to the age of 15, as well as persons over 15, secured on any of the grounds of Article 22 of the Law on Health Insurance (pregnant women, people with certain diseases, Roma, and others). It is understood that people in these categories do not have residency and must arrive at the reception station or shelter in person for the process to begin. After that, the responsible staff from these institutions send their confirmation to the competent center for social work, which submits the application to the competent territorial health insurance provider of national health insurance. Persons who have no official place of residence are registered at the address of the respective center for social work. In this way, Roma IDPs could have their first real access to primary healthcare, but with some limits.

Employment

- The National Employment Strategy 2005–2010 and the National Action Plan for Employment of 2009 are the two basic strategic documents for employment in the Republic of Serbia, encouraging the employment of displaced and refugee persons through: the establishment of an adequate database of unemployed refugees and displaced persons, the granting of subsidies to employers for the employment of refugees and internally displaced persons, and their inclusion in the pool of workers available for public community service. In addition to this strategy, there are other strategic documents such as the Poverty Reduction Strategy, the Development Strategy of Small and Medium Enterprises 2008–2012, the Economic Development Strategy 2006–2012, the Regional Development Strategy 2007–2012, and the Development Strategy for Vocational Education and Strategy of Adult Education in Serbia. However, in order to implement all of these strategic documents, which identify the specific issues of local Roma and Roma IDPs regarding their position on the labor market, it is necessary to have a complete consensus of institutions and governmental bodies, employers, trade unions, local self-governments, and other partners working together on this issue.

1.5 RECOMMENDATIONS

General Recommendations

- [1] The long-term solution to the problems of Roma IDPs in Serbia is to fully incorporate their issues in all the initiatives announced as part of the strategic documents for the improvement of the position of the Roma (such as the Decade's Action Plans). At the same time, the initiatives and the processes must include the involvement of Roma IDPs in all the processes pertaining to IDPs. Like all displaced persons, the Roma must have a choice regarding the possibility of free choice for a permanent solution, too. Since the Roma IDPs do not consider return either as an option or a durable solution to their displacement due to continuing public insecurity for non-Albanians in Kosovo, hindered access to property rights, and the impossibility to ensure economic sustainability, it is necessary to provide an effective program of local integration for them.
- [2] It is necessary to provide a comprehensive, sustainable, and long-term approach for the government, international organizations, and the delegation of the European Commission in the formulation, implementation, and monitoring/evaluation of the programs that target Roma communities from Kosovo.

- [3] It is necessary to create and support programs that raise awareness and develop the capacity of the community representatives of Roma IDPs in various thematic trainings and seminars.
- [4] It is necessary to provide a mechanism for the participation of the representatives of the Roma IDPs in the framework of the Decade in all working bodies of the ministries as well as other relevant governmental bodies.

Specific Recommendations

► Personal Documents

- [1] The competent authorities should take urgent measures to address the problems of registration and lack of personal documents of Roma IDPs, thereby ensuring their recognition before the law and removing obstacles to accessing their basic socio-economic rights.
- [2] The competent authorities should re-examine the procedures for obtaining personal documents and introduce simplified and clear procedures for IDPs, removing all the unnecessary bureaucratic and administrative hurdles. The competent authorities should simplify the administrative procedures in a manner that would accommodate people without documents, including Roma IDPs. With the relevant laws, they should make the registration procedure and the reissue of birth certificates easier. In this regard, it would be necessary to expand the list of documents that serve as evidence for registering births and to respect the statutory deadlines.
- [3] Kosovo Roma IDPs should have the possibility to obtain their birth certificates from the former registry services that were displaced from Kosovo at the places where Roma IDPs currently live. (All registry services were reallocated to the south of Serbia. Anyone who wants to obtain documents must travel up to 500 kilometers to the offices and pay the necessary fees.)
- [4] The competent authorities should allow applications for ID cards to be submitted at the current place of residence.
- [5] The competent authorities should modify the existing laws to establish a new extrajudiciary procedure for registering births.
- [6] The competent authorities should review the Law on Permanent and Temporary Residence and other relevant laws and bylaws in order to resolve the issue of people without legal residence. Specifically, it is proposed that: (a) new legislation provide the right to register one's residence at the address of collective housing, (b) in the case of persons who can provide the property owner's ID card and a

lease, allow the registration of residence on the basis of the statements of two witnesses and field visits by the local police, and (c) to complete the temporary legalization of informal settlements and collective centers, whereby the residents of these settlements and collective centers could register their addresses.

► Education

- [1] The competent authorities should ensure that Roma IDP children fully enjoy the right to education and should create the conditions for educational opportunities in the respective national minority languages. They should take all the necessary measures to prevent the segregation of Roma IDP children in schools.
- [2] The competent authorities should adopt the Forum of Roma IDPs proposed Educational Model for the Inclusion of Roma Children of IDPs and Returnees by readmission agreements in the education system of Serbia.
- [3] In order to improve the educational status of Roma IDPs, it is necessary to implement a whole series of special measures such as: (a) placing Roma assistants/mentors in schools, (b) enlarging the capacity of evening schools for the education of adults, (c) providing free books and school supplies for all vulnerable children, and (d) providing scholarships for Roma children and youth who attend secondary, higher, and high schools, regardless of their grades.
- [4] It is necessary to prepare an act on free school transportation for all vulnerable children of Roma IDPs, based on an existing regulation of the Ministry of Education.
- [5] The Ministry of Education should make sure that all children of Roma IDPs without documents are allowed entry to school and are provided all possible assistance in obtaining the missing documents.
- [6] The competent authorities should recognize the certificates and diplomas reissued by the competent authorities in Kosovo in order to enable the continuing education of IDPs in central Serbia.
- [7] It is necessary to establish a database of Roma IDP students.
- [8] The authorities should sanction all cases of segregation of Roma IDP children in schools and facilitate the integration of these children into regular school classes.

► Housing

- [1] The competent authorities should enact legislation on evictions, harmonized with the relevant European and international standards, in order to prevent the forced eviction of IDPs who live in illegal or informal settlements without the

provision of adequate alternative solutions. The authorities should ensure that evictions do not result in individuals being rendered homeless or vulnerable to human rights abuses.

- [2] The competent authorities should consider auditing the allocation of housing, making sure that those who receive housing are the ones most in need.
- [3] The issue of ownership of dwellings should be resolved in a manner that will ensure respect for the will of donors and the best interests of the families. One such model would allow families to pay a minimum registration fee (i.e., taxes) in order to become the owners of their homes.
- [4] It is necessary to legalize and regulate the construction of housing settlements. The process should be speeded up and made cheaper, by subsidizing the system and giving tax exemptions. These activities should be part of the program for the integration of refugees and IDPs in Serbia.
- [5] IDPs living in informal or illegal settlements or unofficial collective centers should not be evicted, but should be provided with adequate alternative accommodation.
- [6] It is necessary to implement the plan for the housing of vulnerable groups in Belgrade and legalize, at least temporarily, informal Roma settlements, based on the relevant urban plan in accordance with the National Action Plan on Roma Housing.

► Health

- [1] The Ministry of Health should adopt the proposals of measures prepared by the Forum of Roma IDPs for the inclusion of Roma IDPs in the Serbian healthcare system.
- [2] The Ministry of Health should provide the conditions for the establishment of sustainable institutionalized instruments for the inclusion of Roma IDPs in the Serbian healthcare system.
- [3] The Ministry of Health should include specific indicators for measuring the health status of Roma IDPs.
- [4] For Roma IDPs who have problems with their documents, it is necessary to enable full access to health services, which includes equal treatment in obtaining medical documents. Roma IDPs who have no official residence shall be provided access to healthcare as prescribed by Article 22 of the Law on Health Insurance. In this area the state has an obligation to do everything possible so that everyone has universal access to healthcare, no matter what documents they have.

- [5] In emergency medical situations, the social system should cover the cost of the procurement of prescription drugs for vulnerable families, including Roma IDPs. After their diagnoses, Roma IDPs often cannot afford the prescribed drugs. A special subsidized drug list could be established in order to ensure real access to healthcare for vulnerable individuals.
- [6] Among the most vulnerable social groups, including Roma IDPs, it is necessary to conduct regular campaigns for the immunization of children and provide adequate healthcare for patients with tuberculosis and other serious diseases.

► **Employment**

- [1] The competent authorities should establish a system to monitor the position of vulnerable groups on the labor market—including Roma IDPs—through which it could be possible to apply the relevant affirmative action program in the field of active employment policy and to monitor its effects.
- [2] The competent authorities should define a system of affirmative measures to motivate temporary workers among Roma IDPs to actively seek regular employment and real income, replacing temporary jobs.
- [3] The competent authorities should provide an efficient procedure for recovering the employment records of Roma IDPs as soon as possible with the cooperation of Serbian authorities, the United Nations Interim Administration Mission in Kosovo, and the relevant institutions in Kosovo.

2. Montenegro

2.1 THE SITUATION OF THE ROMA FROM KOSOVO

2.1.1 Legal Status

Upon their arrival in Montenegro during the Kosovo conflict (1999–2000), Roma, Ashkali, and Egyptian (RAE) communities from Kosovo were granted the status of “displaced persons” since both Kosovo and Montenegro were part of the Federal Republic of Yugoslavia at that time. Despite the subsequent independence of Montenegro in 2006 and of Kosovo in March 2008 (recognized by Montenegro in October of the same year), RAE from Kosovo still hold the status of displaced persons, depriving them of their basic rights, such as the right to work. The government of Montenegro requested that the Bureau for the Care of Refugees and the Ministry of the Interior re-register these individuals in 2009, but it is still unclear whether this re-registration will be linked to a change in their legal status.

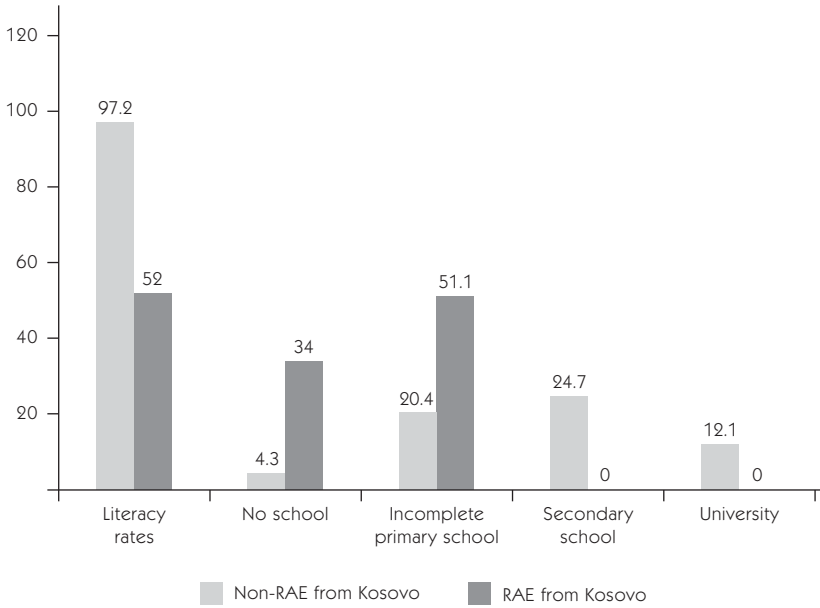
2.1.2 Education

The level of education of RAE children from Kosovo is very low in Montenegro (see Figure 2). Most children are not included in the compulsory system of basic education, and if they do start first grade, they are often unprepared and lack much knowledge of the official language of instruction. The reasons are numerous and varied: insufficient concern by the state for the education of RAE children from Kosovo; poor awareness within RAE communities from Kosovo of the importance of education; and severe poverty rates that incline children to start work from early childhood to provide for their families. The situation is even worse when comparing preschool and secondary school

attendance by RAE children and youth from Kosovo. Higher education and university need not be mentioned, because in Montenegro there is not even a single RAE student from Kosovo studying in university.

Figure 2.

Level of Education, Non-RAE and RAE from Kosovo, in Percent¹³



2.1.3 Housing

Since RAE from Kosovo were forced abruptly from their homes, leaving behind their properties and assets, they arrived in Montenegro without enough money for the purchase of even the most basic accommodation. Consequently, adequate housing remains one of the most drastic needs of many RAE IDPs. The majority live far below the minimum national and international standards of living. They live in suburban settlements such as the refugee camps of Konik, Komanski Most, and Vrela Ribnicka in Podgorica. These unsanitary settlements are characterized by poor living standards, low-quality housing, and substandard water supply, no plumbing or sewage systems, and illegally built and overcrowded housing.

¹³ UNDP, *National Human Development Report, Montenegro, 2009*.

According to a report by UNDP¹⁴ in Montenegro regarding the housing situation of refugees and IDPs, the ownership of housing—or rather the lack of it—appears to be the main issue. Only 11 percent of RAE from Kosovo households live in their own houses (compared to 41 percent domicile RAE and 78 percent domicile non-RAE); for most others members of this group, the uncertainty of their tenure remains an issue and makes them vulnerable. This is also reflected in the report: when asked to assess the level of threat that eviction or lack of housing presents for their household, the largest share of refugee/IDPs households (35 percent) assessed it as the highest threat, with an average score of 3.1 on a scale of 1 to 5. On the contrary, for 43 percent of local RAE households and 58 percent of local non-RAE households, this issue was seen to have the lowest level of threat, with average scores of 1.6 and 1.7, respectively.

2.1.4 Health

Insecure and unsanitary living conditions for vulnerable groups and substantial obstacles in their access to healthcare, such as the lack of personal documents, has led to the overall poor health of RAE communities from Kosovo. Compounding the issue is their poor understanding of health issues, and no programs by the relevant authorities have been developed to alleviate this situation. Poor housing conditions further exacerbate the health problems of these vulnerable groups, who are living in collective centers and derelict houses, in addition to the malnutrition caused by poverty. These unofficial settlements are usually not covered by the public water supply and sewage network and improper waste disposal frequently jeopardizes their health.

2.1.5 Employment

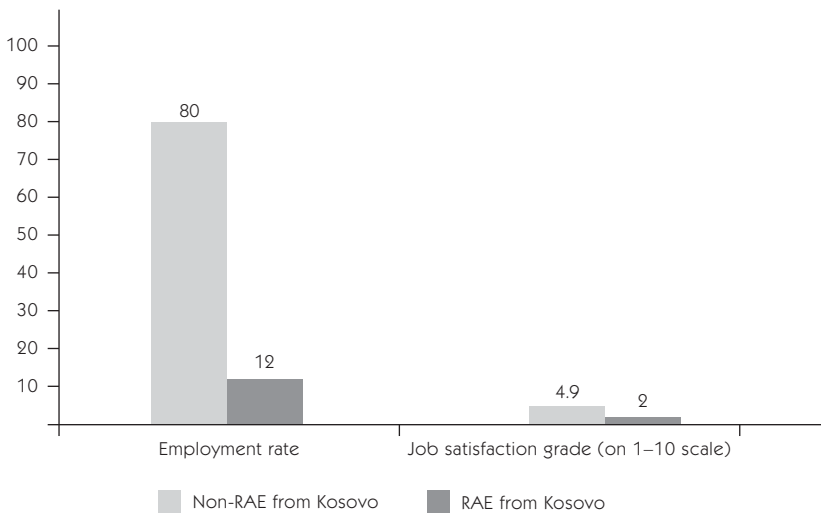
The employment rate of RAE from Kosovo in Montenegro is also very low. While only 12 percent of RAE from Kosovo are employed, 80 percent of non-RAE from Kosovo are employed (see Figure 3). The rest work in the so-called informal economy, often having illegal and unskilled jobs.¹⁵ Thus, they are deprived of the basic human right to employment, further contributing to the high level of poverty and social exclusion of this population. The right to work and employment has been found to be correlated directly

¹⁴ *At Risk: The Social Vulnerability of Roma, Refugees and Internally Displaced Persons in Montenegro*, 2006.

¹⁵ According to the UNDP/ISSP Social Exclusion Survey 2008, only one percent of RAE displaced persons from Kosovo receive a pension! Those employed are mainly employed by the public garbage collection utility service. Just over 73 percent claim they earn a living by collecting garbage and salvaging raw materials.

with the level of education, and is clearly reflected in the mainly unskilled jobs offered to RAE IDPs. In most cases the RAE from Kosovo do the jobs that Montenegrins have no desire for. They can be found doing menial jobs like maintaining public sanitation, waste collection, or in seasonal jobs in agriculture. These are typically low-paid jobs. In addition, a significant part of adult Roma population is engaged in the resale of goods in flea markets and salvaging recyclable materials. Because of the impossibility of providing permanent jobs for adults, children are often forced to beg or offer services like cleaning cars on the streets. Another consequence has been human trafficking, especially of female children.

Figure 3.
Employment Rate and Job Satisfaction Grade, Non-RAE and RAE from Kosovo, in Percent¹⁶



2.2 EXCLUSION OF THE ROMA FROM KOSOVO BY THE DECADE

Montenegro has been part of the Decade since its establishment in 2005 and has adopted the National Action Plan for the Decade of Roma Inclusion 2005–2015 (NAP). This strategic document represents a framework for activities directed toward the integration of the Roma population within Montenegrin society. According to this NAP, the government will contribute to carrying out the Decade in Montenegro.

¹⁶ UNDP, *National Human Development Report, Montenegro, 2009*

The NAP takes note of the significant presence of RAE from Kosovo, who make up one-third of the entire RAE population in the country. The NAP aims to include both the local RAE population and the RAE from Kosovo in its program.¹⁷ The NAP concludes that there are particular groups of children who continue to be excluded from elementary education, including children of RAEs from Kosovo, and it states and asserts that it is one of the priorities of the Montenegrin education policy “to include all children into the process of education.”¹⁸

Among the concrete measures being envisaged, the NAP merely mentions the “elaboration and implementation of adequate educational programs for the RAE population and children who have not started their education on time,” and the need to provide “curricula that meet the needs of RAE children and youth.” It says: “An additional problem is the fact that a number of RAE children from Kosovo do not speak the local language in which the teaching is delivered.” Also, no mention is made of the situation of RAEs from Kosovo in the sections on health, housing, and employment, where RAE from Kosovo face additional barriers.

2.3 MAJOR OBSTACLES TO INCLUSION

Legal Status

- In October 2009, under the pressure and conditionality of the European Union accession process, the government of Montenegro adopted an Action Plan for resolving the status of IDPs from Kosovo and displaced persons from the republics of the former Yugoslavia, thus carrying out its obligations under the road map toward visa liberalization. According to this Action Plan, RAE from Kosovo who remain in Montenegro have the status of foreigners with permanent residence as the basis for their integration into society. With the status of foreigners with permanent residence, they are formally “guaranteed” all civil rights, except voting rights, citizenship, and the right to employment in state administration. The Action Plan, however, has not been implemented to this day, and it is still unclear what will be available to displaced persons who gain the status of foreigners with permanent residence.

¹⁷ It is important to note that the NAP is one of the most important documents dedicated to the Roma in Montenegro, including not only the local Roma, but the Roma/RAE population, who have the status of internally displaced persons (refugees) from Kosovo, regardless of how they declare themselves ethnically—as Roma, Ashkali, or Egyptians.

¹⁸ Government of Montenegro, National Action Plan for the Decade of Roma Inclusion 2005–2015 in the Republic of Montenegro, p. 5.

- The administrative fees required with the submission of an application for the status of foreigner with permanent residence (on average EUR 500 per person) are unachievable for almost all the RAE from Kosovo. Although the status of foreigners is far from the real and desired solutions for the RAE from Kosovo, in this case they suffer incomprehensible discrimination, particularly in respect to the amount of the fees. This creates a serious problem, taking into account that more than 80 percent of the RAE from Kosovo have no employment in Montenegro, either temporary or permanent. Absolutely no displaced household with five members is able to pay EUR 2,500 in order to obtain the status of foreigners with permanent residence.
- Furthermore, the manner of the implementation of the Law on Montenegrin Citizenship in relation to internally displaced persons from Kosovo has no foothold in the Constitution of Montenegro, or in the law itself, and is contrary to common sense. In contrast with other immigrant groups, the displaced from Kosovo who have resided in Montenegro for 11 years and who have been properly registered at the Commissariat for Displaced Persons since 1999 are still considered illegal immigrants. This raises the question whether the government-run Commissariat acted illegally at the time of issuing residence cards for the displaced.
- As a result of controversial decisions, the government recognizes legal residence only if the residence application is regulated by the agencies of the Ministry of the Interior, which is a legal impossibility since the records of internally displaced persons are kept by the Commissariat for Displaced Persons (now the Institute for the Care of Refugees), which can issue the appropriate card for applying.

Education

- There is neither a legislative nor a curricular framework in the existing education system in Montenegro to provide opportunities for RAE children from Kosovo to effectively access public education.
- There are no specific programs targeting RAE children from Kosovo in their preparation for schooling and learning the official language before starting their education.
- The lack of adequate teachers to educate the RAE from Kosovo in their own language as well as teach them about Roma history, culture, and achievements creates further obstacles to the realization of the right to education for RAE children from Kosovo.

Housing

- The government does not provide the leadership required for the long-term, continuous, and integrated activities of various state bodies, businesses, social institutions,

NGOs, and the international community to solve and improve of the housing conditions of RAE from Kosovo.

- In addition to a lack of financial resources, the existing legislation does not allow displaced persons to own real estate in Montenegro, nor do they have access to bank loans to improve their housing situation.
- The competent authorities are not working to solve any of the contested cases related to property rights and that would enable the possession and peaceful occupation of property of RAE from Kosovo through the legalization of certain houses and entire settlements, and particularly their legal connection to public infrastructure, services, and utilities.
- The competent authorities do not provide the main settlements of RAE from Kosovo with drinking water or water mains, much less sewerage and other essential urban infrastructure.

Health

- RAE from Kosovo generally have the same access to healthcare services as other Montenegrin citizens. However, they do not have full access to tertiary healthcare (e.g., extended hospital treatment, rehabilitation in specialized medical institutions). Practically all types of tertiary healthcare that are needed by RAE from Kosovo are possible only if they bear the costs, clearly out of reach for nearly all RAE IDPs.
- Because of their unclear legal status and undetermined citizenship status, there are many obstacles in the healthcare system for RAE from Kosovo who do not have health insurance
- The competent authorities do not implement any specific programs targeting the health needs of RAE from Kosovo.
- The competent authorities do not include specific indicators for measuring the health status of RAE from Kosovo as members of the most vulnerable categories.
- It is also recognized that many RAE from Kosovo are unfamiliar with the procedures relating to the provision of necessary documentation or to the rights of compulsory health insurance, as well as being unfamiliar with the manner and procedure for exercising those rights.

Employment

- RAE from Kosovo are not entitled to register with the local employment agency as jobseekers and so are not entitled to use its services. The Law on the Employment and Work of Foreigners of 2009 conditionally provides access to employment, but the access applies primarily to those who have the legal status of foreigners as determined

on the basis of the Law on Foreigners of 2008. The law also guarantees full access to the labor market to those granted refugee status or subsidiary protection, and to those who do not meet the criteria for refugee status but still need international protection or face a serious threat to their lives by returning home, under the Law on Asylum.

- RAE from Kosovo have no rights to formal employment, forcing them to accept unregistered jobs. Those persons who were employed but were laid off also face the same procedures and situation. Under the current legislation, RAE from Kosovo are also unable to start their own companies, since they cannot meet all the necessary requirements.

2.4 OPPORTUNITIES

Legal Status

- In the opinion of UNHCR experts, persons who fled Kosovo, due to the escalation of the armed conflict, poor public security, and widespread human rights violations, should be granted a status appropriate to the circumstances of their arrival in Montenegro. At that time Montenegro, Serbia, and Kosovo were part of the same country. Following the independence of Montenegro in 2006, three options have been suggested to regularize the status of RAE from Kosovo who have the status of displaced persons residing on Montenegrin territory: (1) citizenship, in accordance with international standards related to nationality following the succession of a state, (2) long-term residence with all the rights of citizens other than voting rights, or (3) *prima facie* refugee status.
- The Strategy for Improving the Situation of the RAE Population in Montenegro 2008–2012 states that the competent authorities of the Ministry of the Interior are committed, within three to five years after the adoption of the strategy to provide that RAE who are not Montenegrin citizens but reside in Montenegro with clear regulations regarding the issuing of their permanent residence documents. This should have been preceded by the resolution of their registration in the register of births and register of citizens. This activity was supposed to be specifically designed and implemented with the active participation and full consent of the targeted population, or their representatives and NGOs. According to these terms, immediately after the adoption of the strategy, a local commission was to be formed, composed of officials of the Ministry of the Interior, local governments, social welfare centers, and RAE NGOs and the representatives of the targeted communities that would perform these activities. Although a sound idea, no activities have taken place after more than two years. Still, what time remains is an opportunity to initiate the effective implementation of these activities.

- According to the Montenegro 2009 EU Progress Report,¹⁹ Montenegro needs to resolve the status of 16,200 displaced persons from Kosovo. The same report states that Kosovo IDPs have great difficulties in accessing employment due to the restrictions imposed by the Law on the Employment and Work of Foreigners. Additionally, the report states that displaced persons from Kosovo live in dire economic and social conditions partly due to their unresolved status. Another particular cause for concern is the situation of the Konik refugee camp close to Podgorica and mostly populated by RAE from Kosovo. The European Union's recognition of the issue of the legal status of the RAE from Kosovo as a special vulnerable category and the resources it has allocated to the IPA in Montenegro to target displaced persons and refugees is an opportunity to ensure the effective implementation of the legal framework aimed at resolving the status of RAE displaced persons from Kosovo. This opportunity can also be used in preparing the indicators and policy conditionality by which the position of RAE from Kosovo can be measured.

Education

- The Montenegrin National Action Plan for the Decade of Roma Inclusion 2005–2015 (NAP) concludes that there are particular groups of children that continue to be excluded from elementary education, including RAE children from Kosovo. Among the concrete measures envisaged, the NAP merely mentions the “elaboration and implementation of adjusted literacy programs for the RAE population and children who have not started their education on time,” and the need to provide “curricula that meet the needs of RAE children and youth.” It says: “An additional problem is the fact that a number of RAE children from Kosovo do not speak the local language in which the teaching is delivered.” The recognition of these problems in the strategic document that provides the legal basis for solving the problem of RAE children from Kosovo is an opportunity to initiate the preparation and implementation of an educational model that would provide RAE children from Kosovo with an adequate educational program for their education, including all their specific needs.
- At a roundtable with all competent authorities in 2008, the Forum of Roma IDPs presented an educational model prepared in Serbia for the children of Roma from Kosovo, in order to initiate a discussion about the applicability of the same educational model in Montenegro. Two of the main conclusions of the roundtable were that the model is applicable in most cases because it is the same target population and the educational systems of the two countries are more or less the same due to their

¹⁹ Commission of the European Communities, Montenegro 2009 Progress Report. Available online: <http://www.undp.org/me/home/actualities/EC%20Montenegro%20Progress%20Report%202009.pdf>.

recent shared history. These conclusions and the proposed model are opportunities upon which initiatives can be built to create an appropriate educational model for RAE children from Kosovo in Montenegro.

Housing

- The Bureau for the Care of Refugees in Montenegro, in cooperation with international organizations and local governments, today provides accommodation for refugees and displaced persons in 16 municipalities in Montenegro housed in 357 units. A part of the project refers to “self-help” aid for the construction or completion of new houses and has given 85 packages of construction material and has allocated 19 loans for displaced families and refugees. Although this is a good opportunity for local integration and a permanent solution for RAE from Kosovo, the criteria by which aid packages are received are unknown, along with the final number of housing units to be built for RAE from Kosovo. For the programs that follow, it is necessary to initiate a discussion of the measurability of these programs, to target the most vulnerable, and to prepare the criteria and indicators by which they will be able to become beneficiaries of these programs in proportion to their number and vulnerability.
- Through the IPA of 2008, the European Commission in Montenegro has allocated EUR 1.5 million for “Durable Solutions for Refugees and Displaced Person in Montenegro,” which could include measures for RAE from Kosovo. In addition, the European Commission allocated a total of EUR 6 million through the multi-beneficiary program of the IPA for 2008, 2009, and 2010 (in which Montenegro has participated). These considerable resources are opportunities for the housing of the RAE from Kosovo, but also are problematic because of the unclear criteria and lack of indicators by which the results of these programs targeting RAE from Kosovo can be measured. This points to the fact that it is necessary to initiate discussions with the competent authorities and the delegation of the European Commission on the distribution of the resources targeting RAE from Kosovo.

Health

- The NAP for the Decade in Montenegro, in the context of the improvement of the healthcare of the RAE population, defines its objectives to prepare measures for their inclusion in the Montenegrin healthcare system, along with the implementation of detailed research and analysis of their needs. In addition, the NAP intends to implement a program of regular check-ups for mothers and children and to provide regular healthcare to the elderly and infirm, as well as taking the appropriate actions, especially with the help of the international community, to provide RAE patients with a secondary and tertiary healthcare program. This is an opportunity that should

be exploited to establish the specific conditions for the long overdue improvement of healthcare in RAE communities from Kosovo by preparing a proposal of measures for improving healthcare for Roma IDPs.

Employment

- Government policy documents recognize the obstacles for RAE from Kosovo in their access to employment as IDPs, but it is still not clear what steps should be taken. According to the Montenegro 2009 Progress Report, “the specific needs of the RAE from Kosovo receive insufficient attention.” The report states that displaced persons from Kosovo still encounter many difficulties in accessing employment because of the restrictions imposed by the Law on Employment and Work of Foreigners. Of special concern in the report is the particularly difficult situation in the Konik refugee camp near Podgorica. Both government and European Union documents should be used as an opportunity to initiate a discussion on improving the access to employment and social services for RAE from Kosovo.

2.5 RECOMMENDATIONS

General Recommendations

- [1] The barriers to social inclusion faced by RAE from Kosovo are diverse but they are all connected to their undetermined legal status in Montenegro. They are in limbo. The prospect of returning home to Kosovo is unfavorable—security concerns, antagonism towards returnees by the majority of the Kosovar population, poor employment opportunities, and often unresolved housing issues (destroyed or occupied property). In general, return is not the preferred solution, especially for RAE who have lived in Montenegro for so many years. At the same time, local integration opportunities are limited. Therefore, the government of Montenegro should prioritize how it will effectively implement the legal framework aimed at resolving the status of RAE from Kosovo as displaced persons, and provide real possibilities for the effective use of the targeted programs for the local integration of RAE from Kosovo.
- [2] The long-term solution to the problems of RAE from Kosovo in Montenegro is to fully incorporate their issues in all the initiatives announced as part of the strategic documents for the improvement of the position of the Roma (such as the NAP for the Decade). At the same time, initiatives and processes must involve the RAE from Kosovo in all processes pertaining to displaced persons from Kosovo.
- [3] The rights of RAE from Kosovo need to be recognized and protected if there is to be a reduction in their vulnerability. This process starts with a harmonization of the

existing national law with international agreements and obligations, but it filters down to the municipal and community levels.

- [4] There is a pressing need to sensitize all levels of government and civil society about the ways in which the RAE from Kosovo are disadvantaged. In a state with so many developmental challenges, and a sizeable poor population, this is not an easy task. Yet addressing the needs of the RAE from Kosovo cannot and should not wait until the needs of the locals have been addressed. The needs of the RAE from Kosovo should be seen as part and parcel of Montenegro's overall development challenges and should be tackled together with these other tasks.
- [5] It is necessary to create and support programs that raise the awareness and develop the capacity of Kosovo Roma community representatives in various thematic trainings and seminars.
- [6] It is necessary to provide a mechanism for the participation of the representatives of the Kosovo Roma in the framework of the Decade in all working bodies of the ministries as well as in other relevant governmental bodies.

Specific Recommendations

► Legal Status

- [1] The competent authorities should urgently regularize the status of RAE from Kosovo residing in Montenegrin territory through: (1) citizenship, (2) long-term residence with all the rights of citizens other than voting rights, or (3) *prima facie* refugee status.
- [2] The competent authorities should begin implementing the Action Plan from 2009 for solving the status of displaced persons from Kosovo.
- [3] The competent authorities should define the extent of the rights of displaced persons that will be available for foreigners with a permanent residence permit.
- [4] The competent authorities should reduce the administrative fees to a reasonable amount for RAE from Kosovo who are required to pay in the process of applying for the status of a foreigner with permanent residence.

► Education

- [1] The competent authorities should initiate the preparation of an educational model that would provide RAE children from Kosovo with an adequate educational program, including all their special needs.

- [2] The competent authorities should provide after-school educational programs to include RAE children from Kosovo in the public educational system and take steps to reduce dropout rates.
- [3] The competent authorities should provide means of financial and/or in-kind support for vulnerable families of RAE children from Kosovo for schooling expenses and to prevent child labor.
- [4] The competent authorities should support programs offering scholarships and stipends for RAE students from Kosovo.
- [5] The competent authorities should carry out a regular monitoring and evaluation of the educational process of RAE children from Kosovo in primary schools, especially to reduce the number of children leaving primary school.
- [6] The competent authorities should take all the necessary measures in preventing segregation and discrimination against RAE children from Kosovo through the amendment and development of educational plans and programs on the basis of the concepts of human and minority rights, fighting against prejudices, and fostering tolerance, multiculturalism, and openness to differences.

► Housing

- [1] The competent authorities should provide RAE from Kosovo with legal access to house ownership as a long-term solution to their accommodation needs.
- [2] The competent authorities should consider auditing the allocation of housing, making sure that those who receive housing need it most.
- [3] The competent authorities should provide legislation on evictions, harmonized with the relevant European and international standards, in order to prevent the forced eviction of RAE from Kosovo who live in illegal or informal settlements, without the provision of adequate alternative housing.
- [4] The competent authorities should provide a possibility for the legalization of illegally built houses owned by RAE from Kosovo, including connection to water supply, sewage, and other essential urban infrastructure.

► Health

- [1] The competent authorities should prepare the measures for improving the health-care of RAE from Kosovo based on an analysis of the existing legal regulations, current practices, and research in the community.
- [2] The competent authorities should provide efficient healthcare and free basic medicines for RAE from Kosovo.

- [3] The competent authorities should organize children's immunization and other preventive care campaigns by reaching out to the RAE community from Kosovo.
- [4] The Ministry of Health should provide the legal conditions for the establishment of sustainable institutionalized instruments for the inclusion of RAE from Kosovo in the Montenegrin healthcare system.
- [5] The Ministry of Health should include specific indicators for measuring the health status of RAE from Kosovo as the most vulnerable of minorities.
- [6] The competent authorities should enable full access to health services for RAE from Kosovo who have problems with their documents, which includes equal treatment in obtaining their insurance cards.

► Employment

- [1] The competent authorities should expand the interpretation of the Law on the Employment and Work of Foreigners to include "displaced" and "internally displaced persons."
- [2] The competent authorities should enhance access to employment and social welfare for RAE from Kosovo by resolving their legal status.
- [3] The competent authorities should establish a system to monitor the positions of RAE from Kosovo, to make it possible to apply the relevant affirmative action program in the field of employment policies, and subsequently to monitor its effects.
- [4] The competent authorities should devise an efficient procedure for recovering the employment records of RAE from Kosovo through the cooperation of the Montenegrin and Serbian authorities, the UN Mission in Kosovo, and the relevant institutions in Kosovo.
- [5] The competent authorities should include the RAE from Kosovo in the existing programs for start-up loans for self-employment.

3. Macedonia

3.1 THE SITUATION OF THE ROMA FROM KOSOVO

3.1.1 Legal Status

According to *Denied Asylum: Kosovo Roma, Ashkali and Egyptian Refugees in Macedonia*, a 2006 report by Karin Waringo, when the Roma from Kosovo arrived in the Republic of Macedonia during the Kosovo conflict in 1999, they were granted so-called THAP (Temporary Humanitarian Assisted Person) status. Individuals with THAP status were ineligible to apply for asylum according to Macedonian law, and their status was subject to regular review by the Macedonian authorities approximately every six months, who determined whether the people concerned were still in need of protection. Roma from Kosovo with THAP status were not permitted to work and as a result were wholly dependent on humanitarian assistance.²⁰

A new Law on Asylum and Temporary Protection was passed in July 2003. This law, which entered into force on August 2, 2003, changed the status of “temporary humanitarian protected persons” to “persons under temporary protection.”²¹

As Waringo states, the consequences were that “[t]his change of legislation put an end to the temporary protection Kosovo Roma, Ashkali and Egyptian refugees had been benefiting from. The refugees were given a one-month deadline to lodge a claim for individual asylum. Failing to do so they were at risk of being considered as not being in need of protection any longer.”²²

²⁰ Karin Waringo, *Denied Asylum: Kosovo Roma, Ashkali and Egyptian Refugees in Macedonia*, 2006, p. 4. Available online: <http://kosovoroma.files.wordpress.com/2008/03/macedonia-denied-asylum.pdf>.

²¹ Macedonian Helsinki Committee, *Roma, Ashkali and Egyptian Report*, 1999 and 2005, Skopje

²² Waringo, p. 4.

Denied Asylum states that as of November 17, 2003, just under half of the estimated 2,500 Roma refugees from Kosovo had filed an asylum application. The rest were given a second chance to apply until January 2004.²³ By the end of that month, about 2,300 people had lodged an asylum application on the basis of the new law.²⁴

According to Waringo:

The International Helsinki Federation claimed that the refugees were misinformed and intimidated when submitting their applications. The organisation pointed out that the terms of this law were very unfavourable to the refugees: according to the vague article 29 of the Law on Asylum and Temporary Protection, asylum applications could be rejected if persecution in the country of origin was restricted to a given territory and effective protection could be provided in another territory.... Such was the case in Kosovo, thus the Macedonian Supreme Court refused asylum to Kosovo refugees in some cases on this basis. The UNHCR ignored this and kept pressuring these people to ask for asylum in Macedonia...²⁵

From 2003 to 2008, a total of 2,631 asylum seekers were registered, of whom 2,580 (98.1 percent) were Roma from Kosovo.

In October 2008, the Law Amending the Asylum and Temporary Protection Law of the Republic of Macedonia was enacted. With the amendments, the term “person under humanitarian protection” was replaced with the term “person under subsidiary protection.” The applicant has the right to apply for a relevant legal remedy, and the amendments introduced the possibility of him or her initiating an administrative appeal against the decision of the Asylum Unit, with the relevant court of jurisdiction. Furthermore, the government’s obligation to establish a list of safe countries of origin was laid down.

Seven years after the adoption of the Law on Asylum and Temporary Protection, still there is concern whether this law provides a suitable instrument to resolve the plight of the Roma from Kosovo. An insignificant number of Roma from Kosovo have been granted asylum in Macedonia.

In July 2009 there were about 1,700 refugees/asylum-seekers in the country, of whom the vast majority were Roma from Kosovo²⁶: 25 were recognized refugees, 1,093 were

²³ Ibid.

²⁴ Human Rights Watch, *Out of Limbo. Addressing the Plight of Kosovo Roma Refugees in Macedonia*, December 2003; IFRC Report from February 5, 2004, according to: NRC, Global IDP Database. Profile of Internal Displacement: Macedonia, February 26, 2004; cited in Waringo, p. 4.

²⁵ Waringo, p. 4., citing International Helsinki Federation, *World Report 2004*, Macedonia.

²⁶ Under UNSCR 1244/99.

under humanitarian protection, who by a decision of the Ministry of the Interior, were being transferred to subsidiary protection, 93 were asylumseekers, and 481 were from minorities from Kosovo whose asylum claims had been rejected or whose humanitarian protection status had been terminated by a final decision. In 2008, the number who had received recognized refugee status was 36.

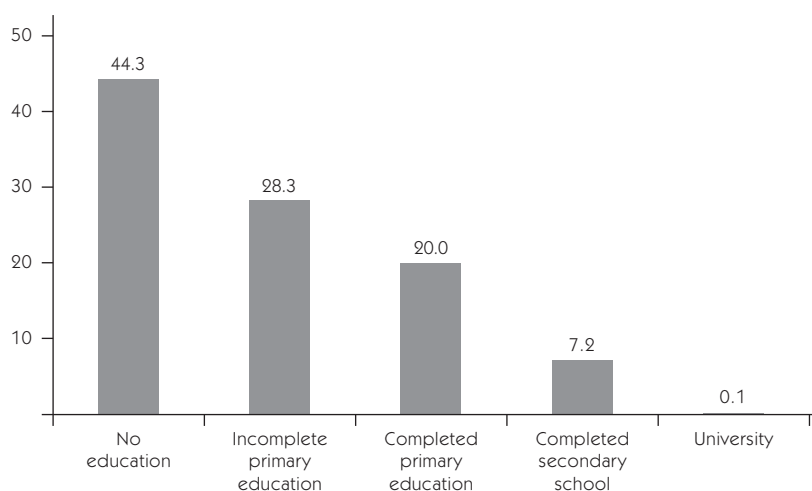
3.1.2 Education

The challenges for Roma children from Kosovo are very similar to those of the local Roma population. Most Roma children from Kosovo in Macedonia are living in Roma communities and attend schools with mainly local Roma children, and they are often seen as outsiders. Unfortunately, the school system rarely promotes diversity or practices intercultural learning and understanding.

The majority of Roma children from Kosovo lack basic education (see Figure 4), meaning either that they have never attended school or they have finished some primary school, but never acquired a primary school certificate. Many adults are illiterate, even though they say that they have attended primary school. Many never continued their education after leaving Kosovo, mainly due to the lack of school certificates and the language barrier.

Figure 4.

Level of Education among Roma Adults from Kosovo in Macedonia²⁷



²⁷ UNHCR, *Report on the Vulnerability and Capacity Assessment of the Persons of UNHCR Concern in Macedonia*, 2009. The majority of the population of concern in Macedonia belongs to the RAE minority ethnic group (97.2 percent, and only 2.8 percent belong to other nationalities).

3.1.3 Housing

Housing is of vital importance for every individual, family, and community and one of the key preconditions for the integration of refugees. The general conclusion is that the living conditions in which the Roma from Kosovo are living in Macedonia are frequently below the ational and international standards. Their houses are built on muddy terrain, without foundations, and with poor roofing and structural walls. During rainy periods, many houses are flooded, and there remains a need for interventions providing mattresses, plastic sheeting, and blankets for the most affected families.

According to Denied Asylum, the majority of the Roma from Kosovo live in private accommodations, where they pay rents between EUR 150 to 200 per family, along with utilities (electricity and water) and communal fees: many of these houses lack basis facilities such as bathrooms or indoor toilets, and many of the families live in a single room.²⁸

In addition, the return of the landlords, mainly Macedonian guest workers returning from abroad for vacation in the summer, regularly creates tensions between the refugees and the local Roma population: indeed, the refugees are then forced to empty the houses and move to other locations. The refugees also complain that some owners abuse their situation by raising the rent abruptly and thereby forcing them to leave.

3.1.4 Health

The poor health situation of the Roma from Kosovo is due to a combination of factors that include: their poor socio-economic situation, substandard housing conditions, a lack of health insurance, insufficient primary healthcare, weak preventive care (e.g., irregular response from parents for the immunization of their children and a lack of systematic examinations of children and women), a low level of health education among the Roma population, expensive health services and medications, a mentality and tradition in which a cure is most frequently looked for in holistic medicine, early marriages, gender inequality, undervalued female children, discrimination in healthcare by medical personnel, insufficient information about healthcare rights, heavy physical work, a polluted environment, and so on.

As Waringo states, “Medical treatment including the costs of medicine is covered by the UNHCR, but the refugees complain that the doctors do not provide them with any medicine, forcing them to buy it and claim reimbursement from either the UNHCR or the local Red Cross.”²⁹

²⁸ Waringo, p. 7.

²⁹ Ibid., p. 8.

According to the *Report on the Vulnerability and Capacity Assessment of Persons of UNHCR Concern in Macedonia* (2009), 33.7 percent of the population are suffering from chronic illnesses (high blood pressure, high blood sugar levels and diabetes, coronary disease, kidney failure, cancer, etc.).

3.1.5 Employment

The employment of Roma from Kosovo in Macedonia is the most complex issue in the refugee integration process. This is mostly due to the lack of efforts on the part of the state structures to provide employment opportunities for the Roma from Kosovo on the labor market. Given the obstacles regarding their unresolved legal status, the Roma from Kosovo mostly work in the informal economy, often having illegal and unskilled jobs. This further contributes to the high level of poverty and social exclusion of this population. Job opportunities are extremely limited to mainly unqualified jobs. In most cases they do the jobs that other citizens will not do.

3.2 EXCLUSION OF THE ROMA FROM KOSOVO BY THE DECADE

It is important to mention that the Decade corresponds to the process of endorsing the National Strategy for the Roma Population in the Republic of Macedonia. The processes are regional, their approach is similar, and their realization intertwined because part of the priorities interlinking the regions. The basic criteria for development of both these documents is the observation, through the Millennium Development Goals, of the Program for Social Inclusion of the European Union, and the draft document for social inclusion that are recognized by the European Union and, at the same time, represent the principles that will have to be recognized and implemented by member states of the European Union.

The National Action Plans correspond to the four priority fields of the Decade, which also include general objectives, activities, indicators, and how they are related to the three cross-cutting topics. The plans were endorsed during a government session on January 31, 2005, during which the Republic of Macedonia assumed an obligation to implement them.

The general objective of the Strategy and the Decade is the integration of the Roma into Macedonian society and strengthening the Roma community.

The Strategy specifically recognizes the vulnerable position of the Roma from Kosovo and proposes to engage all the relevant actors in finding durable solutions for them. The Strategy describes the situation of Roma refugees from Kosovo by stating that the existing administrative regulations prevent them from accessing employment. It also described that “an indefinite period of time of stay” reflects additional pressure in terms

of resolving the issue of housing. Finally, it proposes to facilitate their access to healthcare.

Although the National Strategy for Roma in particular recognizes the difficult situation of Roma from Kosovo, the Macedonian Decade Action Plans do not include any initiatives to address the plight and hardship of the Roma from Kosovo, including their *de facto* exclusion from education, healthcare, and employment.³⁰

3.3 MAJOR OBSTACLES TO INCLUSION

Legal Status

- The Law on Asylum and Temporary Protection has brought Macedonia's national standards in these matters even closer to the European Union's policies. The government commission hearing appeals to reconsider refugee status was abolished and the administrative court became the court of final appeal concerning refugee status. Yet there are shortcomings in its procedures for decisions on appeals, notably on decisions that terminate the temporary protection status for people from Kosovo and that determine the length of residency granted to people under subsidiary protection.
- The National Strategy for Integration of Refugees and Foreigners and the National Action Plan 2008–2015 do not recognize the Roma from Kosovo as a particularly vulnerable group or provide special measures for systemically targeting the Roma from Kosovo regarding their legal status, although they previously were recognized as a vulnerable segment of the population in the Strategy for Roma in 2005. This is surprising because the Strategy for Refugees and Foreigners mentions that it complies with all other national strategies, international legal norms, and the European Union.

Education

- There is neither a legislative nor a curricular framework in the existing education system in Montenegro to provide opportunities for Roma children from Kosovo toward effective access to public education.
- There are no specific programs targeting Roma children from Kosovo in preparing for school and learning the official language before starting their education.
- The neglect of refugee children by national and international organizations begins with children who have been unable to register for school since their transcripts remain in Kosovo. Despite the fact that several organizations deal with the educa-

³⁰ Government of Macedonia, Decade of Roma Inclusion Action Plans.

tion of refugee children, there is no clear responsibility for this issue and it seems that there is no will to resolve it.

Housing

- The decentralization process in Macedonia is officially over, but the inability of local governments to implement the Law on Asylum and Temporary Protection is widespread. Recognized refugees do not have the opportunity to exercise their rights to housing, and they often do not have relatives or friends to rely upon.
- The government does not provide the leadership required for the long-term, continuous, and integrated activities of various state bodies to improve living conditions for the Roma from Kosovo.
- In addition to a lack of access to financial resources, the existing legislation does not allow Roma from Kosovo without a regularized legal status to own real estate in Macedonia.

Health

- The provisions of the Law on Asylum and Temporary Protection are the legal basis for providing access to healthcare but only for recognized refugees. The law states that these people have access to basic health services, in accordance with the provisions of health protection. But they do not have access to hospital treatment and must pay for all tertiary healthcare services. Practically, only persons who have a regularized legal status can access basic healthcare, while the majority cannot access healthcare (as a basic human right) at all.
- The competent authorities are not implementing any specific programs targeting the health needs of Roma from Kosovo.
- The competent authorities do not have any specific indicators for measuring the health status of Roma from Kosovo.
- Roma from Kosovo complain that the doctors do not provide them with any medicine free of charge, forcing them to buy their prescriptions and then claim reimbursement from either the UNHCR or the local Red Cross.

Employment

- According to the Law on Asylum and Temporary Protection, recognized refugees and persons under temporary protection are entitled to work. However, the Macedonian Ministry of Labor and Social Policy recognizes that this constitutes a rather theoretical option, assuming that, due to the current unemployment rates in the state, “these people will have problems finding work.” People who are still in the asylum process or who have been rejected do not benefit from this possibility and are thus forced to rely on humanitarian assistance.

- Regarding access to the labor market, the issues of the employment of immigrants are entirely regulated: the immediate family members of a foreigner with a regulated stay in the territory of Republic of Macedonia and refugees are entitled to apply for a personal work permit, whereby they acquire rights regarding job applications equal to those enjoyed by the domicile population. However, given the obstacles regarding their unresolved legal status, Roma from Kosovo still remain without access to employment.

3.4 OPPORTUNITIES

Legal Status

- Amendments to the Asylum and Temporary Protection Law³¹ were introduced in 2007, which resulted in partial harmonization with the European Union directive on the use of a new type of international protection—the right to asylum for subsidiary protection. In October 2008, the Law Amending the Asylum and Temporary Protection Law of the Republic of Macedonia was enacted. With the amendments, the term “person under humanitarian protection” was replaced by the term “person under subsidiary protection.”
- This is an opportunity that should be used to further advocate the coordination of this law with European standards to fully align it with the *acquis communautaire*. Since Roma from Kosovo continue to be regarded as potential targets for ethnic violence in Kosovo and therefore cannot be forcibly returned to Kosovo, the UNHCR’s position is that they should continue to benefit from international protection. However, the majority of over 1,700 refugees, mainly Roma from Kosovo, currently seeking asylum in Macedonia continue to be rejected. Therefore, it is necessary to initiate a discussion with the competent authorities to provide a full, fair, and effective procedure for determining their need for international protection as well as to enable all those granted temporary humanitarian protection to be considered eligible for local integration.

Education

- A situation analysis from 2008 prepared by UNICEF in Macedonia indicates Roma children from Kosovo are in the most marginalized position.³² UNICEF proposes

³¹ Law Amending the Asylum and Temporary Protection Law, *Official Gazette of the Republic of Macedonia*, No. 66/2007.

³² UNICEF Macedonia, *Children in FRY Macedonia: A Situation Analysis*, 2008.

that the government prioritize its budgetary allocations, with particular attention to the plight of children from poor families. Additionally, it proposes to the competent authorities to “strengthen systems, both at national and municipal levels, for data collection and analysis to promote increased evidence-based policy making in the social sector, giving priority to social inclusion statistics and measurement of lacking indicators.” This is an opportunity that should be used to start discussions with the competent authorities on this topic as well as issues related to the evaluation of previous programs and the further continuation of UNICEF’s refugee program supporting these children’s education.

- At a roundtable with all competent authorities in 2008, the Forum of Roma IDPs presented an educational model that was prepared in Serbia for Roma children from Kosovo in order to discuss the applicability of the same educational model in Macedonia. One of the main conclusions of the roundtable was that the model should be applicable in most cases because it has the same target population. These conclusions and presented model are opportunities on which the initiatives can be built to create an appropriate educational model for Roma children from Kosovo in Macedonia. The Roma Education Fund’s country facilitator in Macedonia has supported the idea, stating that some programs implemented by REF in Macedonia might be applicable to the Roma from Kosovo.

Housing

- Following the development of the Social Inclusion Strategy and the recommendations for housing, discussion should be initiated with the competent authorities regarding the implementation of policies aiming to combat the substandard housing of the Roma from Kosovo. The aim of this discussion should be to define the institutional support to be provided to the local authorities in planning and implementing local level actions addressing the issue of the informal settlements and substandard housing of the Roma from Kosovo.
- The European Commission, through the multibeneficiary program for the IPA in 2008, 2009, and 2010 (in which Macedonia has participated), has allocated a total of EUR 6 million targeting the Roma. These considerable resources are opportunities for the Roma from Kosovo for finding durable solutions, but their use may be problematic because of the unclear criteria and the lack of indicators by which the results of these programs targeting the Roma from Kosovo can be measured. This points to the fact that it is necessary to initiate discussions with the competent authorities and the delegation of the European Commission on the distribution of the resources targeting the Roma from Kosovo.

Health

- The Strategy for the Integration of Refugees and Foreigners 2008–2015 defines its objectives in the context of the improvement of healthcare and proposes to identify, analyze, and prepare measures for sustainable solutions for the healthcare of its proposed target group. This is an opportunity that should be used to create the necessary conditions for the improvement of healthcare in the Kosovo Roma communities by preparing the proposal of measures based on an analysis of the existing legal regulations, current practices, and research in the community. This opportunity should also be used to start a joint initiative with all stakeholders regarding the definition of a clear package of instructions, which should be sent to all health centers, complete with the defined rights of the Roma from Kosovo to access healthcare.

Employment

- The Strategy for the Integration of Refugees and Foreigners 2008–2015 recognizes the right to employment in accordance with the legal status of those persons who live in Macedonia, and all other related laws. It elaborates that persons with recognized refugee status can apply for a personal work permit for an indefinite time, giving them unimpeded access to work. Under the Law on the Employment and Work of Foreign Nationals (2007) persons under humanitarian protection or subsidiary protection are defined as persons who are eligible to apply for a personal work permit, for one year with the possibility of extension, through which they can have direct and full access to the labor market (with the exception of those jobs that are specifically regulated by law and require Macedonian citizenship). These are opportunities that should be used to publicly explain the procedures for submitting requests for permits for individual target groups, in accordance with their current legal status. This is particularly relevant to the Roma from Kosovo, given that so far they have had very limited access to employment. This should be used as an opportunity to discuss further improving the access to employment and social services for the Roma from Kosovo.

3.5 RECOMMENDATIONS

General Recommendations

- [1] The barriers to the social inclusion faced by the Roma from Kosovo are all connected to their undetermined legal status in Macedonia. For the Roma from Kosovo, the war is not yet over. They feel that they are once again victims of a malicious plot that has been put in place by the local authorities with the help of international

organizations. Returning home most likely will not take place in the near future for the Roma from Kosovo. However, the pressure for them to return on a so-called “voluntary basis” is increasing, no matter what they will find there, and regardless of whether their lives will be guaranteed or not. In general, return is not a preferred solution for many of them, especially after having lived in Macedonia for over a decade. At the same time, local integration opportunities are limited. Therefore, a precondition of the government of Macedonia should be to ensure the effective implementation of the legal framework aimed at resolving the legal status of the Roma from Kosovo, and provide real possibilities for the effective use of targeted programs for local integration.

- [2] The long-term solution to the problem of the Roma from Kosovo in Macedonia is to fully incorporate their issues in all the initiatives announced as part of the strategic documents for the improvement of the position of Roma (such as the NAP for the Decade and the National Strategy for Roma). At the same time, initiatives and processes must include the involvement of the Roma from Kosovo in all processes pertaining to refugees from Kosovo.
- [3] It is necessary to create and support programs for raising awareness and developing the capacity of Kosovo Roma community representatives in various thematic trainings and seminars.
- [4] It is necessary to provide a mechanism for the participation of Kosovo Roma representatives in the framework of the Decade in all working bodies of the ministries as well as other relevant governmental bodies.
- [5] The measures undertaken in the socio-economic sphere of migration should make it possible for immigrants, above all refugees, to gain economic independence, that is, such measures should aim at ensuring that refugees are independent of the financial support they receive from the state authorities. The main policy elements in this area are education, employment, housing, and health.

Specific Recommendations

► Legal Status

- [1] The competent authorities should urgently regulate the status of Roma from Kosovo residing on Macedonian territory, strictly applying the principle of *non-refoulement*, and be committed to not sending the rejected asylumseekers back to Kosovo as long as a return in security and dignity cannot be guaranteed.
- [2] The competent authorities should ensure that the Law on Asylum, adopted in July 2003 and amended in the meantime, is applied in such a manner that the

applicants benefit from the highest level of protection possible, that is, those who meet the conditions are granted refugee status rather than a lesser level of protection.

- [3] The Administrative Court needs to be given powers by law to conduct an independent judicial review of the substance of asylum decisions.
- [4] Further efforts are required by the authorities to take on full responsibility for providing financial and material assistance for refugees and asylumseekers.

► Education

- [1] Macedonian educational authorities should ensure that all Roma children from Kosovo have equal access to safe, accessible, quality schools that foster the development of each child's personality, talents, and abilities, including identifying and providing assistance to children who have left school or are at a risk of leaving school because of discrimination and harassment by fellow students or others, or who are unable to pay for school clothes, books, and related costs.
- [2] Roma families from Kosovo who are denied the right to educate their children must be able to secure a legal remedy to their problem from the government of Macedonia.
- [3] The Macedonian educational authorities should develop and implement written policies to protect the children of the Roma from Kosovo from discrimination, harassment, and other abuse. Such policies should include the training of educational staff on the binding nature of non-discrimination norms, the needs of Roma children from Kosovo, procedures for investigating and reporting allegations of discrimination or abuse, and disciplinary procedures for those found to be complicit in anti-Roma discrimination, harassment, or other abuses.
- [4] The competent authorities should initiate the preparation of an educational model that would provide Roma children from Kosovo with an adequate educational curriculum, including all their special needs.
- [5] The competent authorities should provide after-school educational programs to include Roma children from Kosovo in the public educational system and take steps to reduce their dropout rates.

► Housing

- [1] The competent authorities should intensify efforts to ensure decent living conditions for the Roma from Kosovo that will satisfy reasonable living and hygienic standards.
- [2] The issue of ownership of dwellings should be resolved in a manner that will ensure respect for the will of donors and the best interests of the families. One

such model would allow families to pay a minimum fee (i.e., taxes) and entail registration, so that they can become homeowners.

- [3] Internally displaced persons living in informal/illegal settlements or unofficial collective centers should not be evicted from there, rather they should be provided with adequate alternative accommodation.
- [4] The competent authorities should support the initiative to identify, analyze, and propose long-term housing solutions for the Roma from Kosovo.

► Health

- [1] The competent authorities should prepare the measures for improving the healthcare of the Roma from Kosovo based on an analysis of the existing legal regulations, current practices, and research in the community.
- [2] The competent authorities should provide efficient healthcare and free basic medicines to the Roma from Kosovo.
- [3] The competent authorities should organize immunization and other preventive care campaigns with an element of strong outreach to the Roma community from Kosovo.
- [4] The competent authorities should prepare packages of instructions, which should be sent to all health centers, defining the rights of the Roma from Kosovo to access health care.

► Employment

- [1] The competent authorities should enhance the access to employment and social welfare of the Roma from Kosovo by resolving their legal status.
- [2] The competent authorities should take specific measures to improve the situation of the Roma from Kosovo in employment matters.
- [3] The competent authorities should establish a system to monitor the position of the Roma from Kosovo, to make it possible to apply affirmative action measures in employment policy and monitor their effects.
- [4] The competent authorities should provide an efficient procedure for recovering the employment records of the Roma from Kosovo through the cooperation of the Macedonian and Serbian authorities, the UN Interim Administration Mission in Kosovo, and the relevant institutions in Kosovo.
- [5] The competent authorities should support the initiatives to distribute a list of available jobs and professional trainings for which Roma from Kosovo can apply.
- [6] The competent authorities should include the Roma from Kosovo in the existing programs for start-up loans for self-employment.

4. Bosnia and Herzegovina

4.1 THE SITUATION OF THE ROMA FROM KOSOVO

Bosnia and Herzegovina was one of the main transit countries for the Roma from Kosovo. According to the Association for Vulnerable Persons, in the period between 1998 and 1999 around 12,000 to 15,000 Roma fled from Kosovo to this country. According to UNHCR, there are about 200 Roma from Kosovo in Bosnia and Herzegovina at present. However, a significant number of Roma from Kosovo are unregistered and this number is much higher, according to the estimates of Roma activists and Roma NGOs.

At the time of the mass arrivals from Kosovo, Bosnia and Herzegovina did not have a law on asylum, and these persons were registered under the temporary admission (TA) regime on the basis of instructions for the temporary protection of refugees from the Federal Republic of Yugoslavia in Bosnia and Herzegovina, granted on May 20, 1999. Only a few applied for the extension of their TA status during re-registration in June 2002.

Despite the insistence of representatives of the international community to provide a sustainable solution for the Roma from Kosovo, the TA status for these persons, whose last place of permanent residence was Kosovo, finally ceased on September 30, 2007. In 2007, only a few Roma from Kosovo extended their status. After that, they had the opportunity to apply for asylum. Those who have did not do so were in danger of being treated as persons who no longer are in need of protection. Up until today, Roma from Kosovo still remain without durable solutions, exposing them insecurity and fears that they will be forcibly returned, although according to the recommendations of international organizations, the necessary conditions for their voluntary and sustainable return still have not been established in Kosovo.³³

³³ The Council of Europe's Commissioner for Human Rights, Thomas Hammamberg, holds the same opinion and has called on countries to refrain from forcible returns to Kosovo.

4.1.1 Legal Framework

Bosnia and Herzegovina is a state party to the 1951 Convention and its 1967 Protocol related to the Status of Refugees. By virtue of its Constitution, Bosnia and Herzegovina is also a party to other relevant international human rights treaties. As part of the Stabilization and Association Process, Bosnia and Herzegovina has made efforts to establish the legal and administrative framework for asylum from the very beginning of its development. As a result, legislation in Bosnia and Herzegovina on asylum is generally in line with international principles and the European Union's *acquis communautaire*. However, some shortcomings do exist both in the legislation and its implementation.

The 2008 Law on the Movement and Stay of Aliens and Asylum (LMSAA) defines the legal framework for asylum. The framework is designed to ensure a simple but efficient procedure. It was introduced by the 2003 LMSAA and has not been changed by the 2008 LSMAA.

4.1.2 Current Situation

There are 368 asylumseekers in total in Bosnia and Herzegovina, the majority of whom are persons from Kosovo who have held the TA status for as long as a decade. According to the UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Individuals from Kosovo of November 2009, the remaining 47 families totaling 197 asylumseekers and former TA status holders who are Roma from Kosovo would be entitled to international protection after a thorough individual asylum assessment.

The Ministry of the Interior has so far rejected all refugee claims of the Roma from Kosovo, stating that the discrimination on cumulative grounds against the Roma from Kosovo does not amount to persecution, and hence that the situation in Kosovo is safe and conducive to return. Most recently, the Bosnia and Herzegovina Supreme Court has concurred with the Ministry of the Interior in finding the situation in Kosovo conducive to return in nine decisions, contrary to UNHCR's position. In most cases, the UNHCR has raised concerns with the method and thoroughness of the credibility assessment, selective use of country-of-origin information, incorrect interpretation of the family unity principle, and a lack of proof about the risk of persecution. The prospects for the local integration of asylumseekers and former TA status holders, and in particular for Roma from Kosovo who have developed effective family and/or property ties in Bosnia and Herzegovina, are seriously hampered by restrictive legal conditions for residence permits.

The majority of the 185 recognized refugees in Bosnia and Herzegovina are from Kosovo. Most were recognized prior to the handover of the refugee status determination by the UNHCR to the government of Bosnia and Herzegovina in 2004. Since 2004, the government of Bosnia and Herzegovina has only recognized eight refugees

and granted subsidiary protection to four Roma from Kosovo. The LMSAA does not provide for the naturalization of refugees. However, there have been positive developments in the implementation of refugees' rights to work, education, healthcare, social assistance, and documentation, including travel documents. At the same time, there still remains the issue of facilitated family reunification residence. The Ministry of Displaced Persons and Refugees, with the UNHCR, the NGO Vasa Prava BiH, and the Bosnia and Herzegovina Women's Initiative, have invested significant efforts to enable recognized refugees to access rights to education, healthcare, work, and social welfare under the same conditions as nationals from Bosnia and Herzegovina. However, there is still a need to develop a systemic integration strategy that would include permanent housing as well as other integration support for refugees.

4.2 EXCLUSION OF THE ROMA FROM KOSOVO BY THE DECADE

Among the countries of South Eastern Europe, Bosnia and Herzegovina has been part of the Decade in order to improve the situation of the Roma population. The Chairman of the Council of the Ministers of Bosnia and Herzegovina, Nikola Spiric, signed the accession Declaration on September 4, 2008 during the Serbian presidency. Spiric pledged that the membership of Bosnia and Herzegovina would be not only declarative but a reflection of the intention to change the position of the Roma population, providing them with the status worthy of their people.

From the strategic documents for the improvement of the situation of the Roma adopted by the Bosnia and Herzegovina, only the Action Plan for the Educational Needs of Roma and Other Minority Groups (2004) recognized the Roma from Kosovo. The Action Plan states that the children of the Roma from Kosovo are a particularly vulnerable category, without the possibility of returning to their community in which they would feel a higher level of belonging and who are unable to plan their future, including formal education.

However, despite this important recognition, it is not reflected in the existing Action Plans for the Decade in Bosnia and Herzegovina, which do not contain specific measures targeting the Roma from Kosovo, not even taking into account the facts about the exclusion of Roma children from Kosovo from the education system, difficulties in accessing healthcare, and their inability to access employment.

4.3 MAJOR OBSTACLES TO INCLUSION

- The situation of the Roma from Kosovo in Bosnia and Herzegovina is impossible because there is no policy to address their issues. The existing policies for return, local integration, and other issues do not recognize or target Roma from Kosovo

in the implementation of any policies related to refugees and the most vulnerable categories of the population.

- Many Roma from Kosovo have failed in their attempts to obtain refugee status and continue to live in Bosnia and Herzegovina under a temporary admission scheme, in precarious conditions. A satisfactory response to the refugees' needs in terms of access to rights, as well as to the asylumseekers with respect to their legal status, is still absent. This may result in their worsening socio-economic prospects, their further marginalization, and increased intolerance towards them.
- The complex administrative structures do not generate enough support for human rights and the protection of refugees and asylumseekers. The social welfare system remains underfunded and its needs greatly exceed the system's resources. The current economic crisis further impairs the government's ability to allocate funds to meet the needs of vulnerable refugees.
- Considerable external pressure on the Ministry of the Interior in the areas of national security, counter-terrorism, border management, and migration impacts asylum policy. As a result of cases falling under the "threat to national security," the Roma from Kosovo cannot exercise their individual rights and the functioning of the asylum and immigration system weakens. This affects the work of the national authorities and severely politicizes issues of asylum, resulting in an often unfair and non-transparent application of the asylum system.
- Failure to apply the "UNHCR Position Paper on Continued Need for International Protection of Persons from Kosovo" of June 2006, which was replaced by the UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Individuals from Kosovo in November 2009, negatively affects nearly all asylumseekers in Bosnia and Herzegovina. Keeping in mind that former temporary admission (TA) status holders from Kosovo could, *de facto*, only apply for asylum in Bosnia and Herzegovina after the cessation of the TA status in 2007, the disagreement with the UNHCR's position has resulted in a 99 percent rejection rate.

4.4 OPPORTUNITIES

Bosnia and Herzegovina joined the regional Decade initiative soon after its inception in 2005. The program's objective is a reduction in the existing and unacceptable differences between the Roma and other members of society. By joining the Decade, the government of Bosnia and Herzegovina has committed to making a systemic and continued effort towards improving the position of the Roma in the country, and the complex position of the Roma from Kosovo requires a complex and comprehensive approach to its resolution, always in view of its multidimensional nature. In this respect, the Decade is an opportunity to make use of a number of initiatives.

- The Action Plan for the Educational Needs of Roma and Other Minority Groups recognized that Roma children from Kosovo are particularly vulnerable. At the same time, the European Commission, through the IPA in 2008 to support vulnerable groups (children and Roma), has supported the Roma Strategy in Bosnia and Herzegovina with a maximum budget of EUR 500,000. This is an opportunity that can be used in terms of creating an appropriate educational model for Roma children from Kosovo, including all the necessary support for their needs and further education.
- The European Commission, through the multibeneficiary program of the IPAs in 2008, 2009, and 2010 (in which Bosnia and Herzegovina has participated), has allocated a total of EUR 6 million for the following programs:
 - IPA 2008: “Social Inclusion: Regional Support to Marginalized Communities” implemented by UNHCR in Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Kosovo;
 - IPA 2008: “Regional Program for Refugee Return in the Western Balkans”;
 - IPA 2009: “Regional Program for Refugee Return and Provision of Durable Solutions for Refugees and Internally Displaced Persons in the Western Balkans” (could include Roma); and
 - IPA 2010: “Regional Initiative for Roma Integration” in Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Kosovo.

These considerable resources are opportunities for the Roma from Kosovo to find durable solutions, but they also create many obstacles because of the programs’ unclear criteria and lack of indicators for measuring the results of these programs targeting the Roma from Kosovo. This points to the fact that it is necessary to initiate discussions with the competent authorities and the delegation of the European Commission on the distribution of the resources targeting Roma from Kosovo.

- The Advisory Committee on the Framework Convention for the Protection of National Minorities notes with concern that persons having obtained a refugee status in Bosnia and Herzegovina, mostly Roma from Kosovo, face many difficulties in obtaining access to adequate housing and employment. In addition, the Advisory Committee was informed that it remains difficult for the many refugees who have purchased property to have their ownership legally registered. At the same time, the Advisory Committee notes that many Roma from Kosovo have failed in their attempts to obtain refugee status and continue to live in Bosnia and Herzegovina under a temporary admission scheme, in precarious conditions. A satisfactory response to the refugees’ needs in terms of access to rights, as well as to the asylumseekers with respect to their legal status, is still lacking. This may result in worsening socio-economic prospects, their further marginalization, and the increased intolerance of

society against them. This is an opportunity that should be used in further advocacy to call on the authorities of Bosnia and Herzegovina to take effective measures to guarantee improved access to fundamental rights for refugees and to continue seeking means of granting asylumseekers, in particular Roma from Kosovo, a clear legal status.

- According to the United Nations Development Assistance Framework 2010–2014 in Bosnia and Herzegovina,³⁴ Roma from Kosovo are in a particularly tough position due to their lack of personal documents and legal and institutional barriers to access employment, social service benefits, and education. This opportunity should be taken in order to discuss with all the relevant actors the possibilities, ideas, and concrete steps related to interventions in the areas of direct support and facilitating access to civil registration, documentation, legal assistance, representation before administrative and judicial bodies, as well as the identification and advocacy for systemic changes removing unnecessary barriers in the way of the effective and equal protection of the Roma community from Kosovo by the state.

4.5 RECOMMENDATIONS

- [1] The Ministry of the Interior and Ministry of Displaced Persons and Refugees should develop guidelines and standard operating procedures to identify, protect, and deal with irregular and illegal migrants, refugees, asylumseekers, and victims of human trafficking to ensure compliance with the international human rights standards.
- [2] The competent authorities of Bosnia and Herzegovina should urgently take effective measures so as to guarantee improved access to fundamental rights for refugees and to continue seeking means of granting asylumseekers, in particular, Roma from Kosovo, a clear legal status. Therefore, a precondition should be to ensure the effective implementation of the legal framework, aimed at resolving the status of the Roma from Kosovo and providing a real possibility for the effective use of targeted programs for local integration.
- [3] The competent authorities should take more resolute measures to solve the remaining cases of non-registration of births and the lack of personal identity documents among the Roma from Kosovo. Local authorities should be made more aware of the need to address these problems as a matter of urgency.

³⁴ Available online at: <http://www.un.ba/upload/publications/UNDAF%20BiH%202010%20-%202014%20ENG.pdf>

- [4] The long-term solution to the problem of the Roma from Kosovo in Bosnia and Herzegovina is to fully incorporate their issues in all the initiatives announced as part of the strategic documents for the improvement of the position of Roma. At the same time, initiatives and processes must include the involvement of the Roma from Kosovo in all processes pertaining to refugees and asylumseekers.
- [5] The competent authorities should ensure that the Roma from Kosovo are adequately informed of the existing opportunities to receive support.
- [6] The competent authorities should prepare a comprehensive program for interventions in the areas of direct support and facilitating access to civil registration, documentation, legal assistance, representation before administrative and judicial bodies, as well as the identification and advocacy for systemic changes removing unnecessary barriers in the way of the effective and equal protection of the Roma community from Kosovo by the state.
- [7] It is necessary to create and support programs for raising the awareness and developing the capacity of Kosovo Roma community representatives in various thematic trainings and seminars.
- [8] It is necessary to provide a mechanism for the participation of the representatives of the Roma from Kosovo in the framework of the Decade in all working bodies of government.

5. Conclusions

Scattered across South Eastern Europe, the Roma from Kosovo have been increasingly vulnerable to social exclusion because of their temporary and unresolved legal status as any resolution has seemed to slip away. For them, a sustainable solution demands a real choice between integrating into the environment where they arrived over a decade ago or providing the conditions for a sustainable return to the homes they left.

The policy focus for resolving the vulnerability of Roma from Kosovo should shift from humanitarian to development assistance. While the national governments and NGOs must play a key role in this next phase, the magnitude of the task may well be beyond the capabilities of the national actors presented in this report. Effectively addressing the vulnerability of the Roma from Kosovo in these countries may therefore require a broader framework of international support.

Therefore, the remaining five years of the Decade is an opportunity that should not exclude the Roma from Kosovo. The first step towards their inclusion could be the adoption of a decision by the International Steering Committee (ISC) of the Decade that would provide a regional political commitment that could mobilize the governments to approach these issues in a systematic manner. This decision should involve mechanisms that would guarantee: (1) the minimum allocation of funds for the Roma from Kosovo, (2) mechanisms for measuring the results of the programs implemented by the governments for the Roma from Kosovo in the framework of the Decade and beyond, and (3) mechanisms for the involvement of the representatives of the Roma from Kosovo in all relevant bodies.

At the same time, the European Union has a vital role in achieving, through the Process of Stabilization and Association, as its name suggests, the elimination of the consequences of the war, the peaceful resolution of contentious issues, and the establishment of long-term and sustainable stability in the region. As the problem of refugees and displaced persons was caused by forced migration during the Balkan wars, the

insistence on return or integration is important. Dealing with the aftermath of the Balkan wars' consequences and achieving sustainable stability in the region has been of primary importance for the European Union because of its geographical proximity and the fact that the effects of instability may "spill over" its borders, and thus influence the European Union itself. With regard to refugees and displaced persons for the European Union, it is important to prevent (or at least alleviate) the migratory pressure towards its member states.

Therefore, the above-mentioned mechanisms, national policies, and regional obligations among these countries, as well as the European Union's policy towards these countries need to be harmonized and respected when planning, implementing, and evaluating the programs for the Roma from Kosovo.

Of course, the ISC decision proposed above implies a number of difficulties. The characteristics of the Roma from Kosovo and the challenges they face differ sharply from country to country. Multiple political challenges are also apparent, as the development challenges faced by the displaced may be closely linked to specific ethnic tensions or to Kosovo's unresolved status. Numerous administrative issues would also need to be addressed (such as the situation with personal documents). Therefore, it is necessary to provide a harmonized and sustainable way to provide international support for national (and bilateral, when possible) efforts.

Finally, the decision suggested by the ISC may not be high on the European Union's political agenda. However, due to the states' aspirations and commitments to the Decade and their membership in the European Union, the European Union's policy on eliminating the consequences of the war and managing interethnic conflicts, as well as all the resources available for progress in this issue, are the reasons why such a decision is of crucial importance to all these actors, and particularly to the Roma from Kosovo. Making such a decision would be a huge step forward in tackling the issue of the Roma from Kosovo in these countries.

6. Appendix—Commitments of the European Union

6.1 REFUGEES AND INTERNALLY DISPLACED PERSONS IN THE STABILIZATION AND ASSOCIATION PROCESS

In order to support the peace, stability, and prosperity of the region, in 1996 the European Union developed its concept of a “regional approach.”³⁵ This new concept, aimed at “certain countries of South East Europe,”³⁶ had the immediate goal of supporting reconstruction and the elimination of the consequences of war. The central idea was to support the peace process and the gradual consolidation of peace. Long-term, the regional approach was supposed to help promote democracy, the market economy, and stability in the region. The guiding idea was that the European Union contributes to the region’s stability through good-neighborly relations.³⁷

The European Union Council prepared conclusions for the countries of the former Yugoslavia to address the issue of refugees and displaced persons as a key factor in the gradual consolidation of peace in the region. The Council stressed the importance of cooperation with UNHCR, and that the European Commission and member states

³⁵ Council Conclusions on former Yugoslavia, February 26, 1996, Bull. EU 1/2—1996 (1.4.108).

³⁶ The term is applied to the states for which the EU has not adopted the mandate for negotiations on the agreement on association and consisted of five countries—Albania, Bosnia and Herzegovina, the Federal Republic of Yugoslavia, Croatia, and Macedonia.

³⁷ The EU has seen its primary role in supporting the relations between countries in the region, while the development of bilateral relations between the EU and these countries was of secondary importance.

establish a common position on how to encourage the return of refugees and displaced persons, including the process of readmission, in a humane manner and in accordance with the principles established by UNHCR.³⁸ In this sense, the Council invited the European Commission to prepare reconstruction projects that would facilitate the return of refugees and displaced persons.³⁹

The regional approach did not lead to the desired results, clearly demonstrated by the Kosovo crisis of 1998 and 1999. The causes for this were diverse, both on the side of the countries in the region and on the side of the European Union countries concerned (in Serbia and Croatia authoritarian regimes were still in power, which slowed down the process of democratization, reconciliation, and cooperation in the region, war-torn Bosnia and Herzegovina was a dysfunctional country, and Macedonia and Albania were in political and economic crisis). The European Union did not offer a long-term perspective on European Union integration, thus creating in them a sense of being outsiders, and reducing the incentives to efficiently respond to the challenges that the European Union set.

By 1999 the European Union responded to the crisis in Kosovo and the evident weakness of the regional approach and developed the Stabilization and Association Process (SAP) as a new strategy for the region.⁴⁰ The Stabilization and Association Process replaced and further developed the regional approach: the new concept refers to the same countries (which are called the “Western Balkans”) and is based on the elements of the regional approach. The Stabilization and Association Process, as a new framework of relations between the concerned countries and the European Union, has three primary and interrelated objectives: a comprehensive reform of the state in question (through the construction of democracy, rule of law, market economy, and open society), the strengthening of reconciliation and regional cooperation, and finally, the establishment of bilateral relations between each of the countries and the European Union. This is why the Stabilization and Association Process is important, since this is a special type of contract for the fulfillment of certain conditions that the European Union offers to each country in the region, as well as the prospect of membership that the European Union has opened for the states.⁴¹

³⁸ Council Conclusions on former Yugoslavia, February 26, 1996, Bull. EU 1/2—1996 (1.4.108), point 4, §1.

³⁹ Ibid. Point 7, §1.

⁴⁰ Communication from the Commission to the Council and the European Parliament on the Stabilization and Association Process for Countries of South-Eastern Europe, COM (1999) 235, from May 26, 1999.

⁴¹ Membership perspective for the first time appears in June 2000 in the Conclusions of the European Council in Feira (point 67 of the Conclusions: “All the countries concerned are potential candidates for EU membership”).

To show their commitment to the Stabilization and Association Process, the leaders of the Western Balkan countries and the European Union met on two occasions: in 2000 at a summit in Zagreb and in 2003 at a summit in Thessaloniki. Both times, important political documents were adopted that contain the basic guidelines for the integration of the concerned countries into the European Union, and the issue of refugees and internally displaced persons.

A final declaration was adopted in November 24, 2000 at the Summit of the Heads of States and Governments of the Western Balkans and the European Union in Zagreb,⁴² where the question of refugees and displaced persons is mentioned in Point 2. It points out that the historical changes that took place little before the summit in 2000⁴³ opened the way for new relations in the region based on reconciliation and cooperation. Indicating the importance of the new circumstances for the policy of good neighborliness in the region, the document specifically states that such a policy should be based *inter alia* on a permanent solution to the situation of refugees and displaced persons. The same point in the document confirms that democracy, reconciliation, and regional cooperation, on the one hand, and approaching each of the respective countries with the European Union, on the other, consist of a single unit.⁴⁴

The documents adopted at the Thessaloniki summit in 2003⁴⁵ also touched on the issue of the return of refugees and displaced persons. Section 5, Point 2 of the Thessaloniki Declaration⁴⁶ stresses that the sustainable return of refugees and internally displaced persons is crucial for ethnic reconciliation and directs the democratic development indicator. The Thessaloniki agenda,⁴⁷ in Section 1, Point 5 pertaining to further consolidating peace and promoting stability and democracy, suggests that the European Union supports activities and initiatives in the Western Balkan countries that encourage the return of refugees and internally displaced persons (other than that specified is the support for measures to promote social cohesion, ethnic and religious tolerance, multiculturalism,

⁴² The document is available online: http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/zagreb_summit_en.htm.

⁴³ The creators of this document had in mind the collapse of the authoritarian regimes in Croatia and Serbia that took place in 2000.

⁴⁴ Point 2, Paragraph 4 of the Zagreb Final Declaration.

⁴⁵ Summit of Heads of States and Governments of the Western Balkans and the EU held in Thessaloniki on June 21, 2003.

⁴⁶ The Thessaloniki Declaration was adopted by June 21, 2003 (10229/03, press 163). Available online: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/gena/76201.pdf.

⁴⁷ The document was created on June 16, 2003 as an annex to the conclusions of the Council for General Affairs and External Relations, (10369/03, press 166). Document is available online: http://ec.europa.eu/enlargement/press_corner/key-documents/sap_en.htm.

and anti-nationalism). This paragraph states that the European Union encourages the further return of refugees and internally displaced persons and fully supports regional activities. The European Union Council in the same place called for the states of the region to pass anti-discrimination laws to ensure fair and proportional representation of minorities in employment, especially in public institutions, to provide adequate security conditions, non-discriminatory education and other basic social services, to eliminate the still existing obstacles to the return, which are most often related to the return of the ownership of tenancy rights. In the end it was pointed out that the real focus is to be found in monitoring the initiatives undertaken by the countries in the region for the return and reintegration of refugees and the displaced.

The central instruments of the Stabilization and Association Process are the Stabilization and Association Agreements. These are special European Union contracts concluded with each of the countries of the Western Balkans, whose implementation should lead to the full integration of the countries into the European Union. These agreements have established a political, economic, legal, and a strong regional dimension.⁴⁸ The issue of refugees and internally displaced persons is explicitly recognized in them.

6.2 THE CHALLENGES OF THE EUROPEAN UNION IN RESOLVING THE ISSUE OF REFUGEES AND INTERNALLY DISPLACED PERSONS

The Stabilization and Association Process is aimed at achieving different goals. The European Union wants to encourage and support the stabilization of the region with a comprehensive reform in the Western Balkans to reach the standards of democratic legal states with stable market economies and open societies, and the cooperation of the countries in the region. Thus, the full integration of the (member) states of the Western Balkans into the European Union is the ultimate aim. Solving the problems of refugees and internally displaced persons contributes to the achievement of each of these goals, and represents an important indicator of states' progress in achieving those objectives.

As the problem of refugees and displaced persons was caused by war and subsequent forced migration, the insistence on return or integration is important. Therefore, the

⁴⁸ The regional dimension of the agreement is a response to the crisis in the region and aims to contribute to reconciliation, peace, and stability in the region. The provisions relating to regional cooperation do not produce a direct relationship between the rights of the parties because the states undertake cooperation with other countries in the region, while the European Union is committed to supporting such collaboration. The importance of the regional dimensions of this agreement confirms the European Union's commitment to the implementation of the agreement, specifically assessed in terms of achieving regional cooperation.

return of refugees should be viewed in the context of the normalization of relations between the formerly warring parties. At the same time, the realization of the right to return may indicate a relaxation of the tensions in the region.

Solving the problems of refugees and displaced persons is also important from the aspect of political and economic reforms in the countries of the Western Balkans. Permanent integration in their new environments raises the issue of openness and tolerance of societies, and even local Roma communities may exclude the refugee population to a lesser or greater degree. For example, the issue of refugees and displaced persons has economic significance. We cannot ignore that the problem of refugees affects economic development and further increases poverty. Research shows that refugees and internally displaced persons (especially the Roma and people with disabilities) are among the segments of the population at the greatest risk of poverty. In addition, the process of returning depends to a great extent on the achievement of certain economic conditions—the lack of chances to work or an unfavorable business environment works against a commitment to return and thus hinders this process.

Resolving the status of refugees (especially through exercising the right of return) is a regional problem, which requires “par excellence” because it needs the joint involvement and cooperation of the states in the region. Therefore, this issue is of great importance to regional cooperation, and part of the Stabilization and Association Process that the European Union pays a lot of attention to. However, the quality of relations between the countries concerning the problem of refugees and displaced persons can either complicate the development of good-neighborly relations or constitute a good basis for coping with the past, the peaceful resolution of disputes, and the realization of cooperation in others’ hands.

6.3 EUROPEAN UNION INSTRUMENTS TO INFLUENCE RESOLVING THE STATUS OF REFUGEES AND INTERNALLY DISPLACED PERSONS IN THE WESTERN BALKANS

The strength of the European Union’s influence on the Western Balkan countries comes from the perspective of the prospects of European Union membership offered to them. Based on this perspective of membership, the European Union’s engagement in the reform processes in the Western Balkan countries is beyond the realm of mere foreign policy. The European Union is focusing heavily on the achievement of European standards in the respective countries for membership in the European Union. The European Union directs the reform process in the region through two main instruments: through the binding of progress to the fulfillment of certain conditions and through financial and technical assistance.

6.4 POLICY CONDITIONALITY

The European Union's policy toward third countries is based on policy conditionality. The European Union links support and aid, as well as improving relations with the Balkan states, to fulfilling a certain set of conditions. The accession of the Western Balkans (with full membership as the ultimate goal) is conditioned by the process. The European Council's conclusions at the Thessaloniki summit confirmed that the Western Balkan countries will become an integral part of the European Union as soon as they meet the set conditions. The European Union sets the conditions for the countries of the Western Balkans based on the conditions that were formulated in 1997 by the EU Council on the progress in the implementation of the Stabilization and Association Agreement, especially in the area of regional cooperation, as well as in the general conditions of European Union membership, which include the Agreement on the EU and the conclusions of the EU Council in Copenhagen in 1993 (the so-called Copenhagen criteria).

The EU Council in April 1997 adopted conclusions on the implementation of policy conditionality in the development of relations between the European Union and certain countries of South Eastern Europe, later called the Western Balkans. This document contained a list of ten conditions that each of these had to comply with as it began negotiations on the establishment of contractual relations. These conditions are mainly political in character and can be basically classified into three groups. The first group contains conditions related to postwar problems, the group relates to generally accepted democratic standards, including respect for human rights, and the third group contains conditions relating to the establishment of good-neighborly relations in the region. The Annex to the document contains a list of indicators based on which the European Union would appreciate meeting the set conditions. The issue of refugees and internally displaced persons occurs in two places in the document.

First, the Council of Europe states the obligations of states to refugees and internally displaced persons to truly offer a real opportunity to return to their homes and that the holders of public authorities should neither harass refugees and IDPs nor tolerate the harassment of those persons. Second, the question of refugees and internally displaced persons occurs among the indicators for the fulfillment of the conditions. The Council of Europe stresses the adequate protection of refugees and internally displaced persons who return to areas where they represent an ethnic minority.

Although the Stabilization and Association Agreement regarding the issues of refugees and internally displaced persons does not appear explicitly as an obligation of the state, or among the criteria for membership, the European Union assesses the fulfillment of the conditions on the side of the states of the Western Balkans and examines this issue. The treatment of refugees and internally displaced persons is examined as part of the political criteria (and human and minority rights) and the aspect of regional cooperation. One example of this is the so-called European Partnership.

The European Union introduced the Institute of European Partnership Thessaloniki Summit, as a special instrument for the accession of the states of the Western Balkans. The essence of the European Partnership defines concrete measures that the states should take in order to be closer to European Union accession. The priorities are determined by the European Commission and the Council and are formally confirmed by a decree.

The priorities of the European Partnerships are not specific requirements but concrete conditions related to the Stabilization and Association Process for European Union membership. They serve as a measure on the basis of which they can assess the ability of each of the countries concerning to meeting the above criteria.

6.5 RECENT EUROPEAN UNION INITIATIVES TARGETING ROMA⁴⁹

Serbia

- Instrument for Pre-Accession Assistance (IPA) 2007: “Human Rights and Protection of Minorities” (Total budget/EC contribution: EUR 1.5 million); includes support to the Roma Office in the Ministry of Human and Minority Rights.
- IPA 2007: “Support to Refugees and IDPs” (Total budget/EC contribution: EUR 10 million); could include Roma.
- IPA 2008: “Support to Refugees and Internally Displaced Persons (IDPs)” (EC contribution: EUR 6 million); includes Roma.
- IPA 2008: “Education for All—Increasing the Availability and Quality of Education for Children from Marginalized Groups” (Total budget/EC contribution: EUR 3 million); targets predominantly Roma.
- IPA 2008: “Social Inclusion” (EC contribution: EUR 5.5 million); refers directly to Roma.
- IPA 2008: “Systemic Development of Elementary, Practice Based Adult Education in Serbia (Second Chance)” (Total budget: EUR 7.5 million; EC contribution EUR 4.5 million); targets predominantly Roma.

Montenegro

- IPA 2008: “Labor Market Reform and Workforce Development” (Total budget/EC contribution: EUR 1.8 million); could include Roma.
- IPA 2008: “Durable Solutions for Refugees and Displaced Person in Montenegro” (Total budget/EC contribution: EUR 1.5 million); includes “outreach measures” for Roma, Ashkali, and Egyptians.

⁴⁹ *Pathways to Progress: The European Union and Roma Inclusion in Western Balkans*, OSF—Roma Initiatives, 2010.

Macedonia

- IPA 2008: “Democracy and Fundamental Rights” (Total budget: EUR 2.4 million), contains support for the unit implementing the Roma strategy as the “Support to Implementation of the Roma Strategy” (Proposed budget EUR 600,000).
- Operational Programme 2007–2013: South East Europe: Two measures target the Roma, with EC contributions of EUR 1.2 million and EUR 1.7 million, respectively.

Bosnia and Herzegovina

- IPA 2007: “Labor and Economic Development: Improving Active Labor Markets in Bosnia and Herzegovina” (EC contribution: EUR 1.2 million); could include Roma.
- IPA 2008: “Support for Vulnerable Groups (Children and Roma) in Bosnia and Herzegovina” includes the Roma-relevant component “Support to Bosnia and Herzegovina Roma Strategy” (Maximum budget: EUR 500,000).

Multibeneficiary

- IPA 2008: “Social Inclusion: Regional Support to Marginalized Communities” (Total budget: EUR 1.25 million/EC contribution: EUR 1 million); implemented by the UNHCR in Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Kosovo.
- IPA 2008: “Regional Program for Refugee Return in the Western Balkans” (Total budget/EC contribution: EUR 1 million); could include Roma.
- IPA 2009: “Regional Program for Refugee Return and Provision of Durable Solutions for Refugees and Internally Displaced Persons in the Western Balkans” (Total budget: EUR 1.25 million/EC contribution: EUR 1.0 million); could include Roma.
- IPA 2010: “Regional Initiative for Roma Integration”, in Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Kosovo (Total budget: EUR 3.3 million/EC contribution: EUR 3 million).

In 1999, more than 100,000 Roma were forced to leave Kosovo and seek refuge in other Balkan countries or in Western Europe. Their displacement was an underreported human tragedy.

By joining the Decade of Roma Inclusion, the governments of Serbia, Montenegro, Macedonia, and Bosnia and Herzegovina assumed the obligation to work toward improving the situation of their Roma communities. Although many Roma from Kosovo live in these countries, their needs are not reflected in programs conducted under the Decade.

Leaving these people to solve their own problems neglects the moral responsibility of the societies in which they arrived and of the one from which they fled. Eleven years after their expulsion, the Roma from Kosovo have little hope that they can escape their miserable living conditions, and integrating into new communities seems nearly as impossible as returning home.



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