



P R A X I S



ACCESS TO RIGHTS AND INTEGRATION OF RETURNEES ON THE BASIS OF THE READMISSION AGREEMENTS

Analysis of the main problems and obstacles

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Praxis is a national non-governmental organisation, which aims to protect, improve and promote human rights of refugees, internally displaced persons (IDPs), returnees on the basis of the readmission agreements from Western Europe and members of minorities (Roma, Ashkali and Egyptian). It was established in June 2004, as a continuation of the Norwegian Refugee Council's (NRC) Civil Rights Project, which NRC conducted in Serbia since 1997.

Praxis continued to lobby for the rights of the target groups through legal remedies and advocacy for promotion of values of civil society and raising awareness of the public about the problems its target group faced. Simultaneously with work on individual cases, Praxis conducts advocacy activities towards removal of administrative and systemic obstacles that prevent the target groups from enjoying their human rights.

www.praxis.org.rs

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The views presented in this report are exclusively those of the author and do not necessarily present official standpoints of the Swedish Migration Board.

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INTRODUCTION

The gravest problems that the returnee population is facing appear in the areas identified as a priority also in the 2009 Strategy for the Reintegration of Returnees on the basis of the Readmission Agreements. These are: access to personal documents and registration of permanent and temporary residence, education, employment, health care and social protection, and housing.

In addition to the returnees on the basis of the readmission agreements, there are other categories of population in Serbia such as the displaced persons and the members of Roma ethnic minority who are in an extremely difficult situation and whose successful social inclusion depends on removal of obstacles in the aforementioned areas.

Bearing in mind that Roma constitute the majority of the returnee population, Praxis launched a Swedish Migration Board – funded project *Contribution to Sustainability of Return of Roma from Sweden and Other Countries in Europe to Serbia* in September 2010. The aim of the project was to raise awareness and empower returnees on the basis of the readmission agreements, voluntary returnees and the general Roma population in Serbia to access their rights, protect them and to fully involve themselves in the Serbian society. At the same time, the aim of the project was to inform the relevant stakeholders at the national and local level about the problems the above mentioned groups faced, and to encourage them to cooperate in facilitating the access of all these groups to their fundamental rights.

To this effect, Praxis convened meetings with the representatives of local authorities, service providers and representatives of the Roma community on the territory of ten municipalities¹ throughout Serbia. Within this and also its other projects, Praxis visited a total of 120 Roma settlements, where it organised informative and training sessions for more than 3,200 participants, returnees and other members of the Roma

¹ Zrenjanin, Vrsac, Palilula, Novi Beograd, Pozarevac, Kragujevac, Kraljevo, Novi Pazar, Vranje, Bujanovac

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population with a view to raising awareness and building their capacity to access the basic social and economic rights and combat discrimination. These sessions also served to inform the Roma population about the rights and obligations arising from the visa-free regime and impossibility of being granted asylum for economic reasons.

In addition, Praxis provided free legal aid, counselling and information about access to personal documents, registration into registry books in Serbia, registration of permanent and temporary residence and access to the basic social and economic rights (right to education, employment, accommodation, health care, social protection etc.) to more than 224 returnees. The majority of persons assisted in this way have been returned from Norway, Germany and Sweden.

Praxis also participated in the meetings of the Team for Monitoring the Implementation of the Strategy for Reintegration of Returnees on the basis of the Readmission Agreements, highlighting problems identified in working with returnees, and providing recommendations for their removal.

After the completion of the project, Praxis organised a roundtable entitled *Access to Rights and Integration of the Returnee Population into the Society* in Belgrade. The aim of the roundtable was to gather the relevant stakeholders dealing with integration of returnees on the basis of the readmission agreements at the local and national level, and to facilitate discussion and exchange of information and experiences. In order to contribute to integration and social inclusion of the returnee population on equal terms, the participants of the roundtable agreed on the guidelines for the future work in facilitating their access to the basic rights.

The objective of this publication is to present the problems, which the returnees and the Roma population in general in Serbia are facing, through practical examples, to review the possibilities that the existing legal system and the system of social network offer in resolving them and to consider the consequences that the neglect of these problems may have on exercise of the basic rights of returnees and their successful social inclusion. The publication will also propose guidelines for future acting in integration of returnees, resulting from the work of Praxis with this population and from cooperation with the representatives of state institutions at national and local level and non-governmental organisations working with returnees and members of the Roma community.

ROMA IN THE PROCESS OF READMISSION

As far back as in 2003, the Council of Europe stressed that, according to the estimates, 50,000 to 100,000 Roma from Serbia and Montenegro including Kosovo, were still living in various European states without permanently legalised status.² According to the 2010 Report of the Commissariat for Refugees of the Republic of Serbia and the Office for Readmission, of 1,164 persons were returned through the Belgrade “Nikola Tesla” Airport that year, 632 were Roma. The reports of the Office for Readmission for the first six months of 2011 also indicate that Roma continue to represent the majority of returnee population.³

The Strategy for the Reintegration of Returnees on the basis of the Readmission Agreement identified persons of Roma ethnicity as a “group exposed to the special risk in the process of return”. On the other hand, the Strategy for Improvement of the Status of Roma in the Republic of Serbia also identified returnees under readmission agreements as a particularly vulnerable category among the Roma community requiring special attention in the process of developing measures for improvement of the overall situation of Roma. Both of the above stated documents indicate that the position of Roma returnees cannot be observed without comprehending the position of the entire Roma population in Serbia.

According to the 2002 Civic Census, there are some 108,193 persons of Roma ethnicity in Serbia. The estimated figures are much higher and range between 250,000 and 500,000.⁴ The absence of accurate statistics may be ascribed to the frequent migrations

² Recommendation No. 1633 of the Council of Europe on the issue of forced returns of Roma from former FRY, including Kosovo and Metohija, to Serbia and Montenegro from the Council of Europe Member States

³ Of 81 returnees in January 2011, 59 were Roma. Of 128 returnees in March 2011, 104 were Roma. Of 92 returnees in June 2011, 74 were Roma.

⁴ Strategy for Improvement of the Status of Roma in the Republic of Serbia

of Roma, but also to the fact that some of them have not been registered in the birth registry book, have no registered permanent residence and do not possess ID cards. The new civic census, planned for the first half of 2011, was postponed for the end of the year. The number of Roma is expected to be more accurate after this census.

It is exactly because of the everyday problems they face that Roma most often decide to leave the country. Poverty, high unemployment rate, low level of education, lack of housing, inadequate health care and social protection, lack of personal documents, discriminatory proceeding by the State and the majority population create an environment not conducive to enjoyment of fundamental human rights. It is in such an environment that the returnees - particularly those who have spent several years in the Western European countries and got used to a high quality life and enjoyment of fundamental human rights - are unable to find their way and to integrate into the society quickly and efficiently. Secondary migrations are also a frequent consequence of this.

LEGAL AND INSTITUTIONAL FRAMEWORK FOR INTEGRATION OF RETURNEES

Serbia signed the Agreement on the Readmission of Persons Residing without Authorisation with the European Community in 2007 and committed itself to reception of its nationals and of third country nationals who resided on the territory of the European Community, and who do not fulfil or who no longer fulfil conditions for residence on the territory of the European Community. In addition to this Agreement, Serbia also signed bilateral readmission agreements with numerous states.⁵

There is no single legally binding act regulating the status of returnees in Serbia. The Agreement with the European Community and the bilateral agreements are the only legally binding documents relating to returnees.

In its 2003 Recommendation on the Issue of Forced Returns of Roma from the Former Federal Republic of Yugoslavia, the Council of Europe expressed concern for the situation which Roma returned from the countries they had lived in for years were faced with upon being returned to Serbia. Of the numerous recommendations made by the Council of Europe to Serbia, the following are the most relevant: to give particular attention to Roma, who constitute the poorest category in the vulnerable groups in the forthcoming governmental Poverty Reduction; to urgently identify legally binding measures with an aim of preventing statelessness (situation of persons without citizenship) of Roma returnees, and in particular to ensure that the local authorities carry out the procedures required for issuance of personal documents; to facilitate access to public services relevant to exercise fundamental human rights; to speed up and facilitate the provision of school attendance certificates for children educated abroad; to ensure catch-up classes of the Serbian language for returnee children; to ensure that no ethnic segregation arises in the provision of schooling for returnee children.

⁵ Germany, Sweden, Denmark, Italy, Belgium, The Netherlands, Luxembourg, Austria, Slovakia, Bulgaria, France, Hungary, Slovenia, Croatia, Bosnia and Herzegovina, Switzerland, Canada, Norway and Romania

The first steps in the process of returnee integration were made in February 2009 when the Strategy for Integration of Returnees on the basis of the Readmission Agreements was adopted. The Strategy invokes international standards set in numerous human rights instruments ratified by Serbia such as the International Covenant on Economic, Social and Cultural Rights, International Convention on Elimination of All Forms of Racial Discrimination, Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms as bases for proposal of measures contained therein. Furthermore, the Strategy provides for establishment of an institutional framework for reintegration of returnees, creation of conditions for their primary reception and capacity building of local communities for their reintegration into society.

The Strategy identified the key institutions in the process of returnee reintegration: Council for Integration of Returnees on the basis of the Readmission Agreements, being an expert and advisory body of the Government; the Strategy Implementation Monitoring Team, being a coordinating body in charge of implementation of the strategic objectives and the Commissariat for Refugees of the Republic of Serbia. The Commissariat is in charge of implementing numerous activities, the most important being: coordination and organisation of primary reception and urgent care and accommodation of returnees; informing of returnees about the readmission process, their rights, opportunities and obligations; support to local authorities and cooperation with the competent institutions, all with a view to successful integration of returnees. The Commissariat for Refugees and the then Ministry for Human and Minority Rights became operational in the Office for Readmission at the Belgrade "Nikola Tesla" Airport in June 2009.

The Strategy also provided for the obligation of the Commissariat for Refugees to develop, in cooperation with local governments, local action plans for integration of returnees on the basis of the readmission agreements. These local action plans have not been developed to date. Only a few municipalities (e.g. Pozarevac, Kosovska Kamenica) mention the category of returnees on the basis of the readmission agreements in their action plans for improvement of the situation of refugees and internally displaced persons and even then in one single sentence only and in the context of problems that this population, together with the refugees and the internally displaced, faces in obtaining personal documents, resolving their status, housing and employment-related problems. The Commissariat for Refugees and the International Organization for Migration are currently preparing a revision of local action plans so that they include the activities and measures to be taken with respect

to integration of returnees on the basis of the readmission agreements.⁶

In April 2009, the Government of the Republic of Serbia adopted an Action Plan for Implementation of the Strategy for the Reintegration of Returnees on the basis of the Readmission Agreements 2009-2010. The strongest evidence that the measures and activities provided therein have not yet been fully and adequately implemented is the fact that the Action Plan for the Implementation of the Strategy for Reintegration of Returnees on the basis of the Readmission Agreements 2011-2012 contains almost identical measures and activities. Some of the key measures include: inclusion of returnees into the procedures for obtaining personal documents and ensuring access to social welfare, child and health care, and education-related rights; disbursement of financial aid for transportation and travel to the place of permanent/temporary residence; putting in place conditions for inclusion of returnees into the housing care programmes, social housing and alternative forms of housing care such as purchase of abandoned houses; securing funds for urgent immediate cash assistance for the most vulnerable returnees, etc. The Council for Integration of Returnees on the basis of the Readmission Agreements sent a 2011-2012 Draft Action Plan to the Government for adoption in June 2011.

In addition to the above mentioned Strategy, other strategic documents such as the Migrations Management Strategy, Strategy for Combating Illegal Migrations 2009-2014, Strategy for Improvement of the Status of Roma in the Republic of Serbia and the National Employment Strategy 2011-2020 also identify returnees under readmission as a specific category.

⁶ Information obtained at a meeting with the representatives of the Commissariat for Refugees of the Republic of Serbia and International Organization for Migrations, Belgrade, 20 June 2011

OBSTACLES IN EXERCISE OF RIGHTS OF RETURNEES IN SERBIA

The priority areas calling for the appropriate measures towards integration of returnees as identified in the Strategy for the Reintegration of Returnees on the basis of the Readmission Agreements are: access to personal documents, employment, education, social protection, health care and housing policy. The Strategy for Improvement of the Status of Roma in the Republic of Serbia also deals with the afore-mentioned areas considering them essential for the improvement of the position of Roma and reduction of unacceptable differences between the Roma and the rest of the population.

Access to personal documents

Possession of personal documents is the *conditio sine qua non* for enjoyment of all other rights. Among these documents, the emphasis is on birth, marriage and death certificates, and the citizenship certificate, as the documents establishing the legal status of individuals. These documents constitute the basis for issuance of all other personal documents – such as ID cards, travel documents, health booklets, etc.

The first document that the returnees on the basis of the readmission agreements should have is a travel document. The Agreement signed between the Republic of Serbia and the European Community on the Readmission of Persons Residing without Authorisation provides that the travel document be issued with the validity of at least three months. To date, Praxis has not identified a single returnee that was issued a travel document with a longer validity.

For the duration of its validity, and in absence of any other personal document, a travel document represents an effective public document and also the main identification document. It is used in procedures before the state bodies and enables provision of urgent medical assistance, contact with social welfare centres and enrolment of children in schools. After the expiry of the travel document and in order to continue

exercising their rights, the returnees must have ID cards. In order to obtain an ID card, one must submit a birth certificate and a citizenship certificate, but also to have his/her permanent residence registered.

The problems may emerge with returnees who are displaced persons from Kosovo and who obtain certificates and citizenship certificates from the registry books dislocated from Kosovo to various locations in Central and South Serbia. Often, these persons need to travel across the country in order to get their documents thus incurring enormous costs. Also, the returnees, who spent many years in Western Europe, are often ignorant of which registry books they were registered in, how and which authorities they need to contact in order to obtain their documents.

An additional complication may occur in a situation when the registry books have been destroyed or gone missing during the conflict in Kosovo, when the procedures of re-registration of the fact of birth, marriage or citizenship into registry books or of determination of citizenship status need to be initiated. The lack of necessary documents, inconsistent appraisal of legal validity of evidence, avoidance of the competent authorities to collect evidence *ex officio*, impede and almost render impossible successful completion of the above mentioned procedures.

The problem emerges also if the data in birth and citizenship certificates are entered in parallel, according to the rules of both the Serbian and the Albanian languages and orthographies. Competent police department refuses to accept these documents accompanying requests for issuance of ID cards explaining that their system does not support a bilingual entry of data and that they cannot issue ID cards with these data. The Law on Identity Card provides that data on the surname and name of an applicant be entered into an ID card in their original form as entered in the birth registry book, but technical capacities allowing these may be entered in Latin script in addition to Cyrillic at the request of the applicant. Clearly, the police departments cannot refuse to receive documents with bilingual entries, but just enter the data in accordance with the rules of the Serbian language and orthography only.

In order for the returnees born abroad to be able to exercise their rights in Serbia, they must get registered in the birth registry book of the Republic of Serbia. To do this, they need to have birth certificates of a foreign authority issued on adequate forms. These forms will be international or national forms of the country in question verified by apostille. In case the certificate is neither issued on the international form nor verified by apostille, it must be first verified in a diplomatic or consular representation of the

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state it was issued in and then supra-verified in the Ministry of Foreign Affairs of the Republic of Serbia. These procedures completed, the document must be translated into Serbian by the sworn-to-court interpreter.

The situation of returnees is further complicated if they do not possess foreign birth certificates or if they are issued on inadequate forms. In such cases, the certificates must be obtained through the Ministry of Foreign Affairs of the Republic of Serbia or a diplomatic/consular representation of the country in question. These authorities charge administrative fees for issuance of documents which, depending on the type of document and the country which it is obtained from, range between EUR 30–40. Also, additional costs may arise when a translation by sworn-to-court interpreters is needed. Their services are extremely expensive and may amount to EUR 60 depending on the language of the original.

There are cases when data on a child or parents in foreign birth certificates are incomplete or incorrect, and an adequate administrative or court procedure before the foreign authorities needs to be conducted in order to resolve this problem.

B. R. was born in Berlin, Germany. When he was six, he and his mother were returned to Serbia. The mother contacted Praxis for help with registration of B. R. into birth registry book in Serbia. As the mother did not have a birth certificate of B. R. from Germany, Praxis first submitted a request for issuance of this document *via* Ministry of Foreign Affairs of the Republic of Serbia. Soon thereafter, the Ministry informed Praxis that the competent registry office in Berlin was unable to issue the requested document because the mother of B. R. did not have necessary documents at the time of registration of the fact of birth and the data in the birth registry book thus remained incomplete. In order to enter all the necessary data subsequently, the procedure was needed before the Municipal Court in Berlin. The employees of the Consular Section of the Embassy of the Republic of Serbia in Berlin sent Praxis the request form for initiation of the said procedure, which Praxis filled in and had it translated into German. The mother signed the request which Praxis then addressed to the competent court in Berlin.

After several interventions made by Praxis to the Embassy of Serbia in Berlin, Praxis was informed that the procedure before the court had been completed successfully. Having obtained the birth certificate from Berlin, Praxis taught the mother how to initiate the procedure of registration of the fact of birth of B. R. into birth registry book before the competent authorities in Serbia. Finally, seven months after the initiation

of the procedure in Germany, B. R. managed to obtain the birth certificate and the citizenship certificate of the Republic of Serbia.

S. D. was born in Debrecen, Hungary, in 2009 only a few months after her parents had left Serbia and applied for asylum in Hungary. Since their asylum application was rejected, they opted for voluntary return to Serbia with an 8-month old infant. The mother of S.D. contacted Praxis for help in the procedure of registration of the fact of birth of the girl in birth registry book in Serbia in February 2011. The mother does not possess a single document for S. D.

Praxis contacted the Ministry of Foreign Affairs of the Republic of Serbia asking for issuance of a birth certificate from Hungary. The Ministry of Foreign Affairs soon sent Praxis a letter of the Registry Office in Debrecen translated into Serbian explaining that the record of the fact of birth of S. D. had been made on the basis of data from the residence permit of the mother, issued for humanitarian reasons. In order for the accurate data to be entered into the birth registry book, the Registry Office contacted the manager of the Reception Centre of the Office for Immigration and Nationality of the Ministry of Interior of Hungary in Debrecen, where the mother had lived. However, the manager informed this Office that the mother had left the Centre and that her data had been erased from the files. Consequently, the Registry Office of Debrecen had conducted registration into birth registry book with incomplete data, i.e. without data about the father and the marital status of the mother.

As the Registry Office of Debrecen concluded from the Praxis' letter that the mother had a different surname which it considered to be the married surname, it requested Praxis to forward the birth certificate for the mother and the marriage certificate for the parents, as well as the citizenship certificate of the mother translated into Hungarian by a sworn-to-court interpreter, in order to correct data in the birth registry book. The Registry Office promised to send the birth certificate after the said correction.

Praxis obtained the birth certificate and the citizenship certificate of the mother of S. D, had them translated by a sworn-to-court interpreter and forwarded these to the Serbian Ministry of Foreign Affairs explaining that the mother of S. D. had never married and that the surname she had given at the child's birth was the surname of her common law husband, the biological father of S. D. who had not acknowledged paternity as yet. Six months have elapsed since the initiation of the procedure, and Praxis is still waiting for the reply of the Registry Office in Debrecen.

As illustrated by the presented cases, all the above procedures last long and imply costs that the returnees are unable to afford most often. Frequently, and despite timely engagement in resolution of their problems, returnees fail to obtain the necessary documentation prior to expiration of validity of travel documents. This complicates, even precludes their social integration from the very beginning. On the other hand, and due to lack of personal documents, such returnees are at a constant risk of detention. The above stated cases clearly suggest the need of the State to extend the unjustly short validity of travel documents.

Registration of permanent and temporary residence

In addition to holding personal documents, and in order for a person to exercise his/her rights on the territory of a municipality, he/she needs to have a permanent/temporary residence registered on the territory of this municipality. Registration of permanent residence is also a prerequisite for obtaining an ID card. The documents required for registration of permanent/temporary residence are an ID card, evidence on the legal basis of use of the housing unit at the address registered by the applicant (sales contract, contract on gift of a housing unit, legally effective decision on inheritance, contract on use of a housing unit, ownership certificate, decision on the number of a house) and the ID card, or a written statement of the owner of the real estate that he/she agrees on the applicant being registered at his/her address.

The returnees who settle in housing without an address such as unofficial collective centres or informal Roma settlements are unable to register permanent/temporary residence. Even the returnees who rent real estates often do not hold the documents on the legal basis of residence because the owners of real estates refuse to register them as lessees. In all the above given situations, the Law on Permanent and Temporary Residence of Citizens does not provide for the way in which this registration of permanent/temporary residence may be made.

Registration of permanent residence has become particularly difficult, even impossible, when in September 2009, the Government of Serbia adopted the Regulation on the Procedure of Establishment of Fulfilment of Set Conditions for Issuance of Passports to the Persons from Autonomous Province of Kosovo and Metohija. This Regulation primarily governs the procedure of issuance of passports to persons who are nationals of Serbia and have permanent residence in Kosovo, but not a temporary residence registered in Serbia.

The Regulation provides also for security checks and other pertinent controls of registration and deregistration of permanent/temporary residence and registration of address of units of the said persons, not specifying the nature of checks. In practice, police officers conduct field controls of addresses of residence in order to establish whether applicants indeed live at the addresses stated. In addition to the field checks, the police officers now require these persons to have the reason for registration of permanent residence in Serbia, i.e. they may ask them for registration for reasons of education, employment, family reunion, etc. and to give a statement on the adequate reason. Interestingly, by proceeding in this way, Serbia has actually started treating its nationals with permanent residence registered in Kosovo as foreigners. Namely, the above stated reasons for registration of permanent residence are stipulated only by the Law on Foreigners as the reasons required for registration of temporary residence of foreigners.

If at the time of the field check, police officers fail to find an applicant at the address stated or assess the building at the given address to be unsuitable for housing or the reasons stated for registration of permanent residence not to be justified, the competent police department will refuse to register permanent residence, often with no explanation, save for a simple assertion that an applicant does not intend to live at the address provided in the application.

This practice is not based on the current Law on Permanent and Temporary Residence of Citizens, and is, therefore, illegal, unconstitutional and in contravention of the internationally recognized standards. The Constitution of the Republic of Serbia guarantees all its citizens the right to free movement and taking up residence in Serbia, or leaving it and returning to it. Limitations of the freedom of movement may be imposed only by law, but not by by-laws.

In principle, although the described practice refers only to the registration of permanent residence, Praxis notes also the cases of such proceeding of police departments upon requests for registration of temporary residence.

G. S. returned from Norway into Serbia after two years with his common law wife and a child. The family settled with relatives in Kraljevo. G. S. is an internally displaced person from Kosovo with a permanent residence registered in Kosovo. He has never registered temporary residence in Serbia, nor held the status of an internally displaced person.

Praxis obtained the birth certificate and the citizenship certificate for G. S. and counselled him on how to obtain an ID card. Since G. S. holds a valid travel document serving as a temporary replacement for an ID card, Praxis also counselled him to register temporary residence in Kraljevo, so as to be able to apply for an ID card to the Police Department in Kraljevo at the same time. Failing that, G. S. would need to apply as per place of his permanent residence in the Police Department in Pristina, dislocated in Niska Banja, and consequently incur additional travel costs.

G. S. contacted the Police Department in Kraljevo requesting to register permanent residence. However, police officers refused to accept his request explaining that the registration of temporary residence of persons from Kosovo had been discontinued by an order of the Ministry of Interior. On the advice of Praxis, G. S. contacted the head of Police Department in Kraljevo, insisting that the police department accept his request and pass a decision on rejection, in case they deemed it unfounded, so as to be able to lodge a complaint. Following the meeting, the Police Department took in his application and registered temporary residence.

Education

Being a signatory of numerous international and regional instruments and the participant of the initiative *Decade of Roma Inclusion 2005–2015*, Serbia committed to taking appropriate measures towards the improvement of the system of education in general, and especially the quality of education of Roma children, decreasing the number of Roma children referred to schools for children with special needs, providing social and economic support to Roma families and pedagogical support to children in regular education, strengthening the role of teachers, psychological and pedagogical services, inspection monitoring and combating discrimination in education.

Aiming to increase accessibility of primary education of each child in the Republic of Serbia and to create conditions for quality education in line with the needs and capacities of a child, the Law on the Foundations of the Education System provides for the possibility of enrolment of children, particularly those coming from vulnerable social groups and not fully documented. Consequently, the children who do not have birth certificates or registered permanent or temporary residence on the territory of the municipality where a school is located may enrol in that school.

Nevertheless, primary schools choose not to observe the Law sometimes.

A seven-year old R. B. is a returnee from Germany. Being old enough to attend the first grade of primary school, his mother tried to enrol him. However, as R. B. was born in Germany and the fact of his birth had not yet been registered into birth registry books in Serbia, the primary school he was to enrol in verbally refused to enrol him. As Praxis had earlier initiated the procedure of subsequent registration of R. B. into birth registry book, it issued a certificate about the procedure initiated to the mother and sent her an excerpt of the Law on the Foundations of the Education System clearly providing that each primary school was bound to enrol even the children who did not possess all the necessary documents. Praxis also counselled the mother to insist on the school to reach a written decision on the refusal to enrol the child. The mother had taken the advice and the school agreed to enrol R.B. in the end. Currently, R. B. is in regular schooling.

Returnee children who attended schools abroad but do not possess school documents (diplomas, certificates on completed schooling, school certificates on examinations passed) by way of proof of the completed grade, may enrol into primary schools provisionally, until they obtain all the necessary documents. This being said, this procedure may last for some time and give rise to significant costs.

In case returnees do not have school documents on them, they need to contact the Serbian Ministry of Foreign Affairs and request it be obtained. This Ministry charges an administrative fee for obtaining the documents from abroad. The procedure of validation, i.e. recognition of the school documents is initiated before the Ministry of Education and Science of the Republic of Serbia that also charges an administrative fee for validation (approx. EUR 17 for the document of primary school and approx. EUR 35 for the document of secondary school). Only the beneficiaries of social welfare and the unemployed persons are exempt from paying fees. Bearing in mind that the application for validation must be accompanied by an official translation of the document into Serbian, the services of a sworn-to-court interpreter must also be paid. Summed up, all these expenditures amount to EUR 100, which returnees on the basis of the readmission agreements are unable to afford most often.

Another obstacle in access to the right to education that returnee children potentially face is an insufficient level or total ignorance of the Serbian language, which the curriculum is taught in. There are no Serbian language pre-school programmes for these children, so they are often unable to follow the lectures, lag behind other children in education, become unmotivated and drop out of schools. Sometimes, they are even referred to schools for children with special needs for no reason at all. The only assistance in mastering the Serbian language and inclusion into the educational

system is sporadically provided by certain non-governmental organisations on a project basis.

Employment

The social and economic situation in Serbia has for years been marked by high unemployment and poverty rates. According to the data of the Statistical Office of the Republic of Serbia from April 2011, the unemployment rate in Serbia is some 22%. The impossibility to find employment has always been and remains one of the key causes of departure from the country and at the same time one of the key obstacles to successful integration upon return.

The National Employment Strategy 2005–2010 did not identify returnees on the basis of readmission agreements as a particularly vulnerable category. On the other hand, this Strategy identified Roma as a social group characterised by an exceptionally high unemployment rate (even four times higher than the unemployment rate of general population), and consequently as a group at a greater risk of social exclusion.

In line with the recommendations of the National Employment Strategy, in early 2011 the National Employment Service (NES) announced a public call for granting subsidies for self-employment to the unemployed Roma in 2011. Praxis informed its clients in the office and in the field about this call, but failed to identify a single Roma who applied. The reason is that the conditions of the call were not suited to the majority of Roma, bearing in mind their overall social status. Namely, only the persons registered with the National Employment Service who completed training for self-employment were eligible. The application was to be enclosed by a business plan, a written statement that the applicant was a Roma, proof of self-employment training completed and a statement that the applicant had not yet received assistance on the same basis. Greater problems were in store. In order for the contract between the National Employment Service and an applicant to be concluded, the applicant had to supply photocopies of the decision of the competent authority on entry into the register if the applicant was not registered with the Business Registers Agency, decisions on the tax ID number, applications for mandatory social insurance, contract on opening a current account, the means to secure contractual obligations and to provide a guarantor. The applicant was to have been engaged in the registered activity minimum 12 months and fulfil all the financial obligations accrued on the basis of public revenues. Failing to fulfil the contractual obligations, the beneficiary of the funds was to pay the subsidy back. At the same time, the National Employment

Service announced a public call for all other unemployed persons for granting self-employment subsidies. This call prescribed the same conditions as the call for Roma, so, save for protection from competition, the persons of Roma ethnicity were not put into a more favourable position than the majority population.

The National Employment Strategy 2011–2020 is the first document in the employment sector that identifies returnees on the basis of the readmission agreements as a specific category. This Strategy highlights the need to develop special programmes and active employment policy measures for returnees, the majority of whom are Roma who often do not speak Serbian and require special economic empowerment in order to achieve full social inclusion. The Strategy states promotion of social entrepreneurship as an effective, but the only measure for employment of returnees. The Strategy neither elaborates on this employment measure, nor on social entrepreneurship which represents a completely new and not very familiar form of entrepreneurship in Serbia.

In order for a person to contract employment, he/she needs to possess a working booklet. According to Article 5 of the Rules of Procedure on Working Booklet, a request for issuance of a working booklet is submitted to the general administration department of the municipality of permanent residence/employment along with the employment certificate issued by the employer. Pursuant to the restrictive interpretation of this Article, the returnees with registered permanent residence in Kosovo and temporary residence in Serbia cannot obtain a working booklet. In practice, by way of an exception, the competent authorities of some municipalities issue working booklets also to persons with temporary residence registered on the territory of these municipalities.

In February 2010, Praxis sent an appeal to the Ministry of Labour and Social Policy to change the Article 5 of the Rules of Procedure on Working Booklet. Only after 10 months did the Ministry reply to Praxis that there were no legal grounds for changing the current rules, but for adoption of a new one only and so the appeal of Praxis would be taken into account at the time of development of new rules. Invoking the said Article 5, the Ministry stressed that a person who contracted employment in the place of temporary residence and has no working booklet, may contact the competent authority in the municipality of employment for issuance thereof. The Ministry also noted that the earlier possession of a working booklet was not a condition for contracting employment.

However, though possession of a working booklet was not a requisite for contracting employment, the possession thereof certainly is a condition for registration of the unemployed persons in the registries of the National Employment Service. The reply of the Ministry leaves no doubt as to the conclusion that a working booklet may be issued in the place of temporary residence only to the persons who independently, without involvement of the National Employment Service, find a job and contract employment. The persons who are unable to find jobs by themselves will remain deprived of NES assistance they are entitled to in job search.

In order to register with the National Employment Service, an ID and a diploma on the level of education are to be supplied in addition to a working booklet. The registration is made at the competent branch office as per the place of permanent residence. The internally displaced persons may register also in the competent branch office as per the place of temporary residence with the IDP document and a registration of temporary residence. The persons who had nowhere to register temporary residence at in displacement (e.g. persons in unofficial collective centres and informal Roma settlements) will not be able to register with the NES.

Health care

In order for a person in the Republic of Serbia to exercise the right to health care, he/she needs to be registered in the system of mandatory health insurance and to possess a health booklet. In addition to the proof of insurance (employment contract, decision on the right to pension, etc.), one needs to present an ID card or a birth certificate (for minors) in order to register for insurance and issuance of a health booklet. The request is submitted at the branch office of the Republic Institute for Health Insurance (RIHI) as per place of permanent/temporary residence. The Law on Health Insurance identifies Roma, who do not have a registered permanent/temporary residence in Serbia, as a category of persons for whom contributions are paid from the budget of the Republic. However, the Rulebook on the Method and Procedure of Exercise of Rights from Mandatory Health Insurance in effect until July 2010 stipulated that when applying for registration to health insurance, Roma must give a statement on belonging to this population, and the proof of temporary residence registration in addition to it.

As the said regulation was in contravention of the Law on Health Insurance, Praxis sent a request to the Constitutional Court to assess the legality of this regulation. In July 2010, the Rulebook on Amendments to the Rulebook on the Method and

Procedure of Exercise of Rights from Mandatory Health Insurance stipulating that the Roma who do not have permanent/temporary residence registered on the territory of the municipality they truly live in, may register health insurance by giving only a statement about the address on which they truly live in addition to the statement on belonging to the Roma minority.

The implementation of these changes in the Rulebook was not uniform. Partly due to inadequate level of information of employees in RIHI branch offices throughout Serbia, partly due to resistance to the concrete novelties and lack of sensitivity, the branch offices in certain municipalities refused to enable Roma to exercise the right to health insurance and issue health booklets under the above stated conditions. On behalf of its clients, Praxis intervened repeatedly and pointed to the changed regulations, managing to have its clients registered. Also, as the impossibility to register permanent residence makes obtaining ID cards impossible, the RIHI branch offices request that Roma submit at least birth certificates instead of ID cards.

Returnees on the basis of the readmission agreements with travel documents are enabled only an access to urgent medical care for which the Republic budget funds are allocated, until regulation of the status of an insured person or until the expiry of the validity of the travel document. Returnees who fail to obtain ID cards or birth certificates for children born within the period of validity of the travel document (e.g. re-registration into registry books or registration in birth registry book abroad was not done) will remain outside the health care system. Only exceptionally will some RIHI branch offices issue health booklets to undocumented persons and establish a provisional citizen's unique personal number.

Taken abroad as a baby, Lj. M. was returned from France to Serbia as a 23-year old mother of two. She took up residence in Cacak. Lj. M. does not have personal documents nor has she ever been registered in birth registry book. As a consequence, her children, one born in Italy and the other in France remain unregistered in the Serbian birth registry book. Since neither Lj. M. nor her children could get health insurance and as they were not registered in the Serbian birth registry book, Praxis contacted the RIHI branch office in Cacak, and explained the situation of the family, particularly the complexity and the lengthiness of the procedure of registration into birth registry book. The branch office accepted this explanation, established provisional citizen's unique personal numbers for Lj. M. and her children and issued them health booklets.

Notwithstanding the above stated, not even the determination of a provisional citizen's unique personal number is not always a guarantee of access to adequate health care.

M. M. was born in Sweden and returned to Serbia with her mother several months later. They were received by the grandparents of M. M. who lived in Belgrade on the territory of the municipality of Palilula, where the mother of M. M. had permanent residence registered. Since M. M. was not registered in birth registry book in Serbia and had no citizen's unique personal number, the RIHI branch office Palilula refused to issue a health booklet to M.M. Her mother had to pay the medical check up for her as well as the necessary medication. Praxis pointed to the head of the branch office Palilula that M. M. had a valid travel document although she was not registered in the Serbian birth registry book as yet. Praxis requested this branch office to issue a health booklet with a provisional citizen's unique personal number to M. M. Shortly thereafter, M. M. was issued a health booklet but the head of the branch office warned Praxis that the computer programme in pharmacies does not recognize this provisional citizen's unique personal number. As it turned out, the mother of M. M. really had to pay the full price of medications in the pharmacy due to the above reason.

In addition to the problem related to the lack of documentation, returnees who already received certain medical treatment abroad, face the problem of impossibility of its continuation. In some cases, returnees do not possess complete medical documentation from abroad or the documents are in a foreign language and they must provide the translation.

All the above described problems were recognised by the Strategy for Reintegration of Returnees on the basis of the Readmission Agreements which stressed the need to ensure additional budget funds in order to ensure adequate health care of returnees. Praxis is unaware of any concrete measures taken to this end.

Social protection

The Strategy for Reintegration of Returnees stresses that the majority of returnees belong to the category of population in need of housing and financial support. Still, the system of social welfare does not recognise them as a specific socially vulnerable category.

Social Welfare Centres in places where the returnees find themselves can only offer them advice, information and, in exceptional cases, mediation in exercise of their rights (e.g. in obtaining personal documents), provide a free of charge one-way ticket to the place of their future permanent residence, immediate cash assistance and temporary accommodation in a reception centre. Returnees must have a registered permanent residence if they are to enjoy all the other services pertaining to social protection such as social welfare, soup kitchens, etc. Only exceptionally will the registered temporary residence in a certain territory suffice for them to be able to turn to the competent social welfare centre for assistance.

Permanent/temporary residence registration is a condition that not all are able to fulfil, and particularly not the Roma who reside in the informal settlements. The living conditions of these persons are almost non-existent as their homes are made of cardboard and other rickety materials, there is no adequate infrastructure and they survive by collecting secondary raw materials. In addition, if a settlement is located on the private land, its inhabitants run the constant risk of forced eviction by the owners or users of the land.

Lack of personal documents and the complicated and lengthy administrative procedure also constitute significant impediments to exercise of the right to social protection faced not only by returnees but all other persons in social need. The internally displaced persons from Kosovo who have not re-registered in registry books - just as the returnee children born abroad who were not registered in registry books in Serbia - are certainly not able to exercise the right to social protection before completing appropriate procedures of registration into registry books. Also, the majority of social welfare centres does not obtain evidence *ex officio* and do not observe the principle of assistance to undereducated clients, but only present them with the list of necessary documents they need to obtain with no thorough explanation as to how and which institutions to contact.

The Law on Social Protection that came into effect in April 2011 introduced an additional condition for exercise of the right to cash social welfare. If a person who is *unfit for work* has an immediate family member who does not live with him/her in the family, and who, according to the law governing family relations, is responsible or *able to participate in his/her support*, the request for determination of the right to cash social welfare must be accompanied by an effective court decision on support by an immediate family member i.e. judicial settlement concluded with an immediate family member or proof that the procedure of determination of an obligation of

support by an immediate family member was initiated before the competent court.⁷ There are several reasons to criticise the introduction of this provision in the Law on Social Protection. First, requesting the socially vulnerable, many of whom are illiterate or functionally illiterate, to file a lawsuit to the court and, even more so, to sue their immediate family members in the state, which has not established a system of free legal aid, may result in these persons giving up on submission of requests for cash social welfare. Second, the mass initiation of support procedures will certainly put an additional burden on the already overburdened courts.

Since the implementation of the Law on Social Protection started, ever more persons have been contacting Praxis for help with drafting lawsuits for support. The majority of them were referred to Praxis by competent social welfare centres. None of them was unfit for work, but unemployed only. Irrespective of the fact that none of them had immediate family members with sources of income sufficient to partake in their support, social welfare centres asked that lawsuits for support be filed. In these concrete cases, all immediate family members are unemployed themselves, with no source of income at all. It is totally inappropriate that a court decision is requested in cases when immediate family members are able to provide unambiguous evidence on the impossibility to take part in support, proof of unemployment, etc.

Even when a person holds the required documents and has no income or it does not suffice for minimum livelihood, social welfare centres refuse to receive requests for social welfare, assessing arbitrarily and without insight into the documents submitted that an applicant would not fulfil the conditions.

Having lived in Switzerland for seven years, O. B. was returned to Serbia with two underage children. She settled with her parents in Bela Crkva where she has registered permanent residence. Since O. B. has not managed to find a job, the sole source of income of these five persons is the pension of the father of O. B, which cannot cover even the basic living expenditures. O. B. has repeatedly tried to file a request for social welfare to the competent social welfare centre but was verbally refused each time with the explanation that she and her family had sufficient income and were not in social need. Praxis advised O. B. to submit a written request to the social welfare centre in order for it to be able to lodge a complaint in case of a new rejection. O. B. did so and only then did she get a positive decision.

Lack of funds in the budgets of local governments additionally complicates exercise of

⁷ See Article 84, Law on Social Protection

the right to social protection. Even when social welfare centres approve a request for certain cash assistance, payments are often delayed due to lack of funds.

T. A. was returned to Serbia after 19 years spent in Germany. His mother, the only family member, managed to get a residence permit and remained in Germany. T. A. has no documents and no income. He contacted the Social Welfare Centre Belgrade, Municipality of Palilula, where his right to immediate cash assistance of about EUR 50 was recognized. However, the payment could not be effected. He was given an explanation that there was currently no money in the cash register.

Accommodation

A successful and sustainable integration of returnees also involves fulfilment of their housing needs. The majority of returnees face enormous problems to satisfy these needs. Returnees are very often forced to rent private accommodation, move in with relatives or friends, return to unofficial collective centres if they had lived in them previously, or to settle in informal Roma settlements.

There are persons among returnees who are unable to resolve their housing problems in any of the above ways. A potential solution for them is centres for urgent reception of returnees established in Obrenovac, Sabac, Zajecar and Bela Palanka. Returnees are put up in these centres on the basis of the referral issued by the Commissariat for Refugees and they may stay in them maximum 14 days. Underage returnees not accompanied by parents or guardians are placed in institutions for care of children and youth. However, all these solutions are provisional and sometimes not even accessible to all.

Having spent three years in Norway, D. S. was returned to Serbia with a wife, children and his mother. D. S. asked to be returned to Kosovo, but the Norwegian Government refused. Aware of his rights as a returnee, and based on the Information Bulletin for Returnees, he asked the staff of the Office for Readmission at the Belgrade Airport "Nikola Tesla" for temporary accommodation. He was immediately rejected verbally and told that in practice not everything functioned as explained in the Information Bulletin. D. S. and his family proceeded to Kraljevo and settled temporarily with the relatives only to return to Belgrade and take up residence in an unofficial collective centre on the outskirts of the city.

Even if a returnee owns an apartment or a house, this does not mean he/she managed

to satisfy his/her housing needs and to ensure minimum living conditions. The below given case is the best illustration of this statement.

R. R. spent several years in various Western European countries before she was deported from Sweden in January 2008. She invested the money she had earned abroad in a house in Pozarevac with neither water nor electricity. She applied for the power connection but was turned down as the house was not legalised. R. R. submitted a request for legalisation but this one was also turned down as it was filed after the expiry of the legally prescribed deadline. R.R. contacted Praxis for assistance in December 2010.

Praxis has been contacting various relevant state institutions for assistance to resolve this case to no avail. No solution has been found to date.

Some returnees are in a situation requiring specific accommodation.

A. M. returned to Serbia with her children after two years in Sweden. A. M. was a survivor of domestic violence, and lived in a safe house in Sweden.

The Red Cross of Serbia contacted Praxis asking for help to place A. M. and her children in a safe house and provide legal protection. Praxis met A. M. and the children and put them up in a safe house. Praxis also paid costs of translation of medical documents for A. M, so that she could continue receiving medical treatment in Serbia. Since A. M. sued the abusive husband back in Sweden, initiated and completed divorce proceedings, Praxis paid the costs of translation of the judgement of divorce and other documents proving violence had been duly registered. Praxis will legalise these documents so that they can be used in Serbia and provide all the necessary legal assistance to A. M. and her children, even more so as the perpetrator has been returned to Serbia.

CONCLUSIONS AND RECOMMENDATIONS

Based on the experience in working with the returnee and the Roma population in general and in cooperation with the representatives of the state institutions at national and local level and non-governmental organisations engaged in protection of the rights and integration of returnees and the Roma, Praxis developed the recommendations that the participants of the roundtable *Access to Rights and Social Integration of the Returnee Population into the Society* identified as a key to successful and sustainable integration of returnees.

In order for the returnees to integrate into the society they had been no part of for several years, involvement of all state institutions at the local and national level is called for as well as establishment of solid and continuous cooperation among them. Setting up a single comprehensive network of health, social, educational and legal systems in the best interest of its beneficiaries, particularly the most vulnerable among them such as children and youth, the deprived, members of minorities and displaced populations, is the only unfailing road to preventing social exclusion of these persons. Bearing in mind that the Roma are at the social tail of all the aforementioned categories, special attention must be paid to their needs. Similarly, the measures taken with a view to their inclusion into the society must be developed in agreement with them.

The above mentioned problems and practical examples have shown the unsatisfactory level of awareness of returnees of their rights and the ways to exercise them. Seldom do they know which institution to contact, which documents they need in order to submit different requests and what their rights are in certain procedures. Inadequate knowledge on the part of employees in the competent institutions about the actions aimed at returnee integration, and absence of sensitivity for the specific position of returnees have also contributed to this situation significantly.

Since returnees are primarily integrated at the local level, the capacities of local communities need to be built. It includes urgent inclusion of returnees and actions aimed at their integration into the local action plans. Also, as provided for in the Strategy for Reintegration of Returnees on the basis of the Readmission Agreements, bodies in charge of integration of returnees on the basis of the readmission agreements need to be established within the structure of the existing local councils dealing with the protection of vulnerable groups. Expansion and construction of accommodation facilities such as reception centres and reception centres for children, reduction of unemployment through trainings and employment assistance programmes, strengthening of the social protection system represent but a few of the essential measures to be taken at the local level. However, the implementation of these should not be at the expense of budgets of local communities only, but calls for the active involvement of the State and state budget.

Having in mind that the Agreement between the Republic of Serbia and the European Community on the Readmission of Persons Residing without Authorisation provides that a travel document be issued with a validity of at least three months, there is no apparent reason for Serbia not to extend the validity of this document. Bearing in mind that the procedures for obtaining personal documents tend to last for more than three months, Serbia should urgently change its present practice and start issuing travel documents with a longer term of validity.

Possession of personal documents and registration of permanent/temporary residence constituting the first steps in ensuring enjoyment of all other rights, the procedure for obtaining personal documents and registration of permanent/temporary residence needs to be simplified and accelerated through observance of legal deadlines and principles of administrative procedure, but also through changes of the existing and adoption of new regulations in this area. A new law on permanent and temporary residence of citizens that would enable each citizen of the Republic of Serbia to freely register permanent/temporary residence anywhere on the territory of Serbia and thus exercise freedom of movement in his/her country as guaranteed by the Constitution is called for. Restrictions of the freedom of movement may be imposed only exceptionally and then by the law solely.

Returnees on the basis of the readmission agreements should be fully exempted from fees on validation of school certificates, irrespective of whether they are beneficiaries of social welfare or unemployed persons. In order for one to become the beneficiary of social welfare or to register with the National Employment Service, adequate

administrative procedures are required starting from obtaining personal documents through the registration of permanent residence to the procedure before social welfare centres or the National Employment Service. All these procedures are lengthy and may become extremely complicated. The State should also enable returnees to obtain necessary documents from abroad at no charge.

Lack of citizen's unique personal number should be no impediment to registration with the system of mandatory health insurance and exercise of the right to health care. One potential solution would be to mainstream the practice of determining a provisional citizen's unique personal number in situations when one does not have the citizen's unique personal number.

Submission of requests for social welfare at social welfare centres as per place of residence should become a rule rather than an exception to the rule. Persons with a temporary residence registered in Serbia and permanent residence registered in Kosovo cannot be expected to apply for social welfare at the social welfare centres as per place of permanent residence.

Ultimately, it is noteworthy that all the undereducated, the socially vulnerable persons, returnees in particular, who are very often depressed and suffering under enormous stress, and consequently are unable to independently fight for their rights, depend on the existence of free legal aid. The cases dealt with by Praxis, and presented in this report are the best evidence of the significance of this type of assistance. Therefore, one of the State priorities must be to create and enhance the system of free legal aid available everywhere and at all times to all the vulnerable categories.

Identification and recognition of the problem represents the first step towards its resolution. Serbia has already taken this step by adopting the Strategy on the Reintegration of Returnees on the basis of the Readmission Agreements and other strategic documents. However, the measures stipulated by these strategic documents must be put into practice. Observance and protection of human rights and democratic values is yet another commitment Serbia undertook on the road to the European Union. This commitment needs to be fulfilled if Serbia is to be described as a state governed by the rule of law and a state in service of its citizens.