

PARALLEL REPORT

BY THE EUROPEAN ROMA RIGHTS CENTRE CONCERNING RUSSIAN FEDERATION

To the Human Rights Council, within its Universal Periodic Review, for consideration at its 16th session (22 April to 3 May 2013).

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

TABLE OF CONTENTS

| | |
|--|----------|
| Introduction | 3 |
| Personal Documents: Legal and Policy Framework | 3 |
| Barriers Experienced by Roma in Access to Personal Documents and Other Rights | 4 |
| Recommendations | 5 |

INTRODUCTION

This report highlights the issue of the lack of personal documentation (birth certificates, passports, residence permits and residence registration) as one of the key human rights concerns for Roma in the Russian Federation. Lack of personal documents prevents Roma from accessing employment, social allowances and healthcare or from voting in the Russian Federation, and from accessing education in some schools due to local practices of school authorities. The submission is based on monitoring of the human rights situation of Roma in the country since 2000, and recent research by the European Roma Rights Centre (ERRC).¹

According to the 2010 census grouped by language, there are 204,958 Roma living in Russia, or less than 1% of the total population (0.14% of 142,905,200 people overall in Russia).² Unofficial sources estimate the number is closer to 1.2 million.³

The Russian Federation was reviewed by the UN Committee on Economic, Social and Cultural Rights in 2003. In its Concluding Observations, the Committee stated that it was “concerned about reports of cases where the lack of registration of place of residence and other identity documents in practice places limitations on the enjoyment of rights, including work, social security, health services and education. The Committee is also concerned about reports that some groups of people, including the homeless and Roma, face particular difficulties in obtaining personal identification documents, including registration of residence.”⁴

The Committee made the following recommendations to the Russian Government:

- Ensure that the lack of residence registration and other personal identity documents do not become an obstacle to the enjoyment of economic, social and cultural rights.
- Take effective measures to ensure that no one will be deprived of their legal status and enjoyment of rights as a consequence of the expiry of Soviet passports on 31 December 2003.

In almost a decade since that time, the Government has not taken any significant measures to address these problems.

PERSONAL DOCUMENTS: LEGAL AND POLICY FRAMEWORK

The Russian Constitution⁵ states in Article 62 that “foreign citizens and stateless persons shall enjoy in the Russian Federation the rights of its citizens and bear their duties.” Article 19 guarantees everyone “the equality of rights and liberties regardless of sex, race, nationality, language, origin, property or employment status, residence, attitude to religion, convictions, membership of public associations or any other circumstance.”

Russian residents are required to register their place of residence with authorities. According to Russian law “Registration or non-registration [at the place of residence] may not serve as a ground or condition for the implementation of rights and freedoms.”⁶ Residence registration shall be issued on the basis of “a document serving as a ground for moving a citizen into living quarters (a warrant for living accommodation, contract for lease, statement of the person who has given living quarters or any other document) or its certified copy.”⁷

2002 amendments to Russia’s Federal Law on Citizenship extended the requirement of minimum registration of residence on the territory of Russia to five years before a person can apply for Russian citizenship and a

1 The European Roma Rights Centre (ERRC) is an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma.

2 See http://www.perepis-2010.ru/results_of_the_census/result-december-2011.ppt.

3 European Roma Rights Centre, *In Search of Happy Gypsies: Persecution of Pariah Minorities in Russia* (Budapest, 2005), 23.

4 E/C.12/1/Add.94, available at: <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.94.En?Opendocument>.

5 The Constitution of the Russian Federation, ratified 12 December 1993.

6 Law of the Russian Federation N. 5242-I, 25 June 1993, Article 3.

7 *Ibid*, Article 6.

passport. It also introduced proof of command of the Russian language as a condition for accessing citizenship.⁸ This must be proven with education certificates from Russian schools or a certificate proving that one has passed a State test in Russian language reading, writing and speaking.⁹ Applicants must also provide proof of a legal source of income and of lack of citizenship of another State. Citizens of the former USSR born in Russia who missed the 31 December 2003 deadline for updating their passports must meet the same requirements, with a one-year residence condition instead of five. Amendments recently proposed to Russia's Law on Citizenship aim to simplify naturalisation procedures for children born abroad who have one Russian parent, leaving in place all other conditions for passport acquisition.¹⁰

The Russian Civil Status Act states that birth registration shall be made within one month of birth, as a precondition for acquiring a birth certificate.¹¹ In case there is no document confirming birth from a medical institution or a private practitioner, the fact of birth can only be established through a court procedure.¹²

Many rights and benefits are dependant on having personal documents, especially: healthcare services; voting in elections; social allowances; unemployment benefits; pensions; opening a bank account; and State-provided housing allowances. As a matter of practice, Roma also report that officials in some schools in Russia refuse to enrol their children in schools in the absence of personal documentation.

BARRIERS EXPERIENCED BY ROMA IN ACCESS TO PERSONAL DOCUMENTS AND OTHER RIGHTS

Roma face various barriers in obtaining personal documents: some Roma missed deadlines for exchanging documents following the collapse of the Soviet Union; some did not have documents during Soviet times and now cannot prove their birthplace, length of Russian residence, etc. Many Roma do not have one or more personal document because they cannot meet the requirements set out in Russian law and many are unaware of the procedures for accessing such.

These issues have been prominent in ERRC research from 2011 and 2012. In 2011, the ERRC visited 12 Russian Romani communities in the regions of Rostov and Krasnodar Krai and identified the lack of personal documents to be one of the biggest problems faced by Romani individuals.¹³

During further field research in the Rostov Oblast in 2012, the ERRC interviewed 136 Romani individuals about their access to citizenship and personal documents.¹⁴ Of the individuals interviewed, 22 (16%) did not have any personal document (birth certificates, passports and residence registration) or means of demonstrating their Russian citizenship. Each of those individuals reported that their family members were in the same situation. An additional 43 (32%) Romani individuals were lacking one or more personal documents.

Almost half (67 people or 49%) of the Roma interviewed were unable to register their place of residence because they lived in informal housing and could not produce ownership or tenancy documents as required by law. Twenty-five of the 67 Roma interviewed without registered residence had Russian passports and citizenship but could not effectively exercise citizenship rights. Even when living in formal housing, the Committee for the Elimination of Racial Discrimination observed in 2008 that Russian authorities are often reluctant to grant residence registration to Roma.¹⁵

⁸ Federal Law on Citizenship No 62-FZ of 31 May 2002, Article 13.

⁹ ERRC Interview with Federal Migration Service Rostov, 18 July 2012.

¹⁰ Amendments to the law on citizenship have been submitted to the State Duma, 24 April 2012, available <http://eng.kremlin.ru/news/3698>. As the time of preparing this submission the amendments had not yet been adopted.

¹¹ Federal Law N 143-FZ "On Civil Status Acts", 15 November 1997, Article 16.

¹² Federal Law N 143-FZ "On Civil Status Acts", 15 November 1997, Article 23.

¹³ ERRC field trip to Rostov-on-Don and Krasnodar, 15-19 August 2011.

¹⁴ ERRC field trip to Rostov Oblast (Azov, Kuleshovka, Bataisk, Novocherkassk, Rostov-on-Don), 13-25 July 2012.

¹⁵ CERD/C/RUS/CO/19, 22 September 2008, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/441/78/PDF/G0844178.pdf?OpenElement>.

Out of 72 women interviewed by the ERRC in 2012, 32 gave birth to children outside a hospital. Of those women, 30 reported they missed the deadline for birth registration and are unaware of special Court procedures to obtain birth certificates for their children. According to Roma in Novocherkassk and Kuleshovka, local schools require residence registration and birth certificates in order to enrol children in school. As a result, 13 out of 20 (65%) Romani children of school age were not attending school in those communities. Out of 136 Roma interviewed in 2012 by the ERRC, 90 (66%) were illiterate and only three (2%) had completed high-school education.

The following selection of cases documented during research is illustrative of some of the complex problems experienced by Roma:

- In Novocherkassk, a Russian Romani family of 10 told the ERRC that their only identification documents are their expired former Soviet documents. They lacked valid Russian passports, birth certificates and residence registration.¹⁶ All family members are illiterate and report they were not informed about legal deadlines or relevant procedures for updating their passports or acquiring a birth certificate. All eight children were born outside a hospital and lack birth certificates. Parents reported they did not know about the possibility of going to court to establish late registration of birth and access a birth certificate, or how to contact a lawyer. The five children of school age are not able to enrol in formal education as a result.
- In Rostov-on-Don, all 25 Romani residents of an informal Romani community lack registration of their residence.¹⁷ Members of the community reported that they cannot afford the expensive cost of legal representation for court proceedings to legalise their informal housing and/or costs of improving their living conditions to reach the standards at which they would be able to legalise and register their housing. One Romani woman from Kiziterinovskaya balka, Rostov-on-Don, reported that State officials had informed her she cannot obtain State-provided medical insurance without residence registration. Without medical insurance, the unemployed Romani woman reported that she had to borrow money to pay the full price of costly surgery. Residents of this community also reported they are often targeted by local police for identity card checks and are asked to pay bribes in money and cigarettes to be checked less frequently.

The negative circular effect as concerns citizenship, residence and access to personal documents and the effective exercise of other rights (including voting, social allowances, medical insurance and health care, education, etc) is significant. Despite this, there has been a lack of Government action to facilitate access of Roma to personal documents and associated rights, documentation and processes. To date, the Russian Government has not developed a policy or action plan to address the barriers experienced by Roma in accessing personal documents.

RECOMMENDATIONS

On the basis of this information, the ERRC recommends that Russian authorities:

- Adopt a national plan of action that includes special measures for the promotion of access by Roma to personal documents, employment, residence registration, adequate housing with legal security of tenure, and other economic, social and cultural rights, and allocate sufficient resources for the effective implementation of that plan;
- Institute an exemption period from administrative requirements for documents acquisition allowing all Roma enough time to obtain a Russian passport; lift the proof of formal employment and residence registration and enable spoken Russian alone as proof of knowledge in Russian;
- Institute an exemption period from current requirements for the legalisation of house and land allowing all Roma enough time to obtain housing documents and residence registration;
- Initiate an official information campaign as part of the exemption period detailing procedures related to the acquisition of birth certificates, residence permits, passports and housing rights for individuals, particularly illiterate individuals, living in isolated communities.

¹⁶ ERRC interviews with residents of an informal settlement in Novocherkassk, 21 July 2012.

¹⁷ ERRC interviews with residents of an informal settlement under a bridge on Kiziterinovskaya Balka, Rostov-on-Don, 19 July 2012.

- Ensure that Romani children are able to access education even in the absence of personal documents;
- Provide proactive assistance to Romani individuals currently missing one or more personal documents to facilitate their access to fundamental rights such as the right to vote and the right to access health care, social support and employment as part of systemic actions to address lack of access to personal documents; and
- Cease immediately arbitrary and discriminatory identity checks by law enforcement agents.