


Submission concerning Serbia to

Committee on the Rights of the Child

**For Consideration at the 101 Pre-Sessional Working Group
(26 May 2025 - 30 May 2025)**

submitted by:

P R A X I S
The logo for PRAXIS, consisting of the letters P, R, A, X, I, S in a bold, sans-serif font. Below each letter is a circular icon with a red center and a grey outer ring.



European
Network on
Statelessness

28th February 2025

Introduction

1. This submission provides information on the implementation of certain provisions of the Convention on the Rights of the Child in Serbia. The focus of the submission is on the implementation of the provisions related to birth registration, name and nationality (art. 7), respect for the views of the child (art. 12) and child, early and forced marriages (arts. 19 and 24(3)). The submission specifically refers to the implementation of the aforementioned provisions and the exercise of these rights for the members of the Roma national minority.
2. At the end of each section in this report, questions that may be included in the List of Issues are highlighted in text boxes, and then recommendations that may be drawn on for the Committee's Concluding Observations are proposed.
3. Please be advised that the following comments should be read in conjunction with the Concluding observations on the combined second and third periodic reports of Serbia on the implementation of the CRC (CRC/C/SRB/CO/2-3) and with the Fourth and Fifth Periodic Report of Serbia on the Implementation of the CRC.
4. Praxis is a national non-governmental organization established in 2004 in Belgrade that protects human rights by providing legal protection and advocating for elimination of systemic obstacles in access to rights. Praxis acts in the area of status and socioeconomic rights, antidiscrimination, gender equality, migration, child rights and public administration reform. Since its establishment, Praxis has been helping people at risk of statelessness to obtain documentation. To date, Praxis has provided free legal aid to approximately 15,000 individuals at risk of statelessness in more than 21,000 administrative and court proceedings. In addition to providing free legal aid, Praxis achieves its goals through monitoring of public policies, research, analysis and advocating for systemic solutions and the elimination of obstacles to accessing rights by raising awareness of the problems faced by marginalized and socially excluded communities attempting to integrate, educational outreach, publishing of reports, and providing expert support for reforms, as well as through networking and cooperation.¹
5. The European Network on Statelessness (ENS)² is a civil society alliance of NGOs, lawyers, academics, and other independent experts committed to addressing statelessness in Europe. Based in London, it currently has over 180 members in 41 European countries. ENS organises its work around three pillars – law and policy development, awareness-raising, and capacitybuilding. ENS provides expert advice and support to a range of stakeholders, including governments. This submission partially draws on information and analysis from ENS's Statelessness Index,³ which covers Serbia.

¹ For more information, see www.praxis.org.rs/index.php/en/

² For more information, see <https://www.statelessness.eu>.

³ For more information, see <https://index.statelessness.eu/country/serbia>

CHILD, EARLY AND FORCED MARRIAGES (Arts. 19 and 24)

Recommendations 21 and 38 CRC/C/SRB/CO/2-3

6. Child marriage is a gross violation of child rights, especially the rights of girls, child neglect, deprivation of the right to childhood, education, proper and full development and freedom of choice, and it often includes child abuse. The causes of child marriage are complex, but the basis is multiple discrimination of girls and women, poverty and lack of adequate access to education. Although the phenomenon of child marriage is present in the general population in Serbia, this practice is most prevalent in Roma communities, where, based on data from UNICEF MICS-6 study from 2019, more than half of the girls are married before the age of 18.⁴
7. Adequate addressing of child marriages by relevant government institutions is still missing, despite the domestic and international regulations that bind them, mainly because they still see child marriages just as a part of Roma culture and tradition, and not as a serious violation of the rights of children, particularly girls.
8. The lack of effective measures aimed at prevention of child marriages leads to multiple discrimination, vicious circle of poverty, causes school dropouts, sexual and gender-based violence, psychological and physical violence and isolation and trafficking in human beings. Also, tolerating practice of child marriages brings a girl/wife in a subordinate position, leads to her economic dependence and pregnancy and childbirth in adolescence (even 38% of Roma women aged 20-24 have given birth before the age of 18)⁵, which potentially poses a great danger to the health of mother and child. Particular attention should be paid to girls and women who are not registered in birth registry and are at risk of statelessness and who are consequently exposed to higher risk of violence and exploitation due to the impossibility of regulating their legal status.
9. The Concluding Observations of the Committee on the Rights of the Child on the combined second and third periodic reports of Serbia contain two recommendations related to the problem of child marriage:
Recommendation 38: The Committee recommends that the State party establish a system to track all cases involving child marriages among ethnic groups, particularly Roma girls, and provide child victims with shelter as well as appropriate rehabilitation and counselling services, and develop awareness raising campaigns highlighting the harmful consequences of child marriage.

⁴ Serbia Multiple Indicator Cluster Survey 2019 and Serbia Roma Settlements Multiple Indicator Cluster Survey 2019, page 245, available at: www.unicef.org/serbia/media/16726/file/MICS%206%20Multiple%20Indicator%20Cluster%20Survey%20for%202019.pdf

⁵ Statistical snapshot Serbia Multiple Indicator Cluster Survey 2019, page 3, available at: https://www.stat.gov.rs/media/5613/mics6_statistical_snapshot_serbia.pdf

Recommendation 21: The Committee recommends that a national legislative instrument be enacted that would provide a statutory definition of the term child in line with Article 1 of the Convention. The Committee further recommends that the State party amend its Family Law to remove all exceptions that allow marriage under the age of 18 years.

10. Despite the recommendations of the Committee on the Rights of the Child (the Committee), there is still no reliable evidence on the actual number of child marriages in Serbia. Although the social welfare centres - guardianship authorities in the protection of children against child marriages - has been keeping separate evidence on child marriages in Serbia since, the recorded figures do not reflect the actual figures on the ground. Namely, the annual recorded cases of child marriages by the social welfare centres in Serbia in the last 5 years average between 180 and 235 cases of child marriages⁶, while the 2019 MICS6 survey shows that one third of Roma women between the ages of 15 and 19 are married⁷, suggesting that many of these cases still remain unreported.
11. Additionally, in the Fourth and Fifth Periodic Report on the Implementation of the CRC for the period from 2017 to the end of 2021, the Government of Serbia cited data from the MICS-6 study from 2019, which indicates that 4% of young women aged 15–19 were documented as married or living in an extramarital union, while this percentage rose to 13% among women from the poorest households. Among women aged 20 to 24, 1% were documented as having married before the age of 15, and 6% before the age of 18.⁸
12. However, the Government of Serbia failed to specifically state the data related to the Roma population in Serbia, which the Committee indicated as a particularly vulnerable category. MICS-6 study indicate that among women living in Roma settlements aged 20 to 24, 16% were documented as having married before the age of 15, and 56% before the age of 18.
13. In addition, discriminatory, inefficient and insensitive behaviour is still present among the representatives of the relevant institutions (schools, SWCs, police, health institutions, prosecution, courts) and needs serious and continuous intervention in terms of sensitization trainings, as well as activities aimed at unifying and strengthening the practice of responding to child marriages. From the experience of Praxis, even those cases of child marriage reported to the competent institutions can remain without reaction from the competent institutions.⁹

⁶ Reports of the Republic Institute for Social Protection, available at: <https://www.zavodsz.gov.rs>

⁷ Statistical snapshot Serbia Multiple Indicator Cluster Survey 2019, UNICEF 2020, page 19, available at: https://www.stat.gov.rs/media/5613/mics6_statistical_snapshot_serbia.pdf

⁸ Ibid.

⁹ 2022 Annual Report on Child Marriages in Serbia, Praxis 2022, page 8, available at: www.praxis.org.rs/images/praxis_downloads/Annual_Report_on_Child_Marriages_2022.pdf

In this context, the Committee may wish to ask the Serbian Government:

- Which steps will be taken to record all cases of child marriage that occur in society?**
- Which steps will be taken to highlight the problem of child marriage and the importance of reporting it?**
- Which steps will be taken to sensitize the competent authorities to act in cases of child marriage reporting?**

14. Despite several years of announcements that a new Family Law will be enacted, which will include a provision defining the term child in accordance with Article 1 of the Convention on the Rights of the Child, this has not yet happened. At the same time, this new law should delete paragraph 2 of Article 23, which stipulates that the court may, for justified reasons, allow a minor over the age of 16 to marry, thus preventing early marriage as a formal union.
15. The National Coalition for the End of Child Marriage was established in 2019 at the initiative of the Coordination Body for Gender Equality of the Government and UNICEF in order to fight more effectively against child marriage in Serbia. Praxis has been a member of the National Coalition to Prevent Child Marriage since the Coalition was founded in 2019.
16. The general goal of the National Coalition is to contribute to the end of child marriages especially in the Roma population, through the targeted and coordinated action of relevant actors, who shall engage in: advocating for the removal of institutional and social barriers to implementing relevant legislative and strategic frameworks, and the promoting of good practices, which are envisioned to be realized in partnership with local communities, the non-governmental, governmental, and private sectors, and the media.
17. In 2021, the National Coalition submitted initiatives to amend three laws in the field of child marriage, namely the Family Code, the Criminal Code and the Law on the Prevention of Domestic Violence. These initiatives to amend the Family Law contained the aforementioned announced changes. Despite years of advocacy by the National Coalition to End Child Marriage and years of announcements, Serbia has still not adopted a new Family Law that would exclude the legal possibility of marriage before the age of 18, which exists in the current Family Law, and in addition, it still does not have a standardized definition of the term child in its legislation.

In this context, the Committee may wish to ask the Serbian Government:

- When are the announced changes to the Family Law expected?**

Recommendations

- Serbia should provide a statutory definition of the term “child” and amend the Family Law so as to remove all exceptions that allow marriage under the age of 18 years in line with the Article 1 of the Convention on the Rights of the Child, as per the recommendations of the Committee on the Rights of the Child;
- Serbia should ensure the systemic collection of data on the cases of child marriage and the risk of child marriage and establish an obligatory system of recording data on child marriage cases in relevant state institutions;
- Serbia should organise training courses for all competent institutions (social welfare centres, police, prosecutor's office, judiciary, educational and health care professionals (especially pedagogical assistants and health mediators), coordinators for Roma issues and registry offices on the topic of child, early and forced marriages, with special focus on early detection of the indicators of these phenomena and individual roles of institutions in the process of prevention and response to child marriage;
- Serbia should improve institutional cooperation, networking and regular communication of all competent authorities, as well as implementation and improvement of available cooperation mechanisms in order to prevent and eliminate the occurrence of child marriages.
- Serbia should ensure regular awareness raising of members of the Roma community about the harmful consequences of child marriage, the importance of education, adequate health care, women's rights and gender equality through workshops, field activities, various events, etc. These efforts should not be the sole responsibility of the civil society, but of the competent local bodies and institutions.

RESPECT FOR THE VIEWS OF THE CHILD (Art. 12)

Recommendation 29 CRC/C/SRB/CO/2-3

18. In Serbia there are no developed mechanisms that would ensure the realization of the right of the child to free expression of opinion. The participation of children, especially children from vulnerable groups, is significantly limited by the fact that children are not provided with all relevant information based on which it is possible to make a choice. Praxis studies¹⁰ shows that decision-making processes and ensuring participation are particularly worrisome at the local level. More precisely, the only way for children and young people to express their needs, initiate actions or raise certain priority issues in their community is through pupil parliaments. The role and strength

¹⁰ Tomorrow Starts Today, Praxis, 2021:

https://www.praxis.org.rs/images/praxis_downloads/Tomorrow_Starts_Today_ENG.pdf

of such bodies are often related to the work of youth offices established in local self-governments. However, in some municipalities such an office exists but is not operational since no person has been appointed to coordinate its work. Anyhow, the experiences of CSO representatives show that the capacity of local youth offices is limited, they are part of public administration, which calls into question their independence. They are also often politicised, due to which their project activities could be compromised. Taking into consideration the challenges in terms of the functioning of youth offices, there are almost no mechanisms in local communities that would create and ensure the environment conducive for the institutional development of youth policy and effectively respond to the needs of young people in local communities. Although required as minimum standards for youth participation in community life, some local self-governments have either not adopted local action plans for youth or have missed the deadlines for the implementation of adopted policies, without adopting new ones in the meantime. Therefore, it is necessary to ensure mechanisms for children's participation in the local community through the creation, strengthening and linking of various instruments.

In this context, the Committee may wish to ask the Serbian Government:

- Which mechanisms has Serbia provided to ensure the full participation of children in policy-making, especially at the local level?**
- Which measures has Serbia taken to ensure timely and comprehensive information to children about children's rights guaranteed by the Convention?**
- Which activities is Serbia taking to encourage greater involvement of children in decision-making processes and policies that affect them?**

Recommendations

- Serbia should establish mechanisms at the national and local level that enable the full participation of children and their influence on the improvement of public policies that concern them;
- Serbia should step up activities to create an enabling environment for greater involvement of children in decision-making and policy-making, especially at the local level;
- Serbia should improve mechanisms for promoting child participation and better availability of information on children's rights, especially in educational institutions.
- Serbia should ensure continuous public information on consultations with children, as well as on the number of children participating in consultation processes at both the national and local levels.

BIRTH REGISTRATION, NAME AND NATIONALITY (Art. 7)

Recommendation 31 CRC/C/SRB/CO/2-3

ISSUE 1: The right to immediate birth registration

Description of the problem and international recommendations

19. Despite its international obligations¹¹ and domestic laws¹², Serbia does not ensure the right to immediate birth registration in the case of children born to parents who do not have identity documents. The reason for this lies in the provisions of two bylaws¹³ which stipulate that parents' data is entered into the birth notification form and birth registry books on the basis of their birth certificates (and marriage certificates if they are married) and identity cards (or passports for foreigners). This means that in cases where the mother does not possess such documents, it will not be possible for her to record the personal name of her child and the child will remain unregistered in the birth registry.¹⁴ If the child remains unregistered after birth, it will be necessary to conduct one or more procedures: determination of the child's personal name (if the child is born in the hospital), subsequent birth registration and determination of the date and place of birth (if the child is born at home). These procedures can often be complicated and lengthy, lasting from several months to sometimes even years. During this time the affected children will be left without birth and citizenship certificates and, consequently, in the most vulnerable period of life, without the rights to health care and social welfare, while their families, usually belonging to the poorest group of citizens, will be left without parental and child allowance, thus only contributing to their social exclusion. The lack of identity documents is also perpetuated intergenerationally, as the parents who lack identity documents were themselves not registered at birth. According to UNICEF, the legal standard 'immediately after birth' "implies a defined period of days rather than months".¹⁵ Praxis is constantly coming across new cases of Roma children who are not registered in the birth registries, while the reason for it is almost always the lack of documentation of children's mothers. In 2024, Praxis

¹¹ Article 7 of the CRC, Article 24, paragraph 2 of the ICCPR;

¹² Every child has the right to a personal name and entry in the registry of births (Constitution of the Republic of Serbia, article 64, paragraph 2); Everyone has the right to a personal name: The right to a personal name is acquired by birth (Family law, article 13).

¹³ Article 5 of the Rulebook on the procedure for the issuance of birth notification and form of the issuance of birth notification in a health care institution and points 10 and 24 of the Instruction on administering registry books and forms of registry books.

¹⁴ In cases where the father is undocumented and the mother possesses her documents, the child can be registered but without a recognised paternity.

¹⁵ UNICEF, Implementation Handbook for the Convention on the Rights of the Child (2007), p. 100, available at: http://www.unicef.org/publications/files/Implementation_Handbook_for_the_Convention_on_the_Rights_of_the_Child.pdf.

identified 47 new cases of children who could not be registered immediately after birth for this reason.

20. Besides the Committee on the Rights of the Child, other UN Treaty Bodies also emphasised in their recommendations to Serbia that children whose parents do not possess documents must be enabled to register in the birth registry immediately after birth, without discrimination and regardless of the legal or documentation status of their parents.¹⁶ The European Commission in its progress reports for 2019, 2020, 2021, 2022, 2023 and 2024 also stated that all births need to be registered immediately after children are born, regardless of their parents' status, and called on Serbia to amend the related implementing legislation.¹⁷ Serbia has also committed to fulfil the Sustainable Development Goals, one of them being to provide "legal identity for all, including birth registration" (Goal 16.9)

Comments on the Government's statements from the Fourth and Fifth Periodic Report on the Implementation of the CRC

21. **In Paragraph 62** of the Fourth and Fifth Periodic Report on the Implementation of the CRC (the Report), Government of Serbia states that "The legislative framework enables every child to exercise the right to be registered in the birth register after birth, while respecting legal certainty, both individual - the child and the system as a whole. Implementing the standard of identifying the mother in the procedures in which the rights of children are decided provides a protection mechanism in order to prevent any possible type of abuse (e.g., trafficking in children and people). As important as it is for every child to become legally visible after birth, which is achieved by registration in the birth register, it is at the same time important to ensure the legal security of the child. This is achieved by identifying the parents, primarily the mother."
22. In this way, Serbia actually confirms that children of undocumented mothers cannot be registered in the birth register immediately after birth, that is, it confirms that Article 7 of the CRC - which stipulates that *every* child must be registered *immediately* after birth - is being violated in Serbia. The Government of Serbia relativizes the obligation to provide every child immediate birth registration with the alleged concern about the possibility of child abuse, and equates the child's right to timely birth registration with "the legal security of the child", which is allegedly achieved "by identifying the parents, primarily the mother".

¹⁶ Universal Periodic Review of the UN Human Rights Council concerning Serbia from 2023 – recommendations 6.154 and 6.193; Concluding observations on the fourth periodic report of Serbia of the Committee on the Elimination of Discrimination against Women – recommendation 32;

¹⁷ Annual progress reports of the European Commission for Serbia, available at: <https://www.mei.gov.rs/eng/documents/eu-documents/annual-progress-reports-of-the-european-commission-for-serbia>

23. However, there is no doubt that the most important interest of the child is to be registered immediately after birth and that this right cannot be limited or conditioned. The purpose of Article 7 of the CRC is precisely to ensure that every child is registered right upon birth (and that has the right to a name and nationality), and to provide it with a legal identity in this way. Contrary to what the Government claims, birth registration is a form of child protection, because children without documents and confirmed identity can much more easily become victims of various abuses, including human trafficking. Not to mention the fact that children who are not registered cannot access the greatest number of rights, including health and social protection, which has enormous negative consequences for the child's development and well-being.
24. **In Paragraphs 63 and 64** of its Report, the Government of Serbia states that the great progress in the field of resolving legal invisibility was achieved through the improvement of the legal framework, that “cases where a person is not registered in the birth register now appear as an exception,” and that “in 2020, the Instruction for dealing with cases of childbirth whose parents do not have personal documents was drafted in order to enable registration in the birth register.”
25. It is correct that significant progress has been made in Serbia in the fight against legal invisibility and statelessness. The greatest achievement is that the number of persons at risk of statelessness has significantly decreased. While fifteen years ago there were thousands of people at risk of statelessness, it is estimated that their number has now significantly dropped, largely due to changes in the law on one hand, and free legal aid provided by NGOs on the other.
26. However, the Government's claim that “cases where a person is not registered in the birth register now appear as an exception” cannot be characterized as accurate. Praxis is constantly approached for help by persons who are not registered in the birth books. Since 2021, between 150 and 200 unregistered persons addressed Praxis for assistance every year.
27. Moreover, the State itself publishes data on the number of procedures for the subsequent registration of persons who were not registered, which convincingly refutes the claim that cases of non-registration are "exceedingly rare". Thus, in the report on the implementation of the Action Plan for Chapter 23 of the EU accession negotiations, it was published that “in the administrative procedure of subsequent registration of the fact of birth, a total of 316 persons have exercised the right to entry into the birth register in 2021. Persons who could not provide evidence of the fact of birth in the administrative procedure have exercised the right to entry into the birth register in the [court] procedure for determining the time and place of birth (...) a total of 221 court decisions have been reached in 2021 on the basis on which the fact of birth was entered into the birth register.” According to the data of the State, even more people were subsequently registered in 2022: 772 persons were registered after the administrative procedure, and 348 after the judicial procedure. Therefore, in 2022 and 2023 alone, a

total of 1,657 people were subsequently registered, so it cannot be said that “the cases where a person is not registered in the birth register now appear as an exception.”

28. Regarding the Instruction for handling cases of the birth of a child whose parents do not have personal documents in order to enable registration in the birth register - the very fact that such an instruction was passed confirms that issues related to birth registration still exist. However, that Instruction does not solve the problem of timely birth registration because it does not address the question of how to register a child of an undocumented mother immediately after birth. It only guides the authorities on how to act to subsequently register the mother in the birth registry and/or obtain her personal documents, while the child remains unregistered until the mother obtains an identity card. Moreover, this Instruction is not a legally binding act and the experiences of undocumented beneficiaries of Praxis who gave birth since 2021 showed that this Instruction is not applied in practice.¹⁸ Indeed, even the acquisition of documents for the mothers is not facilitated.

Conclusion

29. Therefore, despite the provisions of ratified international treaties and domestic laws, as well as the recommendations of international bodies and the obligations undertaken by the State, in Serbia, it is still not possible for every child to be registered immediately after birth.
30. The lack of immediate registration may create the risk that some children will not be registered at all, which increases the risk of statelessness. Even if children eventually have their births registered (and subsequently have a recognised name and acquire confirmation of their nationality), they will nevertheless spend a period of time without birth registration and the legal protection that comes with it. The fact that there are still children who cannot obtain birth and nationality certificates at birth is not just contrary to the need to prevent statelessness, but leads to the violation of a series of other rights of children.

In this context, the Committee may wish to ask the Serbian Government:

- Which measures does the Government of Serbia undertake in order to enable the registration in the birth registry book of every child immediately after birth, including children whose parents do not possess personal documents?

- Does the Government plan to amend the by-laws which prevent timely birth registration of the children of undocumented parents?

¹⁸ For example, out of 31 Praxis cases from 2024 of children of 0-6 years of age who were not registered in the birth registry book immediately after birth, where the Instruction could be applied, it was not applied in 26 cases, it is unknown whether it was applied in 5 cases, while it was not established in a single case that it was applied.

Recommendations

- Remove all practical barriers to birth registration and ensure that every child is registered immediately after birth, regardless of the status of their parents.
- Amend the regulations that prevent immediate birth registration of children of undocumented parents.

ISSUE 2: Late birth registration

31. In cases where more than 30 days have passed since the day of birth, and the child has not been registered in the birth register, it is necessary to carry out the procedure for subsequent registration. In 2012, a non-contentious court procedure for determining the date and place of birth was introduced into the Serbian legal system, to facilitate the registration of persons who cannot prove their date and place of birth in the administrative procedure. This procedure has allowed many people, who were previously legally invisible, to finally register their birth.
32. However, despite this progress, some practical challenges remain. Most courts significantly exceeded the deadlines for completing the procedure. In many procedures, the parties were requested to pay fees, although the law exempted them from that obligation. Although the law only prescribes that witnesses must be adults, the courts applied different evidentiary rules – some courts required witnesses to be close relatives, and others did not accept relatives as witnesses. In many cases, it took an unreasonably long time for the courts to send the decisions to the registrars, from several months to even more than a year.
33. In 2020, the Supreme Court of Cassation issued a conclusion on the jurisdiction of the courts in non-contentious birth registration procedures. This Conclusion could particularly hinder the exercise of the right to birth registration, as the court held that non-contentious procedures for determining the date and place of birth could be conducted only if the administrative procedure for subsequent registration in the birth registry books had been previously conducted and were unsuccessful. In addition, the Supreme Court of Cassation states that a person who had been registered in the birth registry books, but those books were destroyed, cannot initiate a procedure for determining the date and place of birth, which applies to “persons registered in the birth registry books of the so-called Republic of Kosovo”.
34. Such positions of the Supreme Court of Cassation not only unreasonably hinder or deny citizens access to the court, but are also in conflict with the applicable regulations and the Constitution of Serbia. Insisting that administrative procedures should be conducted in cases where it is obvious that the parties have no prospect of success would not only unnecessarily prolong the period in which citizens remain without registration in birth registry books and often expose them to futile costs, but would also increase the risk of citizens not initiating a court procedure and remaining

unregistered as a result of their discouragement by the lack of success in the administrative procedure.

35. The position taken by the court, that persons who were registered in birth registry books that have now been destroyed or are missing cannot request the court to determine their date and place of their birth, is contrary to the provisions of the regulation governing the administration of civil registry books. For citizens who do not have the evidence required to re-register their birth according to the administrative procedure, this position means that they will not be able to access the non-contentious court procedure, leaving them without any possibility to re-register their birth in the birth registry books. The lack of registration results in a serious violation of their rights, and these people should not be the ones bearing the burden of the state's failure to keep the civil registry books that it was obliged to take care of.
36. The position of the Supreme Court of Cassation according to which persons who are registered in "the birth registry books of the so-called Republic of Kosovo" cannot request the court to determine the date and place of their birth also puts these citizens in a hopeless situation, because it is not possible to exercise any rights before the authorities of the Republic of Serbia on the basis of documents from Kosovo. If the first-instance courts act in line with the position of the Supreme Court of Cassation, many citizens born and registered in Kosovo will not have the possibility of registering in the birth registry books and regulating their status, regardless of the fact that they may have not been living in Kosovo for years, that they may have lived in cohabitation and had children in Serbia (outside Kosovo), and regardless of the fact that they meet the requirements for Serbian nationality.
37. These problems in the practice of first-instance courts and such positions of the Supreme Court of Cassation threaten to seriously compromise and significantly undermine the positive changes brought about ten years ago, and to put many citizens in a situation where they cannot register in birth registry books, and consequently, access a large number of rights. Thus, the number of legally invisible persons may start to grow rapidly, since undocumented parents cannot register their newborn children in birth registry books, in turn increasing the risk of new cases of statelessness arising.

In this context, the Committee may wish to ask the Serbian Government:

- Does Serbia take measures or plan to take measures that will ensure unhindered implementation of the procedures for birth registration of persons and children whose facts of births were not registered right upon birth?

Recommendation

- Take measures to facilitate the subsequent birth registration of all persons who are not registered in the birth registry books immediately after birth. Ensure that the court procedures for determining the date and place of birth are carried out in accordance with existing regulations and as soon as possible after birth.

ISSUE 3: Residence registration

38. Registration of residence plays an important role in the prevention of statelessness among children. Thus, persons who do not have a registered residence cannot obtain an identity card, and without an identity card it is not possible to register a child in the birth register immediately after birth, so the child remains at risk of statelessness.
39. Registration of residence is also a condition for exercising many other rights. Considering that the place of residence for children is determined according to the place of residence of their parents, in cases where the parents do not have a registered place of residence, the children will also remain without residence registration, and therefore will be at risk of not being able to exercise other rights.
40. Roma residents of informal settlements and non-legalised buildings benefited from the Law on Permanent and Temporary Residence of Citizens (from 2011), as they were provided a possibility to register permanent residence at the address of a social welfare centre (SWC). However, some obstacles are still present.
41. In practice, persons who already have permanent residence registered are denied this option, even though they have not been living in their place of permanent residence for years or decades and have lost connection with that place (this primarily refers to Roma IDPs from Kosovo, who inhabited informal settlements in Serbia after fleeing Kosovo).
42. There are also irregularities in the procedure for registering permanent residence at the address of a social welfare centre. In this procedure, the police station sends a registration form to the social welfare centre, which is due to verify it. The regulations do not allow a margin of discretion for the social welfare centres to decide whether to give consent, but only stipulate that they are obliged to verify a registration form. However, in some municipalities, social welfare centres stopped verifying registration forms (i.e. they no longer give consent to the registration of permanent residence at their address). This has resulted in the Police rejecting requests for registration of residence. Irregularities have also been observed in a number of police stations in which officers refused to receive the requests and referred the parties to first address the social welfare centre, contrary to the procedure stipulated by the law.
43. Furthermore, in a great number of police stations, those who wish to register permanent residence and obtain ID cards for the first time are referred to the police station in their place of birth, even though these persons have not been living there for years or decades. This again especially refers to Roma IDPs from Kosovo.
44. Among the undocumented persons who turn to Praxis for legal assistance, by far the most are those who have a problem with residence registration.

In this context, the Committee may wish to ask the Serbian Government:

- Which measures does the Government of Serbia undertake to enable every person to register permanent residence in the place where they already live and have settled in, especially the internally displaced persons and Roma who live in informal settlements but still have permanent residence registered in the places where they used to live and have no intention to return to?

- Please provide information on the number of approved requests for registration of residence at the address of the social welfare center, as well as on the number of requests that were rejected and on the reasons for which they were rejected.

Recommendation

- Take measures to enable all citizens and children to register permanent residence in the places where they live. To that end, ensure the consistent application of the regulations governing the procedures for residence registration.

ISSUE 4: The right to a nationality

Acquisition of nationality for otherwise stateless children born in Serbia

45. The main way of acquiring Serbian nationality is by descent - a child whose parents are citizens of the Republic of Serbia will get the same nationality. However, to prevent statelessness among children born in Serbia, Article 13 of the Law on Nationality of the Republic of Serbia stipulates that nationality can also be acquired by birth in the territory of Serbia, if both parents are unknown or have unknown nationality or if the child would otherwise be stateless (*jus soli*). Nationality should be acquired at birth, automatically, by operation of the law.
46. Although this provision is automatic in the law, in practice this is not the case. In cases of children born in Serbia whose parents were stateless or of unknown nationality, registrars most often do not enter data on Serbian nationality in birth registry books, nor do they check the fulfilment of the requirements for acquiring nationality by birth. Children are therefore registered without a record of their nationality. In order for these children to acquire evidence of their nationality, it is necessary to conduct special procedures before the Ministry of Interior.
47. Given that the procedures for acquiring nationality before the Ministry of Interior are usually very lengthy (lasting from several months to often more than a year), children remain stateless for a long period of time and are uncertain about whether they will even acquire nationality.

48. An additional problem arises from the practice of excluding persons over the age of 18 from acquiring nationality based on the *jus soli* principle, which is contrary to the Law on Nationality and Serbia's obligations under the 1961 Convention.¹⁹ It is possible to acquire Serbian nationality on the basis of birth on its territory only until the age of 18, whilst persons aged between 18 and 21 are left without protection. According to the 1961 Convention, the timeframe for submitting the request cannot end before a person has reached the age of 21. The purpose of this provision is to ensure that otherwise stateless children will have a chance to submit an application after becoming adults. This is important for preventing the risk of statelessness, particularly for persons without a birth certificate or whose nationality remains undetermined after the age of 18. According to current practice in Serbia, if no one submits an appropriate request for acquisition of nationality on behalf of a child before the child reaches the age of 18 years, the person will be unable to apply for nationality themselves after coming of age.
49. As a result, and contrary to international standards, the only route to nationality for a stateless young person born on the territory of Serbia, whose nationality has not been confirmed or determined as a minor, is through naturalisation. The naturalisation procedure is 18 times more expensive than the procedure for the acquisition of nationality by birth, which presents a further barrier to the acquisition of nationality. Procedures for naturalisation are also more uncertain, because the Ministry of Interior is authorised to reject an application for naturalisation even if the legal requirements for acquiring nationality are met, while this could not be possible in the procedures for determining nationality on the basis of birth.
50. Besides being contrary to the 1961 Convention, this practice is also not by the Law on Nationality, as the law does not prescribe that citizenship by birth can be acquired only up to a certain age.

Statelessness determination procedure

51. Although a State party to the 1954 Convention Relating to the Status of Stateless Persons, Serbia does not have a dedicated statelessness determination procedure nor any other mechanism to identify and determine statelessness. Thus, stateless children cannot prove their status, and therefore cannot access the rights guaranteed by the Convention and some domestic laws.

¹⁹ Serbia is State Party to the 1961 Convention on the Reduction of Statelessness.

In this context, the Committee may wish to ask the Serbian Government:

- Is it possible to automatically acquire nationality based on birth in Serbia for children who would otherwise remain stateless?**
- Is it possible to apply for nationality based on birth in Serbia after the age of 18 for otherwise stateless children who did not acquire nationality on this basis before they turned 18?**
- Is Serbia considering the possibility of establishing a statelessness determination procedure?**

Recommendations

- Ensure the correct interpretation and implementation of Article 13 of the Law on Nationality (regulating the right to Serbian nationality on the basis of the jus soli principle) in line with the 1961 Convention on the Reduction of Statelessness and the Convention on the Rights of the Child. Specifically, ensure that nationality is acquired automatically and that young people aged between 18-21 years, who would otherwise be stateless, can access their right to acquire Serbian nationality.
- Establish a statelessness determination procedure in order to fully implement obligations under the 1954 Convention and to provide protection to stateless children.