**Universal Periodic Review (Third Cycle)**

**Mid – term report**

**concerning Serbia**

**submitted by:**



**8th December 2020**

*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[[1]](#footnote-1).* *Praxis is a member of the European Network on Statelessness.[[2]](#footnote-2)*

*Praxis acts in the area of civil registration and statelessness, socioeconomic rights, antidiscrimination, gender equality, migration, child rights and public administration reform.*

*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, educational outreach, publishing of reports, and providing expert support for reforms, as well as through networking and cooperation.*

*Since its establishment, Praxis has been providing free legal aid to persons at risk of statelessness, i.e. persons who are not registered in the birth books, who did not acquire citizenship or whose citizenship has not been confirmed or determined, or who do not have personal documents. So far, Praxis has provided free legal aid to more than 11.000 persons at risk of statelessness in almost 15.600 administrative and court proceedings.*

*This report is based on first-hand information obtained by Praxis during the long running and continuous provision of free legal aid to persons at risk of statelessness.[[3]](#footnote-3)*

1. This submission provides information on the implementation of the **recommendation 114.28** of the Report of the Working Group on the Universal Periodic Review on Serbia (A/HRC/38/17): **Ensure that all children born in Serbia have access to timely birth registration immediately after birth, without discrimination and regardless of the legal or documentation status of their parents (Brazil).**
2. The Republic of Serbia have supported that recommendation[[4]](#endnote-1).
3. Similar recommendations Serbia received during the previous UPR cycles. Thus, within the first UPR cycle, the following recommendation was made “22. to strengthen measures to ensure registration of all Roma in Serbia (Austria)”, while within the second UPR cycle the following recommendations were made: “132.8. Carry out necessary measures, including legislative amendments, to ensure that all persons born in Serbia have access to birth registration regardless of the status of their parents (Mexico)” and “132.93. Take appropriate measure to ensure that the basic civil and political rights of Roma are being assured and that birth registration is available and accessible for all children without discrimination (Brazil)”.
4. Despite support for the recommendation that all children born in Serbia should be registered immediately after birth, this recommendation has **not been implemented yet**. Thus, for children of undocumented parents it is still not possible to be registered in the birth books right upon birth. Instead, they need to conduct procedures that are usually long lasting and complicated and until these procedures are completed, children are left without personal documents, and consequently without access to many rights, such as the rights to health care and social welfare.
5. The cause for this lies in the provisions of two bylaws that governing the procedures of birth registration.[[5]](#endnote-2) These bylaws stipulate that parents’ data are 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 if a mother does not possess such documents - usually because she is not registered at birth herself and is therefore stateless - it will not be possible for her to determine the personal name of her child and the child will remain unregistered. Consequently, the child will remain without citizenship, and therefore at risk of statelessness. It further means that it will be necessary to conduct one or more procedures for the child: determination of personal name, subsequent birth registration or determination of the date and place of birth, while in some cases also a procedure for acquisition of citizenship. These procedures can last for several months, or up to a year or more in complex cases.[[6]](#endnote-3)
6. The stated by-laws are contrary to the ratified international conventions and domestic legislation. The Article 7 of the Convention on the Rights of the Child and Article 24, paragraph 2 of the International Covenant on Civil and Political Rights guarantee the right to birth registration and to a personal name to every child, immediately after birth. UNICEF’s interpretation of legal standard immediately after birth states: “According to Article 7, the child should be registered “immediately after birth” which implies a defined period of days rather than months”. Furthermore, Serbian Constitution prescribes that every child shall have the right to a personal name and entry in the registry of births (Article 64, paragraph 2), while the Family Law stipulates that everyone shall have the right to a personal name and that the personal name shall be acquired by birth (Article 13).
7. In 2018 and 2019, Praxis sent appeals to the Ministry of Public Administration and Local Self-Government, as the competent body for amendments of the bylaws in question. However, the Ministry did not recognize the need for amendments, explaining that the Serbian legal framework enabled every person to be registered in the birth registry, ignoring the fact that children of undocumented parents cannot be registered immediately after birth.
8. This problem almost exclusively affects the members of Roma national minority, given that certain number of Roma women still give birth to children without possessing an ID card. The position of this social group, which is the most vulnerable and most discriminated, is thus even more aggravated.
9. In its work, 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. A UNHCR research from 2015, carried out in Roma settlements showed that 8% of children under the age of 4 are not registered in the birth registry.
10. European commission in its progress reports for 2019 and 2020 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. The other UN treaty bodies also emphasized in their recommendations the problem of birth registration in Serbia (Concluding observations on the second periodic report of Serbia, the Committee on Economic, Social and Cultural Rights – paragraph 13; Concluding observations on the combined second and third periodic reports of Serbia of the Committee on the Rights of the Child – recommendation 31).
11. Taking into account all the above, and in particular the fact that so far Serbia has not taken measures to comply with recommendation 114.28, Praxis proposes the following **recommendation:**

*- By the end of the UPR third cycle, Serbia should amend the by-laws requiring parents to have identity cards and birth certificates in order to register the birth of their child, to guarantee every child’s right to be registered in the birth registry books immediately after birth, regardless of the status of their parents and whether they possess personal documents or not.*

1. www.praxis.org.rs/index.php/en/ [↑](#footnote-ref-1)
2. https://www.statelessness.eu/ [↑](#footnote-ref-2)
3. [↑](#footnote-ref-3)
4. Report of the Working Group on the Universal Periodic Review, Serbia, Addendum (A/HRC/38/17/Add.1) [↑](#endnote-ref-1)
5. 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 (Official Gazette of RS, nos. 5/2011, 9/2016, 16/2016, 36/2016 and 103/2018) and points 10 and 24 of the Instruction on administering registry books and forms of registry books (Official Gazette of RS, no. 93/2018). [↑](#endnote-ref-2)
6. For more information about the problems in the procedures of birth registration and acquisition of citizenship see: Analysis of Practical Application of the Law on Non-Contentious Procedure - Determining the Date and Place of Birth, Praxis, 2014; Procedures for determining the date and place of birth – a brief analysis of the remaining challenges, Praxis, 2014; The Right to Citizenship in the Republic of Serbia – a brief analysis of the remaining challenges, Praxis, 2014; Analysis of the Procedures for Determining the Date and Place of Birth and for the Exercise of Rights to Citizenship and Registration of Permanent Residence, Praxis, 2015; Analysis of the Procedures for Determining the Date and Place of Birth and for the Exercise of Rights to Citizenship and Registration of Permanent Residence, Praxis, 2016; Determining the Date and Place of Birth, Right to Citizenship and Permanent Residence Registration - Analysis of Remaining Obstacles, Praxis 2017; Review of the remaining obstacles in exercise of the right to birth registration, acquisition of citizenship and permanent residence registration, Praxis 2018; Review of the remaining obstacles in exercise of the right to birth registration, acquisition of citizenship and permanent residence registration in 2019, Praxis 2019, available at [www.praxis.org.rs](http://www.praxis.org.rs) [↑](#endnote-ref-3)