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International Covenant on Civil and Political Rights

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Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 3602/2019*, **

Communication submitted by:	Daniel Faslliu, Marjeldo Rexha and Hajrije Rexha (represented by the European Roma Rights Centre and the Tirana Legal Aid Society)
Alleged victims:	The authors
State Party:	Albania
Date of communication:	2 May 2018 (initial submission)
Document references:	Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State Party on 13 May 2019 (not issued in document form)
Date of adoption of Views:	29 October 2024
Subject matter:	Registration of birth
Procedural issues:	Competence *ratione temporis*; level of substantiation of claims
Substantive issues:	Registration at birth; right to acquire nationality; discrimination based on ethnicity; recognition as a person before the law; right to family life; right to take part in the conduct of public affairs
Articles of the Covenant:	16, 17, 24 (1)–(3), 25 and 26
Articles of the Optional Protocol:	2 and 3

1. The authors of the communication are Daniel Faslliu, born in Lamia, Greece, in February 2014; Marjeldo Rexha, born in Athens in August 2002; and Hajrije Rexha, born in Athens in August 2002. The authors note that their nationality is Albanian but that they are at risk of statelessness. The authors claim that the failure by the State Party's authorities to register their births amounts to a violation of their rights under articles 16, 17, 24 (1)–(3), 25 and 26 of the Covenant. The Optional Protocol entered into force for the State Party on 4 January 2008. The authors are represented by counsel.

* Adopted by the Committee at its 142nd session (14 October–7 November 2024).

** The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Wafaa Ashraf Moharram Bassim, Rodrigo A. Carazo, Mahjoub El Haiba, Carlos Gómez Martínez, Laurence R. Helfer, Marcia V.J. Kran, Bacre Waly Ndiaye, Hernán Quezada Cabrera, José Manuel Santos Pais, Tijana Šurlan, Kobauyah Tchamdja Kpatcha, Teraya Koji, Hélène Tigroudja and Imeru Tamerat Yigezu.

Facts as submitted by the authors

2.1 The authors note that they belong to the Roma community. At the time of their births, their Albanian parents were living in Greece without legal residence status. They note that article 7 of the Albanian Law No. 8389 on Citizenship states that any individual born to at least one parent of Albanian nationality automatically acquires Albanian nationality. They claim, however, that, in practice, the acquisition of citizenship is possible only if the child's birth has been registered. The registration of births in the State Party is regulated by Law No. 10129 of 2009 on Civil Status. Under the relevant provisions, parents bear the primary responsibility for the registration of the births of their children. If the parents fail to register a birth, it falls to the State institutions to carry it out. According to article 38 (1) of the Law on Civil Status, the registration of the birth of a child in the State Party requires the submission of a birth certificate issued by the institution where the birth took place. The certificate must be sent to the appropriate civil register office, that is, the office where the mother of the child is registered, or the closest office to the mother's place of residence. If the mother gives birth outside a hospital, the fact of the birth can be proved through a medical report. In other cases, when the parents cannot prove the fact of the birth through such a document, or when the document is not in the required format, they must initiate court proceedings to establish the fact of the birth. The law does not establish any time limit for the registration of a birth, but early registration is encouraged. The birth registration process can be complex and difficult to access, particularly for those who lack the required paperwork or are particularly vulnerable.

2.2 The authors note that, for children born outside the State Party's territory to parents who are Albanian citizens, there were, until January 2017, two ways of registering the birth of a child. The first was to register the birth with the Albanian consular authorities in the country where the child was born by submitting a birth certificate, issued by the hospital at which the child was born, containing information on the child's date of birth, place of birth and gender and the mother's name. The second, for cases in which the child was born outside the State Party and had been registered at a civil register office in the foreign country, was for the parents to register the birth of the child directly at the appropriate civil register office in the State Party, once they were on Albanian territory. In such a case, the birth certificate had to be in the form prescribed by law, that is, a legalized certificate translated into Albanian and notarized. In December 2016, a new law amending the Law on Civil Status was adopted.[1] According to the amendments, from 2017, all children's births must be registered in Albania, and the Albanian consular services thus no longer have the power to register births.

2.3 The authors note that children who are born in Greece to parents who are non-nationals generally have their births registered in Greece on the basis of a "maternity certificate" issued by a hospital. However, those who are living in Greece without residence permits, as was the case for the authors' parents, are provided only with a document attesting the birth as a matter of fact. This document is incomplete, as it does not indicate the name of the child, referring to the child as "nameless". Parents without legal residence status are not allowed to give their child a name on the certificate, as they have no legal right to reside in Greece. Before January 2017, some Albanian parents would try to register the births of their children with the Albanian consular services in Greece, despite the incomplete Greek certificate. The Albanian consular services would refuse to proceed with registration on the basis of an incomplete birth certificate and would request the parents to submit the incomplete document to the Ministries of the Interior, Foreign Affairs and Health of Greece to secure the necessary stamps to legalize the document. The Greek authorities would in turn refuse to legalize a birth certificate indicating that the child was nameless, as it was incomplete. Although the authors are aware of instances where the Greek authorities would, exceptionally, legalize an incomplete birth certificate, the Albanian authorities would still refuse to register the birth because the document still did not indicate the name of the child. Parents who are in the same situation as the authors' parents – that is, parents whose children were born in Greece while they themselves lacked legal residence status in that country and who tried to register their children at a civil register office in Albania – encountered the same hurdles, with the added difficulty that they were not in a position even to try to have the Greek

[1] Law No. 134/2016 on Some Additions and Amendments to Law No. 10129 of 2009 on Civil Status.

documents legalized by the Greek authorities, after having left the country. Roma are disproportionately affected by the problem of having foreign births registered in the State Party because Roma may be more likely than non-Roma to move to Greece irregularly because of the exceptional poverty in which they live in Albania; Roma appear to be more regularly targeted for expulsion from Greece than non-Roma; Roma are generally poorer than non-Roma and, without health insurance, cannot pay for hospital expenses in Greece and face obstacles preventing them from securing the documentation that they need;[2] and, given that Roma are generally poorer, once they return to Albania, it is extremely difficult for them to travel back to Greece to try to fulfil the formalities required to secure the legalization of birth documents issued in Greece.

2.4 Daniel Faslliu was born in February 2014 in Greece, where his Albanian parents were living without legal residence status. His birth was registered at a Greek civil register office, but the authorities refused to indicate his name on the certificate, as his parents did not have legal residence status in Greece. In addition, the registration certificate did not have the proper legalization stamp, nor did it have an apostille. These facts prevented his parents from registering the birth at an Albanian civil register office. He moved back to Albania in 2014, but, because his birth was not registered at an Albanian civil register office, he has not been able to attend kindergarten or school or to be accepted by healthcare institutions.

2.5 Marjeldo Rexha and Hajrije Rexha, who are twins, were born in 2002 in Athens, where their Albanian parents were living without legal residence status. Because they did not have the money to pay the hospital fees of €1,000, their parents left the hospital before obtaining medical certificates of birth. On an undetermined date, the parents of Marjeldo Rexha and Hajrije Rexha went to a Greek civil register office in Athens and requested birth certificates for their children. The births were then registered, and the office issued certificates without indicating the names of the children, registering them only as "first twin" and "second twin". The parents were told that, since they did not have legal residence status in Greece, they could not register the names of their children and could be provided only with incomplete certificates, which did not allow them to register the births of the children in the State Party, as the documents did not conform to the requirements under the State Party's domestic law. At the time of the initial submission, Marjeldo Rexha and Hajrije Rexha were 15 years of age and lived in Shkodër, Albania, but they could not attend school or access social and health services, as they had not been and could not be registered with the Albanian authorities.

2.6 The authors note that, in the absence of a birth certificate conforming to the form required under domestic legislation, an alternative is to initiate civil court proceedings under article 45 of the Law on Civil Status, through a motion for the completion of birth certificate data. However, they cannot avail themselves of this process, since they were born abroad, and the State Party's courts have consistently maintained, in cases such as theirs, that the domestic courts lack jurisdiction to complete or correct certificates issued by foreign authorities.

2.7 The authors note that it is also possible to challenge a refusal by the consular authorities or a civil register office to register the birth of a child born in Greece to undocumented Albanian parents through court proceedings. The Tirana Legal Aid Society has succeeded in one such case. However, the proceedings lasted over two and a half years, and the authors note that they do not have the financial means to pursue such proceedings and allege that there is no legal aid available to them. Under Law No. 10039 on Legal Aid, persons must show that they are receiving social assistance in order to secure legal aid, making those without documentation ineligible. In addition, the excessive length of the proceedings is not compatible with the right of every child, under article 24 of the Covenant, to be registered "immediately" after birth. In 2017, the State Party adopted Law No. 111/2017 on Guaranteed State Legal Aid. However, the new legislation has not yet been implemented, as various sublegal acts required for its implementation have not been approved.

2.8 The authors did not submit a constitutional complaint to the Constitutional Court of Albania, as, for a constitutional complaint to be admissible, they argue, it must, under article

[2] The authors refer to CERD/C/GRC/CO/20-22 and E/C.12/GRC/CO/2.

71/a (1) (b) of Law No. 8577 on the Organization and Functioning of the Constitutional Court of Albania, be submitted within four months of the finding of an infringement. In the case of the authors, this time limit has passed, and they argue that there is no exception provided for to the time limit. In addition, a constitutional complaint is not an effective remedy in their case, as the Constitutional Court does not have any competence to restore the rights of victims. The Court has competence only to invalidate judicial decisions and, as such, could not provide them with an effective remedy, that is, it does not have competence to order the civil registration service to register their births.

2.9 The authors claim that, for the reasons outlined above, there are no effective remedies available to them in the State Party, as no procedure exists under the State Party's legislation that could provide them with birth registration "immediately", as required by article 24 (2), read in conjunction with article 2 (2) and (3), of the Covenant. Requiring them to undertake lengthy and speculative litigation would only further undermine their right to immediate birth registration. In addition, they note that the violation of their rights results in part from the failure by the State Party's authorities to cooperate effectively with their counterparts in Greece.

Complaint

3.1 The authors claim that, by failing to register their births, the State Party has violated their rights under articles 16, 17, 24 (1)–(3), 25 and 26 of the Covenant.

3.2 The authors claim a violation of their rights under article 24 (2) of the Covenant, as the State Party's authorities have failed to proceed with the registration of their births on the basis that they were unable to provide Greek birth certificates in the form required under the State Party's legislation, that is, legalized certificates translated into Albanian and notarized. They cannot submit such a document, as the certificates issued by the Greek authorities concerning their births are incomplete and do not include their names. This is due to their parents' undocumented status in Greece at the time of the births. The word "immediately" in article 24 (2) places a particular requirement on the authorities, which the State Party is failing to fulfil in their case. The State Party's authorities are aware that the authors cannot provide a Greek birth certificate conforming to the requirements under the State Party's legislation. Insisting on such a document in a case such as that of the authors leads to arbitrary delays in registration, and puts the authors at risk of statelessness, while depriving them of fundamental basic rights, such as the rights to education and healthcare. The requirement under domestic legislation for children of Albanian parents born abroad to provide a legalized birth certificate, and the lack of exceptions to that requirement for those, such as the authors, who are not in position to obtain such a document, renders registration inaccessible for an indefinite period, which is manifestly contrary to the requirement of immediacy under article 24 (2) of the Covenant. At the time of the initial submission, Daniel Faslliu was 4 years of age and Marjeldo Rexha and Hajrije Rexha were both 15 years of age, yet they were all still unregistered, which is clearly incompatible with the provisions of the Covenant.

3.3 The authors claim that, by failing to register their births, the State Party has also violated their right to acquire a nationality under article 24 (3) of the Covenant. They note that, under article 7 of the Law on Citizenship, any individual born to at least one parent of Albanian nationality automatically acquires Albanian nationality. However, in practice, Albanian nationality is recognized only on the basis of a child's birth registration. Because of the State Party's legislation, the authors are not able to register their births and are therefore at risk of statelessness. They claim that they are legally invisible, and that the situation could last for an indefinite period of time.

3.4 The authors further claim a violation of their rights under article 24 (1) of the Covenant. They note that the failure to register their births immediately is a facially neutral measure, but that it has a disproportionate impact on Roma.[3] The Tirana Legal Aid Society offers free legal services in relation to birth registration, regardless of race or ethnicity; it is

[3] The authors refer to CERD/C/ALB/CO/5-8, para. 7; and Office of the United Nations High Commissioner for Refugees (UNHCR) and Tirana Legal Aid Society, *Mapping of the Population at Risk of Statelessness in Albania* (May 2018).

not an organization set up specifically to provide services to Roma. However, despite the small proportion of Roma in the State Party, estimated at 0.29 to 3.50 per cent of the population, Roma make up more than half of the families who require assistance from the Tirana Legal Aid Society. Children whose births cannot be registered with the State Party's authorities are deprived of a host of basic rights, of which the authors provide some examples. One such right is the right to healthcare, as children whose births have not been registered cannot register for health insurance and, as a result, do not enjoy access to free or reduced-cost health services in the State Party. Another is the right to education, as schools in the State Party generally expect parents to produce registration documents, including a birth certificate upon enrolment. While the Ministry of Education has issued an order requiring schools to enrol children who do not have a birth certificate, many parents are not aware of the order, and in some cases the schools do not comply with the order, and the children thus remain unable to attend school. The right of access to justice and the right to protection of family life are two other basic rights of which children whose births are not registered are deprived. When children are unregistered, family courts will not recognize their existence under family law. This can have various impacts, such as in cases of divorce, domestic violence, the death of one or both parents, or similar situations where the national courts will simply not take any decision or make any orders as to the rights or future of these children. Another example is the right to social protection, as families of unregistered children are unable to secure access to child benefits, which has a particularly strong impact on Roma families, who tend to be poorer than non-Roma families because of historical exclusion.

3.5 The authors further note that, according to a report by the Office of the United Nations High Commissioner for Refugees (UNHCR) and Tirana Legal Aid Society, 1,031 persons were at risk of statelessness in the State Party in 2018, mostly due to difficulties in having their nationality confirmed. The true number is likely to be higher, as persons at risk of statelessness often remain invisible and are hard to identify. In addition, 97 per cent of those recorded as being at risk of statelessness in Albania are children. The primary causes reported are: being born outside Albania (53 per cent), being born to parents who are not married (12 per cent), being born at home (10 per cent) and being born in a hospital or maternity unit that holds incorrect personal data about the mother (9 per cent). Among those at risk of statelessness who were born outside Albania, the majority were born in Greece. Despite the fact that the Roma and Egyptian communities represent only 0.4 to 3.3 per cent of the total Albanian population, they make up half of recorded cases of children at risk of statelessness and are thus disproportionally affected by the phenomenon.[4]

3.6 The authors also claim that their rights under articles 16, 17, 25 and 26 of the Covenant have been violated. They argue that, owing to their status as legally invisible persons in the State Party, they are unable to enjoy the right to recognition as a person before the law, their right as citizens to take part in public life, and their right to be treated equally under the law. Regarding their claim under article 26 of the Covenant, they argue that the right enshrined therein has been violated for the same reasons as set out regarding their claims under article 24 (1).

State Party's observations on the merits

4. On 18 July 2021, the State Party submitted its observations on the communication by providing information on newly enacted legislation at the domestic level. The State Party notes that, in December 2018, amendments to the Law on Civil Status entered into force. It describes some of the changes brought about by the amendments. First, the registration of birth of children born outside the territory of the State Party to Albanian parents is to be completed by the civil registration service of the country of birth. However, where this is not possible, the State Party's diplomatic or consular representatives in the country of birth are to register the birth of the child. Second, all medical institutions, public or private, entitled to certify a birth are obliged to send documentation on every child delivered in their institutions to the civil register offices. Third, where data are incomplete, the civil register office is obliged to record the births in temporary or provisional registry books, which will ensure that

[4] UNHCR and Tirana Legal Aid Society, *Mapping of the Population at Risk of Statelessness in Albania*, p. 8.

children have access to social care, education and health services while the data are being completed. The office is also to assist the parents in obtaining the necessary documentation for completing the data. Fourth, if the birth of a child is not registered within 60 days of the date of birth, the civil register office is to inform the relevant social service child protection unit, which is to take concrete measures for the assessment of the situation and the registration of the birth by the civil register office. The State Party notes that, following the amendments to domestic legislation, civil register offices are under an obligation to ensure that assistance in registering births is provided to citizens who are in possession of incomplete birth certificates.

Authors' comments on the State Party's observations on the merits

5. On 22 April 2022, the authors provided their comments on the State Party's observations. The authors note that there has been significant progress in legislation concerning the registration of births in the State Party, but they argue that that there is still a need for the improvement of technical equipment and legal knowledge at health centres in the State Party, to ensure that children's births are registered within a short period of time. The authors note that new legislation has been enacted to facilitate access to registration of births for children born outside the territory of the State Party. However, according to reports, in most cases, registration still requires court proceedings, which causes delays in the registration of births. Difficulties arise in particular when a request for birth registration is not accompanied by what the authorities expect to be submitted, such as medical reports or the identity documents of one or both parents, or when the parents fail to present themselves at the civil register office within the specified deadline.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 97 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

6.2 The Committee has ascertained, as required under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 The Committee notes that Marjeldo Rexha and Hajrije Rexha were born in 2002, that is, before the entry into force of the Optional Protocol for the State Party. The Committee recalls its jurisprudence to the effect that violations of the Covenant alleged to have occurred before the entry into force of the Optional Protocol for a given State Party may be examined by the Committee if those violations continue after that date or continue to have effects which in themselves constitute a violation of the Covenant, or if the State Party affirms such a violation by act or by clear implication.[5] In the present case, the Committee observes the authors' claims that the violations of their rights have had continued effect after the entry into force of the Optional Protocol for the State Party, as they are at risk of statelessness due to the failure by the State Party to register their births, thereby also depriving them of access to basic rights such as the rights to education and healthcare. The Committee further notes that the State Party has not objected to the admissibility of the communication. The Committee therefore concludes that it is not precluded *ratione temporis*, under article 3 of the Optional Protocol, from examining the complaint.

6.4 The Committee notes the authors' submission that no effective remedy was available to them in the State Party in respect of the claims raised in the communication. The Committee notes that the State Party has neither identified any domestic remedy that was available to the authors nor objected to the admissibility of the communication. The Committee therefore concludes that it is not precluded by article 5 (2) (b) of the Optional Protocol from examining the complaint.

[5] See, for example, *Kouidis v. Greece* (CCPR/C/86/D/1070/2002), para. 6.3; and *Quliyev v. Azerbaijan* (CCPR/C/112/D/1972/2010 and CCPR/C/112/D/1972/2010/Corr.1), para. 8.3.

6.5 The Committee notes the authors' claims that their rights under articles 17 and 25 of the Covenant have been violated, as, owing to their status as legally invisible persons in the State Party, their rights to family life and to take part in public life have been violated. However, the Committee notes that the authors have not submitted any specific information or argumentation on how they have personally been adversely affected as concerns their claims in that regard. The Committee thus finds the authors' claims under articles 17 and 25 of the Covenant to be insufficiently substantiated and therefore inadmissible under article 2 of the Optional Protocol.

6.6 The Committee considers that the authors have sufficiently substantiated the remainder of their claims. Accordingly, the Committee declares the communication admissible as concerns the authors' claims under articles 16, 24 (1)–(3) and 26 of the Covenant and proceeds with its examination on the merits.

Consideration of the merits

7.1 The Committee has considered the communication in the light of all the information submitted to it by the parties, in accordance with article 5 (1) of the Optional Protocol.

7.2 The Committee notes the authors' claims that, by failing to register their births, the State Party has violated their rights under articles 16, 24 (1)–(3) and 26 of the Covenant.

7.3 The Committee recalls that, under article 24 of the Covenant, all children have the right to special measures of protection because of their status as minors.[6] It also recalls that the principle that the child's best interests should be a primary consideration in all decisions affecting the child forms an integral part of every child's right to measures of protection, as required under article 24 (1).[7] The Committee further recalls that, under article 24 (2), every child has the right to be registered immediately after birth and to have a name. In this connection, the Committee observes that birth registration is the continuous, permanent and universal recording within the civil registry of the occurrence and characteristics of birth, in accordance with the national legal requirements, which establishes the existence of a person under law, and lays the foundation for safeguarding civil, political, economic, social and cultural rights. As such, it is a fundamental means of protecting the human rights of the individual.[8]

7.4 The Committee further recalls that special attention should also be paid, in the context of the protection to be granted to children, to the right of every child to acquire a nationality, as provided for in article 24 (3) of the Covenant, the purpose of which is to prevent a child from being afforded less protection by society. States Parties are thus required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that all children have a nationality when they are born. In this connection, no discrimination with regard to the acquisition of nationality should be admissible under internal law as between legitimate children and children born out of wedlock or of stateless parents or based on the nationality status of one or both of the parents.[9] The Committee also recalls that, because of the difficulties that often arise when determining whether an individual has acquired a nationality, the burden of proof must be shared between the individual and the State Party's authorities to obtain evidence and to establish the facts as to whether an individual would otherwise be stateless.[10] The Committee further observes that, while birth registration does not in itself confer citizenship on a child, it is essential to ensure the right of every child to acquire a nationality, as it constitutes an important form of proof of the link between an individual and the State. It documents where a child was born and who the child's parents are, thus providing important evidence of whether a child can acquire citizenship on the basis of place of birth or of descent.[11]

[6] General comment No. 17 (1989) on the rights of the child, para. 4; and *Mónaco de Gallicchio v. Argentina* (CCPR/C/53/D/400/1990), para. 10.5.
[7] *Bakhtiyari and Bakhtiyari v. Australia* (CCPR/C/79/D/1069/2002), para. 9.7.
[8] A/HRC/27/22, para. 4.
[9] General comment No. 17 (1989), para. 8.
[10] *D.Z. v. Netherlands* (CCPR/C/130/D/2918/2016), para. 8.3.
[11] A/HRC/27/22, para. 24.

7.5 In the present case, the Committee notes the authors' claims that their rights under article 24 (2) and (3) of the Covenant have been violated by the failure by the State Party's authorities to register their births. It notes their argument that their parents were unable to register their births with the State Party's authorities, as they were unable to submit Greek birth certificates in the form required under the State Party's legislation, due to the parents' undocumented status in Greece at the time of the births. The Committee further notes the authors' argument that the State Party's authorities were aware of the fact that their parents were unable to submit birth certificates conforming to the requirements under the State Party's legislation, yet insisted on the submission of such documents, without providing for any exceptions for persons in situations of particular vulnerability, such as the authors, thereby arbitrarily delaying the registration of their births, putting them at risk of statelessness and depriving them of basic rights, such as the rights to education and healthcare. The Committee notes the State Party's information that domestic legislation on the registration of births was amended in December 2018, when amendments to the Law on Civil Status entered into force. It notes the State Party's information that the legislative amendments were aimed at facilitating the registration of births in the State Party, including for persons who were born outside the territory of the State Party and may lack the formal birth certificates required under the previous legislation. The Committee also notes the State Party's information that, under the amended legislation, civil register offices are under an obligation to ensure that assistance in registering births is provided to citizens who are in possession of incomplete birth certificates.

7.6 The Committee notes and welcomes the improvements to the State Party's legislation regarding registration of births. It notes, however, that no information has been provided as to the situation of the authors or whether, following the legislative amendments to the Law on Civil Status, their births have been registered in the civil registry. Regardless of whether the authors have subsequently been able to have their births registered, the Committee recalls that, at the time of the submission of the complaint, Daniel Faslliu was 4 years of age and Marjeldo Rexha and Hajrije Rexha were both 15 years of age, with their births still unregistered in the civil registry in the State Party, thereby denying them access to basic rights such as those regarding health insurance, school enrolment and child social benefits, and putting them at risk of statelessness.

7.7 The Committee recalls that it is implicit in article 4 (2) of the Optional Protocol that the State Party has the duty to investigate in good faith all allegations of violations of the Covenant made against it and its representatives and to provide the Committee with the information available to it. In cases where the allegations are corroborated by credible evidence submitted by the author and where further clarification depends on information that is solely in the hands of the State Party, the Committee may consider an author's allegations as substantiated in the absence of satisfactory evidence or explanations to the contrary by the State Party.[12] In the present case, the Committee notes that the State Party has not refuted any of the authors' claims as presented under article 24 (2) and (3) of the Covenant. In the absence of a response from the State Party in that regard, the Committee gives due weight to the authors' claims and finds that the State Party did not exercise due diligence in discharging its positive obligation to assist the authors in registering their births in the civil registry and thus establishing their nationality, in violation of the authors' rights under article 24 (2) and (3) of the Covenant.

7.8 The Committee further notes the authors' claim that the failure to register their births amounted to discrimination based on ethnicity, in violation of their rights under articles 24 (1) and 26 of the Covenant. The Committee recalls that the Covenant requires that children should be protected against discrimination on any grounds, such as race, colour, sex, language, religion, national or social origin, property or birth. In this connection, the Committee notes that, whereas non-discrimination in the enjoyment of the rights provided for in the Covenant also stems, in the case of children, from article 2 and their equality before the law from article 26, the non-discrimination clause contained in article 24 relates

[12] See, for example, *Purna v. Nepal* (CCPR/C/119/D/2245/2013), para. 12.2; and *V.M. v. Sri Lanka* (CCPR/C/137/D/2406/2014), para. 8.3.

specifically to the measures of protection referred to in that provision.[13] The Committee further recalls that, in its general comment No. 18 (1989) on non-discrimination, discrimination is defined as "any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms".[14] The Committee also recalls that the prohibition of discrimination applies to both the public and the private spheres and that a violation of the right to non-discrimination may result from a rule or measure that is apparently neutral or lacking any intention to discriminate but has a discriminatory effect.[15] However, not every distinction, exclusion or restriction based on the grounds listed in the Covenant amounts to discrimination, as long as it is based on reasonable and objective criteria, in pursuit of an aim that is legitimate under the Covenant.[16]

7.9 In the present case, the Committee notes the authors' claim that the State Party's legislation on registration of births was a facially neutral measure, but that it had a disproportionate impact on Roma, since Roma, as in the case of their parents, are more likely than non-Roma to move to Greece irregularly because of the exceptional poverty in which they live in Albania, owing to historical exclusion; Roma appear to be more regularly targeted for expulsion from Greece than non-Roma; and, due to poverty, Roma face obstacles preventing them from securing the documentation needed for the registration of a birth. The Committee notes in this connection that, according to the information provided by the authors, in which they refer to a 2018 report by UNHCR and the Tirana Legal Aid Society, children from Roma and Egyptian communities were disproportionately recorded as being at risk of statelessness in the State Party; despite representing only 0.4 to 3.3 per cent of the total Albanian population, they made up half of recorded cases of children at risk of statelessness in the country. The Committee notes that the State Party has neither submitted any information refuting this claim nor presented any argumentation to the effect that the State Party's legislation was based on reasonable and objective criteria and in pursuit of an aim that is legitimate under the Covenant. In the absence of an explanation from the State Party in that regard, the Committee gives due weight to the authors' claims and finds that the facts described amount to a violation of the authors' rights under articles 24 (1) and 26 of the Covenant.

7.10 The Committee further notes the authors' claim that, owing to their status as legally invisible persons in the State Party, they are unable to enjoy the right to recognition as a person before the law, in violation of their rights under article 16 of the Covenant. The Committee notes that the right to recognition before the law implies the capacity to be the holder of rights and obligations[17] and thus is fundamental to all rights, insofar as recognition of legal personality is a necessary prerequisite to all other rights of the individual. The Committee recalls its general comment No. 17 (1989) on the rights of the child, in which it noted that article 24 (2) should be interpreted as being closely linked to the provision concerning the right to special measures of protection and that it is designed to promote recognition of the child's legal personality. The purpose of the obligation to register children after birth is, furthermore, to reduce, for instance, the danger of abduction or sale of or traffic in children, or of other types of treatment that are incompatible with the enjoyment of the rights provided for in the Covenant.[18] The fulfilment of the right to be registered at birth and recognized as a person before the law is thus closely linked to and a prerequisite for the enjoyment and the realization of many other rights, with socioeconomic rights, such as the right to healthcare and the right to education, at particular risk where birth registration is not

[13] General comment No. 17 (1989), para. 5.

[14] General comment No. 18 (1989) on non-discrimination, para. 7.

[15] *Althammer et al. v. Austria* (CCPR/C/78/D/998/2001), para. 10.2.

[16] *O'Neill and Quinn v. Ireland* (CCPR/C/87/D/1314/2004), para. 8.3; *Yaker v. France* (CCPR/C/123/D/2747/2016), para. 8.14; *Hebbadj v. France* (CCPR/C/123/D/2807/2016), para. 7.14; and *Genero v. Italy* (CCPR/C/128/D/2979/2017), para. 7.3.

[17] Inter-American Court of Human Rights, *Case of the Girls Yean and Bosico v. Dominican Republic*, Judgment, 8 September 2005, paras. 176–178.

[18] General comment No. 17 (1989), para. 7.

systematically carried out, and the protection of children thus jeopardized.[19] The failure to register a birth has profound consequences for children's enjoyment of their rights with regard to protection, nationality, access to social and health services, and education.[20]

7.11 In the present case, the Committee notes the authors' claims that, owing to their status as legally invisible persons, they found themselves in a legal limbo and were thus unable to attend school or access social and health services (see para. 3.4 above). The Committee notes that the State Party's observations regarding the 2018 amendments to the Law on Civil Status (see para. 4 above) do not provide any persuasive argumentation refuting the authors' claims in this regard. The Committee considers that, by failing to register the births of the authors and thus recognize their legal personality, the State Party also violated their rights under article 16 of the Covenant.

8. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the facts before it disclose a violation by the State Party of the authors' rights under articles 16, 24 (1)–(3) and 26 of the Covenant.

9. Pursuant to article 2 (3) (a) of the Covenant, the State Party is under an obligation to provide the authors with an effective remedy. This requires it to make full reparation to individuals whose Covenant rights have been violated. Accordingly, the State Party is obligated to ensure that the authors' births are immediately registered in the civil registry, should this not already have been done, taking into account the Committee's findings in the present Views, and to provide them with adequate compensation. The State Party is also under an obligation to take all steps necessary to prevent similar violations from occurring in the future, including by ensuring that its legislation on the registration of births and the implementation thereof comply with the State Party's obligations under articles 16, 24 (1)–(3) and 26 of the Covenant.

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State Party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State Party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when it has been determined that a violation has occurred, the Committee wishes to receive from the State Party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State Party is also requested to publish the present Views and to have them widely disseminated in the official language of the State Party.

[19] A/HRC/27/22, para. 3. See also Committee on the Rights of the Child, general comment No. 7 (2020) on implementing children's rights in early childhood, para. 24.

[20] A/HRC/27/22, para. 18.