



Identity Rights Working Group (IDRWG) submission for input to the draft CRC Committee's General Comment 27 on Access to Justice and Effective Remedies (AJER).

30 June 2025

The Identity Rights Working Group (IDRWG) is pleased to make this submission for input to the draft CRC Committee's General Comment 27 on Access to Justice and Effective Remedies (AJER).¹ This submission is linked to the expert consultative meeting held on 18 May 2024² and should be read with the summary of that meeting³ as well as individual submissions made by endorsing organisations, as well as its own submission.⁴

The IDRWG congratulates the CRC Committee in having drafted comprehensive and informative guidance for access to justice and effective remedies for children. We especially welcome the recognition that the availability of a remedy is closely linked to the status of the child. It strongly supports the confirmation that "No child within the State's jurisdiction should be excluded from accessing justice, in particular due to their residency, their nationality status, including statelessness, or their lack of birth registration or documentation." (para 18 ii)

Considerate of the broad range of issues and limited words for a GC, the IDRWG recommends the following additions be made, with reference to potential sections that could be amended:

Availability of procedural safeguards

The IDRWG welcomes the categories noted under the section on "availability of an effective remedy refers to the existence of remedial mechanisms with the mandate, competency and capacity to address child rights violations." It however recommends that the section "on time" be adapted to include the notion of violations of an ongoing nature and not be limited to child sexual abuse:

1. Suggested text : ***Remedies should be available for historic past abuses where violations occurred against children and are of an ongoing nature.*** For many reasons including the child's dependency on adults and lack of autonomy, claims for AJER may be made by adults.
2. Suggested text : ***Procedural safeguards should be flexible and factor in inter-generational violations where for example, children may lack birth registration or legal status or not have a nationality, due to the fact that their parents, grandparents etc are stateless or have an undetermined nationality.*** Gender discrimination is another cause in law, policies and practices that prevents children having an identity and therefore having AJER. For example, there may be additional administrative proof for children of single mothers such as if the father is unidentified, the mother and child are required to produce a police report, field survey, etc, confirming this fact. While fact-finding surveys may be deemed necessary in cases of an unidentified or missing father, these are rarely conducted when the mother is missing.
Statutes of limitations, legal deadlines and even fines, in these circumstances should be lifted.
3. Suggested paragraph : ***States obligation to establish the truth for all alleged violations. States are required to respond to human rights contraventions including gross violations by establishing the truth. This encompasses a duty to investigate as outlined in the UDHR⁵ and other international***

¹<https://www.ohchr.org/en/calls-for-input/2025/call-submissions-draft-general-comment-no-27-childrens-right-access-justice>

² <https://www.child-identity.org/expert-meeting-with-crc-committee-on-childrens-right-to-identity-and-access-to-remedies/>

³ See 18 May 2024 Expert meeting summary https://www.child-identity.org/wp-content/uploads/2024/05/CRC-Expert-Consultation-summary-notes-11-June-2024.Final_.pdf

⁴ IDRWG submission https://www.child-identity.org/wp-content/uploads/2024/05/IDRWG_Submission_Access-to-justice-6-August-2024-EN.pdf

⁵ See international examples : Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Art. 12;

International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in its Art.6; Convention on the Rights of the Child, Art.39, International Covenant on Civil and Political Rights, Art. 2 ; International Convention for the Protection of All Persons from Enforced Disappearance, Art. 24; Universal Declaration of Human Rights, Art. 8

See regional examples: American Convention on Human Rights, Arts. 1, 8 and 25; African Charter on Human and People's Rights, Arts. 3 and 13; Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), Arts. 1, 6 and 13; Arab Charter on Human Rights, Arts. 3, 13 and 23; Inter-American Convention on Forced Disappearance of Persons, Art. 25; and American Declaration of the Rights and Duties of Man, Art. XVIII.

standards.⁶ Combined these international standards require that States should “investigate violations effectively, promptly, thoroughly and impartially and, where appropriate, take action against those allegedly responsible in accordance with domestic and international law.”⁷ Bodies such as truth commissions as well as those mandated for fact-finding and mapping may oversee the process and/or play a crucial role in investigations involving mass claims. Without this obligation being clearer in the GC, many violations can be ignored.

Accessibility for procedural safeguards⁸

In terms of procedural safeguards that facilitate an enabling environment for AJER, efforts should prioritise ensuring that every child has a legal identity, a nationality and full information about their family relations (Arts. 7-8 CRC). Without these efforts, children living in vulnerable contexts, are at particular risk of being excluded from the justice system. This includes children living in poverty, those without a birth certificate and/or who are stateless or undocumented, or lack legal status those connected to street situations, child marriage, children born through conflict related sexual violence, those who are abandoned, in alternative care and adopted, those born from third party reproductive means and children on the move, as well as refugees and migrants.

We suggest having text that outlines that an enabling environment should include (ideally all if possible):

1. Accelerated birth registration through decentralisation, inter-operability of the Civil Registration and Vital Statistic system with health, education and social protection, as well as digitalisation.
2. States should have a safeguard in law for children born in the territory who would otherwise be stateless to automatically acquire nationality at birth, regardless of the status of their parents.
3. Where stateless populations or populations of peoples with undetermined/unconfirmed nationality reside in the country in which they were born – in particular where previous generations were denied access to nationality – child friendly nationality determination or confirmation exercises are required.
4. State should endeavour to capture all relevant information about the child’s origins as part of their obligations to preserve the child’s right to identity in family relations. Without information about potential filiation, this can affect birth registration and/or establishment or confirmation of nationality. Laws should therefore be introduced to prohibit anonymous births⁹ such as naissance sous X, baby boxes, unknown gamete use and/or lack of recorded information about surrogate mother. States should add safeguards as a last resort where such cases exist, i.e. foundlings to ensure access to birth registration, prevent statelessness and gaps in information about family relations.

Adaptation to children’s rights and needs

We support all procedures being adapted to the needs of children. We recommend that the following examples be included in the General Comment.

1. Children should be able to apply for birth certificates independently of their parents. To illustrate, the great majority of EU member States “do not regulate the issue of children under 18 years

⁶ For example, see [Updated set of principles for the protection and promotion of human rights through action to combat impunity \(Principles 2,3,4 and 5\)](#)

⁷ 2005 UN Basic Principles, Para. 3b and Human Rights Committee. (2005) The nature of the general legal obligation imposed on States Parties to the Covenant, para. 15 <https://digitallibrary.un.org/record/533996?v=pdf>

⁸ These amendments could also be included under 2) VI. Enabling environment for realizing children’s right to access to justice and to an effective remedy

⁹ For children born of conflict-related sexual violations/war, this may not be applicable

applying on their own for their birth registration, if parents fail to do so.”¹⁰ Belgium, France, Luxembourg, Poland and Romania provide for late registration for other interested parties such as relatives and professionals.¹¹

2. In relation to child-friendly procedures, whether Refugee Status Determination or Statelessness Determination Procedure, the procedures should be child-friendly by being accessible and safe; conducted in a conducive physical environment; by personnel with skills and attitudes that respect children’s rights; ensure children’s meaningful participation; are sensitive to children’s age, maturity, background and situation; and link to support measures. See UNHCR's Technical Guidance: Child Friendly Procedures, available here: <https://www.refworld.org/policy/opguidance/unhcr/2021/en/124121>
3. Specifically Statelessness determination procedures (SDPs) are essential to identify stateless children among migrant populations.¹² In countries with an SDP, the authorities should be able to initiate the procedure *ex officio* and ensure there is cooperation between agencies, to ensure that children and other vulnerable groups are not disadvantaged in accessing the SDP. For child applicants, there should be child-rights-based adaptations and procedural safeguards, including the State assuming a greater share of the burden of proof, adhering to the best interests of the child principle, prioritisation in processing claims, and provision of adequately trained legal representatives, interviewers, guardians, and interpreters who are trained (see [UNHCR Handbook](#)).

Effectiveness in achieving redress

In terms of an enabling environment for substantive safeguards and outcomes for children, we recommend that the section on restitution include the speedy re-establishment of missing identity elements (Art.8(2)) such as :

1. Birth certificate / legal identity
2. Nationality including in situations where it has been unduly removed from them.
3. Family relations including the recourse to life story work and books, open adoptions and openness in third party reproduction, as well as the use of DNA testing where appropriate.

¹⁰ <https://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements/applying-birth-registration>

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¹² [CRC, UNHCR, Best Interests Procedure Guidelines](#),