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## PROVIDING “LEGAL IDENTITY” FOR ALL – THE CASE OF THE REPUBLIC OF NORTH MACEDONIA

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### Abstract

From birth, each individual has the right to have an identity. The identity of an individual is the assertion of his or her existence in a society and is a fundamental human right. However, hundreds of millions of people go without proper identification, without the means to officially verify who they are, and about half of the world's nations lack a system of universal birth and death registration. The UN has recognized that and so ‘legal identity for all including birth registration’ has been established as one of the UN Sustainable Development Goals for 2030.

When it comes to the Republic of North Macedonia, about hundreds of people were not registered in the birth register, without established legal and civil identity. As a result, these people could not receive treatment, use social assistance services, be involved in formal education, earn for a dignified life and acquire citizenship. The too long non-resolution of their status, the failures of previous initiatives and the real challenges and difficulties they faced imposed the need for a permanent and systemic solution to this burning problem. Just a few months ago, the amendments of few laws were finally adopted by the Parliament, with which all unregistered persons in the country who fought with the system to prove their legal identity, obtain personal documents, and thus gain access to basic rights, should become full-fledged citizens of the Republic of North Macedonia.

Through the analysis of the previous and current legal solutions to this problem, this paper will provide a more comprehensive analysis of the existing and future challenges that stand on the way of the ultimate goal - securing a legal identity for all.

**Keywords:** legal identity, SDG, human rights, citizenship, legislation.

## **Introduction**

The 2030 Agenda with its 17 Sustainable Development Goals (SDGs) was adopted in 2015 by the United Nations General Assembly. The Agenda does not aim to create legally binding standards, but instead seeks to advance international political goals in the form of “a plan of action for people, planet, and prosperity”, pledging that no one will be left behind.

Goal 16 is one of the broadest: “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”. Each Goal has a set of more detailed targets: Target 16.9 requires that states should, by 2030, “provide legal identity for all, including birth registration”.

Right now, there are 8.15 billion people on Earth, of whom 850 million cannot securely prove their identity. Most of this population is concentrated in Sub-Saharan Africa and South Asia, and includes disproportionately high numbers of women, as well as 164 million which are unregistered children under the age of five. (World Bank, 2021)

These many millions of people in the world, who cannot prove their identity, are often pushed to the margins of society with denied access to basic rights like: healthcare, schooling, social benefits and the freedom to vote, to drive, or travel across borders. What’s more, because they do not “exist” in society, these people are often exposed to extreme vulnerabilities and excluded from the legitimate economy, simply because they cannot open a bank account, apply for a loan, or sign up to a mobile phone subscription. This creates huge barriers in terms of enabling individuals to flourish, and nations to grow.

Such situations were not an unknown problem in the Republic of North Macedonia. The inconsistent data exchange system of the institutions, the large number of bureaucratic procedures and poorly created laws have led to the fact that hundreds of people in the country did not have a legal identity. Often referred as “phantom” persons, these people did not have access to basic human rights. The case of Memet Camber, the 19-year-old boy who died due to undiagnosed diabetes, broke the glass. Memet did not have the opportunity to get health insurance and he went to the hospital for the first time when his health condition visibly worsened, and that with someone else's health card. Even after death, the boy could not be buried because he had no identity documents, so the procedure took more than three weeks. (Risteska, 2023)

In this direction, a series of legal amendments were approached in the last few years, the implementation of which in practice should successfully pave the way for the Republic of North Macedonia to become the first country in Europe and the second in the world to eradicate this burning problem from its territory.

By analyzing past and current legal solutions to this problem, this paper will provide a more comprehensive analysis of existing and future challenges that stand on the way of the ultimate goal of securing legal identity for all.

## **Legal identity- a fundamental human right**

Legal identity is often regarded as a fundamental human right due to its intrinsic connection to accessing other rights and services. The ability to be recognized by the law and have an official identity is therefore acknowledged in nearly every major human rights instrument. For instance, in Article 6 of the Universal Declaration of Human Rights, it is articulated in terms of ‘The right to recognition as a person before the law’, and in Article 16 of

the International Covenant on Civil and Political Rights, it is stated that 'Everyone shall have the right to recognition everywhere as a person before the law'. (Kraft, 2021) The Convention on the Rights of the Child also reinforces the fundamental importance of the right to birth registration in its Article 7, which states that the child should be registered immediately after birth and have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents. The most recent international human rights instruments also contain provisions relating to birth registration, including article 29 of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families and article 18 the Convention on the Rights of Persons with Disabilities.(UN, 2014) Only, the European Convention on Human Rights (ECHR) doesn't explicitly mention "legal identity" as a standalone right. However, several articles within the ECHR indirectly touch upon aspects related to legal identity and its implications for human rights.<sup>1</sup>

Nevertheless, while international law emphasizes the importance of legal identity for the protection of rights, it doesn't provide a single, comprehensive definition. Instead, it acknowledges the multifaceted nature of legal identity and its significance in ensuring individuals' access to rights, services, and protections both within and across borders.

Legal or official identity, by the World Bank, is as an identity that carries a legal status, usually issued by governments to their citizens. These types of identity tend to include basic identifying information such as a person's name or date of birth and typical examples include birth certificates, voter registration cards, social security numbers and national identity cards. (World Bank, 2016)

According to another definition, legal identity is the registration and documentation of a person's existence that enables access to the benefits, responsibilities and rights afforded to them in their country. In short, it's a set of unique identifying information that includes details like name, date of birth and biometric or numerical data to authenticate the person. (Trivisas, 2022)

Eustat in his definitions refers to the legal identity as a status by which a person is recognized, with sufficient capacity for taking on obligations and carrying out activities that incur full legal responsibility, regarding themselves and third parties. Natural persons acquire their legal status at birth and lose it upon their death. (Insee, 2016)

According to the UN operational definition "legal identity" includes the basic characteristics, including individual's name, sex, and place and date of birth conferred through registration and the issuance of a certificate by an authorized civil registration authority following the occurrence of birth. (IOM, 2021)

However, something common to all definitions, is the notion that legal identity comprises a documented relationship between a person, the law and the state and it encompasses more than just birth registration. While birth registration is a critical component, legal identity encompasses a broader spectrum of elements that collectively establish an individual's recognized status under the law. This includes having official identification documents, nationality or citizenship status, and being recognized by the legal system within a particular jurisdiction.

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<sup>1</sup>For example, in Article 8 of ECHR, the European Court articulates the individual's identity as an important part of a person's private life and puts a positive obligation on states to ensure legislative structures and procedures that enable individuals the possibility of obtaining their documents. (CE, 2018)

## **Legal identity for all – The case of the Republic of North Macedonia**

Globally, an estimated 850 million people face challenges in proving who they are. Many are members of marginalized groups and over half of those without proof of identity are children whose births have not been registered. (World Bank, 2021)

North Macedonia was not an exception according to this problem. Publicly available data from 2021 confirm the fact that about 700 people were unregistered in the birth register, without an established legal and civil identity and without the ability to be medically treated, to use social assistance services, to be included in formal education, earn a decent living or acquire citizenship, or shortly without access to basic human rights and freedoms. (FOSM, 2021)

Persons without legal identity in the Republic of North Macedonia can generally be divided into three main groups:

### *1. Persons lacking birth and civil registration*

It is dominantly a problem for the Roma population, particularly for children born at home and for children whose parents do not have personal documents such as ID cards and birth/wedding certificates, or the one whose parents didn't register them within 15 days of their birth and they didn't have the documents for additional inscription. In such cases, the lack of registration becomes an intergenerational problem.

### *2. Persons who do not have official personal identification documents*

In the Republic of North Macedonia, persons who did not have personal identification number and did not have a registered address of permanent residence were not able to obtain an identity card, hence no other documents for personal identification. These was again a huge problem for Roma living in illegally constructed buildings or makeshift houses<sup>2</sup>, due to the inability to register their place of residence, they were not able to obtain a valid ID card. On the other hand, the acquisition of ownership or lease of a place of residence requires again valid personal documents. Thus, these people were caught in a vicious circle that was very difficult to break. (Dimitrovska et al., 2021)

### *3. Persons with no or undetermined nationality*

The main causes of statelessness in North Macedonia are the dissolution of the former Yugoslavia, and again, the lack of registration. After Yugoslavia dissolved into independent republics in 1990, all nationals of other republics of the former Yugoslavia, who from 8 September 1991 until the moment of application for citizenship had a registered, continuous and legal residence on the territory of Macedonia, were given the opportunity to acquire Macedonian citizenship. Due to a lack of legal knowledge and awareness, many of these persons did not apply for Macedonian citizenship at the time and are currently considered stateless. In many cases, their children are facing the same problems with regards to their nationality, even though they were born in Macedonia. (MYLA, 2015)

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<sup>2</sup>Roma in the Republic of North Macedonia, predominantly live in improvised and so-called "Cardboard dwellings" and even if they have an interest, they are not able to legalize them because the municipalities has not developed a detailed urban plan for all of this parts of the cities.

The failure to resolve the perennial status of "phantoms", and the real challenges and difficulties they face, imposed the need for a permanent and systemic solution to this burning problem in North Macedonia. Dominantly under the pressure of the international factor, as well as the non-governmental sector in the country, in the last few years appropriate laws were passed and amended and through their implementation the state tried or is trying to change the lives of these people for the better.

In the continuation of this paper, an elaboration of all these legal solutions will be given.

*- Law on Persons who are not registered in the Birth Register*

In 2020, the Law on Persons who are not registered in the Birth Register was adopted. The law provides for undocumented persons to have an initial temporary civil registration, after which they will receive an identification document with special identification number, which was intended to provide them with access to four rights: right to education, health care, social protection as well as employment with compulsory social insurance, until they acquire full civil registration, five years after the temporary registration is granted.(Law on Persons who are not registered in the Birth Register, Art.2)

The period of application for the provisions of the Law on Persons who are not registered in the Birth Register was extended twice as the number of persons applying was very low compared to those initially identified through the public call for registration in a separate birth register in 2018. According to the information shared by the authorities, a total of 290 special birth certificates and around 100 special identity cards were issued since the adoption of the Law in 2020. (UNHCR, 2023). The insufficient awareness of these persons about the way of submitting a request, as well as the insufficient training and capacity of the authorized persons for receiving and processing such requests were only part of the reasons for these numbers.

The Law was valid until June 2022, and sadly persons who have a certificate from the special registry book and identification document, in practice did not exercise any of the established rights. The registration number obtained by persons in the special birth certificate and which is contained in the identification document, did not have the characteristics of a Citizen's Unique Civil Registry Number and was not recognized in the integrated system of the competent bodies and institutions, so in practice the persons have a certificate and a document but can not exercise any of the above mentioned rights. A problem also arose with the banks, which could not open transaction accounts due to non-recognition of this number.

As far as this law is concerned, the general impression is that it experienced a debacle, and as the ombudsman stated on one occasion, it was only to "rub the eyes of foreigners".

*- The Citizenship Law amendments*

The Macedonian Assembly in 2021 adopted new amendments to the Law on Citizenship (1992) with the goal to resolve the statelessness issue in the country that has not been addressed since the country's independence.

The amendments temporary introduce an extraordinary legal basis to acquire citizenship of North Macedonia by virtue of law for citizens of another republic of the former Socialist Federal Republic of Yugoslavia (SFRY) and citizens of the former SFRY who lived in the

Republic of North Macedonia until September 8, 1991 if they provide specific evidence, such as: birth certificate, school transcripts or diplomas, proof of employment, proof of paid taxes applicable at the time, passport issued by the former SFRY, ID issued by the former SFRY, proof of paid bills (electricity, water, heating, telephone) etc. This exception shall apply within a three-year period. (The Law on Amendments and Supplements to the Law on Citizenship of Republic of North Macedonia, Art.2)

Other amendments refer to lowering the residence requirement threshold in order to obtain a Macedonian citizenship from eight to seven years. (The Law on Amendments and Supplements to the Law on Citizenship of Republic of North Macedonia, Art.7)

After a year of implementation these amendments started giving results as 150 persons at risk of statelessness obtained Macedonian citizenship based on the provisions of this law. (UNHCR,2023)

#### *-The Law on Civil Registry amendments*

With the adopted amendments to the Law on Civil Registry in 2023, all unregistered persons in the country who fought with the system to prove their legal identity, obtain personal documents, and thus gain access to basic rights, should become full-fledged citizens of the Republic of North Macedonia.

Among the most significant changes was the introduction of Article 4-a, which mandates the immediate registration, at the latest within 45 days of the birth, of every child born within North Macedonian territory, irrespective of the nationality or status of the child's parents. In this way, the trans-generational transmission of the "phantom" status is finally put to an end.

These legal amendments also fill the gaps that arose in the implementation of the 2020 law and regulate the status of the persons who are registered in the special register of births, by providing that they will be registered in the regular register of births within 90 days at the latest, ex officio. For the persons who only applied for the public call and are registered as unregistered persons, after additional checks, it is planned that their registration will be carried out by the end of 2023 at the latest.

The legal provisions also provide in detail how the registration will be carried out after the additional checks. It is interesting to mention in this context that part of the responsibilities related to the registration are transferred to the Registry Office or the Center for Social Affairs, as well as that in situations where the birth itself or the necessary facts recorded in the birth register cannot be confirmed with an appropriate document, they can be obtained with a statement from two witnesses, which should be given before a notary under full moral, material and criminal responsibility. (The Law on Amendments and Supplements to the Law on Civil Registry, Art.7)

According to the official data from the The Registry Office, in the period up to now, around 150 certificates have been issued in all regional units. In the following period, a total of 526 fellow citizens are expected to receive birth certificates for the first time. (Delevska, 2023)

*-Amendments to the Law on Registration of Permanent and Temporary Residence and to the Law on Identity Card.*

With these legal solutions, finally it is possible for people who do not own property or do not have the opportunity to provide evidence of property ownership or a lease agreement and therefore remained without a registered residential address, and therefore without an identity card, to resolve this burning issue.

Citizens who are homeless are given the opportunity to register their residence at the address of the Center for Social Work or at the address of the natural person who gave their consent for the homeless person to report a residence at their address. Citizens who have been housed in institutions for a longer period of time can register their residence at the address of the appropriate social or health institution. Additionally, the new amendments foresee several options for people living in 'non-legalized houses' like the one that the municipality can issue a certificate of the existence of an illegally built residential building, with an address and number, as a valid proof when registering the residence and obtaining an identity card. (The Law on Amendments and Supplements to the Law on Registration of Permanent and Temporary Residence, Art.2)

With the amendments and additions to the Law on Identity Card, the category of homeless citizens is specified as citizens who do not have a place and address of residence and means with which they could meet the need for housing. In the case when a homeless person submits a request for the issuance of an ID card for the first time, the collection of data on the biometric characteristics is carried out in the presence of an official from the center for social affairs. (The Law on Amendments and Supplements to the Law on Identity Card, Art.1)

A very important feature of the latest legislative changes is the fact that "legal identity" now has a systemic solution. Nevertheless, the success of addressing issues related to unregistered individuals relies not only on legal amendments but also on a sustained commitment to effective implementation and enforcement of these laws and policies.

It is useful to deal first with the already identified persons, however, as the UNHCR High Commissioner for Protection, Gillian Triggs says, it is very difficult to know, it is very difficult to have the exact number where the main "pockets" or groups that remain are, so in this fight we should remain responsible and dedicated. It is the only way to show that we remain committed to the motto of the Sustainable Development Goals - to leave no one behind.

## **Conclusion**

Millions of people globally lack a legal identity, which can hinder their ability to access education, healthcare, social services, financial systems, and even their basic human rights. That is the reason why this burning problem is among the sustainable development goal 16.9, whose target underscores the importance of ensuring that everyone, irrespective of their background or circumstances, has access to a legal identity, starting with birth registration.

The Republic of North Macedonia, like many other countries, has faced challenges related to unregistered or undocumented people within its borders for years. However, in the past years, predominantly under the influence of the international community and the active non-governmental sector in the state, approaches were taken to enacting new legal solutions and revising the existing ones, with which the state tried and is still trying to permanently resolve the phantom status of a part of the persons living in its territory.

The process started in 2020 with the adoption of the Law on Persons who are not registered in the Birth Register, which law very enthusiastically tried to provide official documentation for unregistered persons. Although the registration was carried out in a special register, and identification documents were issued, which were supposed to provide them with access to taxatively enumerated rights, the practical application of this law experienced a debacle, considering that these documents were not recognized by the official authorities in the country.

The process continued with the amendments to the Law on Citizenship, with which finally, with documents available to everyone as proof of their "existence", statelessness will be put to an end, especially for those persons who remained as a relic from the collapse of SFRY.

Finally, the amendments to the Law on Civil Registry, Law on Identity Card and Law on Registration of Permanent and Temporary Residence will ensure a situation in which no live-born child will remain outside the system, and all citizens without an official "roof over their head" will have no problem registering their place of residence and obtaining identity cards.

This legal regulation, practically implemented, will contribute to the Republic of North Macedonia fulfilling the goal of sustainable development. In the period that follows, work should be done on raising the awareness of the vulnerable categories to demand their rights, and the services of the system should prepare their work in a timely manner, legislatively and on the ground, so that they could respond to this great challenge in order no one to be left behind.

In conclusion, "leave no one behind" serves as a guiding principle that demands a collective commitment to creating a more equitable and sustainable world for current and future generations. It reminds us that the success of our efforts toward global development should be measured by the upliftment of the most vulnerable among us.

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