



**THEMATIC SURVEY  
OBSERVING CHILDREN'S RIGHTS  
TO NAME AND NATIONALITY**

CHISINAU 2017



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**LIST OF ABBREVIATIONS**

**PPP** - Professional Parental Assistance

**PSA** - Public Services Agency

**BMA** - Bureau of Migration and Asylum

**NCCRP** - National Council for Child Rights Protection

**CSB** - Civil status body

**FTH** - Family type house

**CONTENT**

CONTEXT .....5

**CHAPTER I**

Existing legal framework and procedures for the registration of childbirth and granting nationality.

International and national standards on children's rights to name and nationality.

1.1. General legislation on children's right to name and nationality .....7

1.2. Legislation of the Republic of Moldova regulating the right to name and nationality .....10

1.3. Experience of other states in ensuring the rights of the child to name and nationality .....11

**CHAPTER II**

Current situation regarding the observance of the right to name and nationality in the Republic of Moldova.

2.1. Declaring and registering the birth of children: Legal regulations *versus* reality .....14

    2.1.1. Late birth registration .....19

    2.1.2. Registration of the birth of an abandoned child .....22

    2.1.3. Terms and cost of child birth registration .....23

    2.1.4. Sanctions applied for late registration of childbirth .....23

2.2. Documentation of children with identity cards and passports and ensuring the right to nationality.....24

2.3. Acquiring the nationality of the Republic of Moldova .....26

2.4. Observing the rights to name and nationality of children on the left bank of the Dniester .....29

2.5. State policies to ensure the child's right to name and nationality .....31

**CHAPTER III**

Conclusions and recommendations.....33

**Annex no.1** Methodology.....37

## CONTEXT

Every child shall be registered immediately after birth and have a name. The right to name and nationality is a subjective right and its infringement leads, in turn, to the infringement of other rights, such as the right to health, social assistance and protection, education, etc.

The issue of "with no identity" children has been and continues to be addressed globally, given that there are many problems with the registration of children immediately after birth.

In 2013, the United Nations Children's Fund (UNICEF) launched the Report "Every Child's Birth Right: Inequities and Trends in Birth Registration"<sup>1</sup>. According to the results of the survey, which analysed the situation in 161 countries, it was found that almost 230 million children under the age of 5 were not registered at birth, i.e. one in three children.

The countries with the lowest levels of childbirth registration are in South Asia and sub-Saharan Africa. In the top of 10 countries with the lowest level of registration of children at birth are: Somalia (3%), Liberia (4%), Ethiopia (7%), Zambia (14%), Chad and Tanzania (16% each), Guinea-Bissau (24%), Pakistan (27%) and Congo (28%).

According to the same source, the most affected are children of ethnic and religious minorities, children from rural and poor areas, those from poor and illiterate families. Barriers to the registration of childbirth can be political, geographical, economic, legislative, social, cultural or administrative.

In countries where there are military conflicts, safety and shelter are much more important than traveling to registration offices, the care to register children is often abandoned.

A very low income represents another barrier. For example, in Paraguay, where the minimum wage level is about USD 7 per working day, a fee of about USD 15 is charged for issuing the birth certificate.

The most common problem when registering the birth of children is the parents' lack of identity. Such situations are often ascertained in rural areas, the lack of personal identity documents not presenting a care susceptible to attention.

The problem of children "without identity" is also current for the Republic of Moldova. According to the national law, the birth of a child must be registered in the Register of Civil Status Documents. However, according to the UNICEF Survey carried out in the Republic of Moldova in 2012, a representative sample of about 12,000 households shows that almost all children under the age of 5 (99.6%) were registered at birth.

In 2013, the Centre for Human Rights in Moldova carried out an analysis on the documentation of children with birth certificates<sup>2</sup>. According to the Thematic Report, in our country, there were 343 children registered by the authorities, whose birth was not registered in the Register of Civil Status Documents. Most children without birth certificates were between 9-12 years old (38%). 93% of children without a birth certificate were in the biological family. The real number of children without identity documents is not known, just as the number of "unidentified" adults is not known.

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<sup>1</sup>[https://www.unicef.org/Moldova/ro/11941\\_25385.html](https://www.unicef.org/Moldova/ro/11941_25385.html)

<sup>2</sup>[http://ombudsman.md/sites/default/files/document/attachments/raport\\_tematic\\_-\\_copii\\_nedocumentati\\_red\\_1.pdf](http://ombudsman.md/sites/default/files/document/attachments/raport_tematic_-_copii_nedocumentati_red_1.pdf)

## *Translation from Romanian into English*

Despite the fact that in Moldova the registration of children at birth is an obligation of the parents or representatives of the child and the issuance of birth certificates is free, the issue of children without name remains a major one.

The survey is carried out at the initiative of the People's Advocate Office with the support of UNICEF Moldova.

Taking into account the fact that the subject of undocumented children belongs to several actors, the elaboration of the Survey in question focused on the multispectral approach.

The first chapter of the Survey focuses on national and international legislation regarding the child's right to name and nationality.

In this context, we can mention that the Republic of Moldova promotes policies for the protection of children's rights, including simplifying the procedure for documenting children. However, there are gaps in the area of institutional communication and registration of childbirth. In order to ensure the observance of the child's right to name, the Republic of Moldova can take over the experience of other states, models that were addressed in the survey.

Chapter 2 contains statistics on the number of children whose right to name and citizenship is violated, the role of institutions in ensuring observance for children's rights, the situation of children in the left bank of the Dniester in terms of their right to name and citizenship and state policies to ensure the right to name and citizenship.

Chapter 3 includes conclusions and recommendations for improving the situation in the field.

The survey aims to analyse the situation as a whole, to identify the existing gaps, the profile of the child without identity, the causes and consequences of the violation of children's rights, finally yet importantly solutions to eradicate the problem.

The results of the Survey will be used to raise awareness of the issue, to promote policies and programs aimed at protecting children and ensuring the rights to names and nationality of all children.

## CHAPTER I

### LEGAL FRAMEWORK AND EXISTING PROCEDURES FOR REGISTRATION OF CHILD BIRTH AND GRANTING NATIONALITY. INTERNATIONAL AND NATIONAL STANDARDS ON THE RIGHTS OF CHILDREN'S NAME AND NATIONALITY.

#### 1.1. General legislation on children's rights to name and nationality

At the international level, a number of treaties have been adopted guaranteeing the right to a name and citizenship to all persons, from birth.

The Universal Declaration of Human Rights<sup>3</sup>, in art. 15 stipulates “*every person has the right to nationality. No one shall be arbitrarily deprived of his/her nationality nor denied the right to change his/ her nationality.*”

The European Convention on Human Rights, unlike other international treaties for the protection of human rights, does not contain explicit provisions regarding the right to a person's name and citizenship, but a person's “*right to identity*” is a component of the right to personal private life. In exercising the right to a name, the state authorities enjoy a certain freedom of regulation.

The European Court of Human Rights assigns to the person's first and last name a social function of identification, and in its case law on Article 8 of the Convention, the Court established that Article 8 “*guarantees a right to identity and personal development.*” The High Court considers that a person's right to first and last name falls within the scope of art. 8 § 1 or as a component of the notion of “*private life*” or is contained in the notion of “*family life*”<sup>4</sup>. These elements of the right to respect private and family life has been examined by the European Court in several cases, including: *Burghartz v. Suisse*, of 22 February 1994; *Stern v. Finland* of 25 November 1994, *Guillot v. Internet* of 24 October 1996; *Szokoloczy-Syllaba et Palffy by Erdoed Szokoloczy-Syllaba v. Switzerland* of 29 June 1999; *Bijleveld v. The Netherlands* of 27 April 2000; *Taieb dite Halimi v. France* of 20 March 2000; *Johansson v. Finland* of 6 September 2007; *Boulgakov v. Ukraine* of 11 September 2007, etc.

In case *Salonen v. Finland*, the Court noted that, the first name is an element of the ‘*public patrimony*’ of the personality; in certain situations, it cannot remain confined to civil status, but may have an impact on private life. The choice of a child's name is part of private life, and the refusal of the registrar to register the child under this first name constitutes an interference with private life.<sup>5</sup> However, the ECtHR magistrates consider that any democratic society must recognize the principle of proportionality in the exercise of the rights provided by art. 8 of the Convention.

The family name, is the same as the first name, is an element of individualization of the person in society, but to a greater extent, because persons have a limited margin of manoeuvre to the extent that, in accordance with the specific provisions of the Convention, States are free to legislate on the matter<sup>6</sup>.

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<sup>3</sup> Adopted by the General Assembly of the United Nations on 10 December 1948

<sup>4</sup> European Convention on Human Rights, commentary on articles, 2nd edition, author Corneliu Birisan, Publishing house C.H. BECK

<sup>5</sup> Case Guillot v/France

<sup>6</sup> European Convention on Human Rights, commentary on articles, Edition I, author Corneliu Birisan, Publishing House C.H. BECK.

## ***Translation from Romanian into English***

The International Covenant on Civil and Political Rights<sup>7</sup> in art. 24 expressly establishes the right of every child to a name and nationality, namely “*every child must be registered immediately after birth and have a name. Every child has the right to acquire a nationality*”.

Article 7 of the United Nations Convention on the Rights of the Child<sup>8</sup> also guarantees the right of the child to have a name at birth “*the child is registered immediately after birth and has since that the right to name, the right to acquire a nationality and, as far as possible, the right to know and be raised by their parents*”.

The Council of Europe adopted on 6 November 1997 the European Convention no. 1997 on nationality<sup>9</sup>, which lays down the principles and rules on nationality of natural persons, as well as the rules determining military obligations in the event of a plurality of nationalities, to whom the domestic law of States Parties must comply. For the purposes of this Convention, "nationality" means the legal connection between a person and a State without specifying his or her ethnic origin.

Any signatory State to the Convention on nationality must bring its own rules on nationality in accordance with the following principles<sup>10</sup>:

- Everyone has the right to nationality;
- Statelessness is avoided;
- No one may be arbitrarily deprived of his/her nationality;
- Neither marriage nor the dissolution of a marriage between a national of a State Party and a foreigner, nor the change of nationality of one of the spouses during the marriage shall automatically affect the nationality of the other spouse.

Chapter III of the Convention sets out the rules on nationality to be observed by States Parties. Thus, each State will stipulate in its domestic legislation the acquisition of nationality *ex lege* by:

a) children one of whose parents possesses, at the time of the birth of these children, the nationality of that State Party, subject to any exceptions which may be provided for by its internal law as regards children born abroad. With respect to children whose parenthood is established by recognition, court order or similar procedures, each State Party may provide that the child acquires its nationality following the procedure determined by its internal law;

b) foundlings found in its territory, both parents of whom are not known and who would otherwise have been recognized as stateless;

Each State Party shall also stipulate in its domestic law the possibility of acquiring its nationality by children born in its territory who do not acquire the nationality of another State at the time of birth.

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<sup>7</sup> Adopted by the General Assembly of the United Nations on 19 December 1966 and ratified by the Republic of Moldova by Parliament Decision no. 217-XII of July 28, 1990.

<sup>8</sup> Adopted by the United Nations General Assembly on 20 November 1989, and in force for the Republic of Moldova on 25 February 1993.

<sup>9</sup> In force for the Republic of Moldova since 1 March, 2000.

<sup>10</sup> Article 4.

## ***Translation from Romanian into English***

At the same time, each State Party shall provide in its domestic law for possibilities which facilitate the acquisition of its nationality by children of whom one of the parents, at the time of the child's birth, has the nationality of that State; children, one of the parents of whom he acquires or has acquired his citizenship; children adopted by one of its citizens; etc.

Each State Party shall also stipulate in its domestic law the possibility of acquiring its nationality by children born in its territory who do not acquire the nationality of another State at the time of birth.

At the same time, each State Party shall provide in its domestic law for possibilities which facilitate the acquisition of its nationality by children of whom one of the parents, at the time of the child's birth, has the nationality of that State; children, one of the parents of whom he acquires or has acquired his citizenship; children adopted by one of its citizens; etc.

The State Party to the Convention on nationality can only provide in national law for the loss of its citizenship *ex lege* only in certain situations<sup>11</sup>, and renunciation to nationality is allowed only on condition that the persons will not consequently become stateless<sup>12</sup>.

Given that the status of stateless persons must also be regulated and improved, the United Nations adopted the Convention on the Status of Stateless Persons on 28 September 1954<sup>13</sup>. For the purposes of the Convention on the Status of Stateless Persons, a stateless person is a person who is not considered to be a member of any State under its national law, but who shall be granted at least the same favourable treatment as the nationals of the State where the stateless is.

Five years later, the United Nations Convention on the reduction of statelessness was adopted in New York<sup>14</sup>, and on 19 May 2006 the Council of Europe adopted the Convention on the prevention of statelessness in relation to state succession<sup>15</sup>.

Pursuant to the provisions of the Universal Declaration of Human Rights, the U.S. states signed on 22 November, 1969, in San José, Costa Rica, the "American Convention on Human Rights," an act that also guarantees the right of every person to a name.<sup>16</sup>

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<sup>11</sup> a) voluntary acquisition of the nationality of another state; b) the acquisition of the nationality of the State Party by fraud, the presentation of false information or the concealment of a pertinent fact referring to the person of the applicant; c) voluntary military service in foreign armed forces; d) behaviour seriously damaging the vital interests of the State Party; e) lack of an effective link between the State Party and the citizen with permanent residence abroad; f) if, on reaching the age of majority of a child, it is established that the conditions laid down in domestic law which would enable him to acquire the nationality of the State Party by law are no longer fulfilled; g) adoption of the child, if the child acquires or possesses the citizenship of one or both adoptive parents.

<sup>12</sup> Article 8.

<sup>13</sup> Concluded in New York on September 28, 1954, the Republic of Moldova acceded to the Convention by Law no. 275 of November 27, 2011 the Republic of Moldova acceded to the Convention on December 27, 2011 by Law no. 275

<sup>14</sup> Adopted on August 30, 1961 in New York, which is in force for the Republic of Moldova since April 19, 2012

<sup>15</sup> Adopted at Strasbourg, in force for the Republic of Moldova on 1 May 2009

<sup>16</sup> Article 18

## **1.2. Legislation of the Republic of Moldova regulating the right to name and nationality**

The provisions of international treaties, with reference to the person's right to name and nationality, have been transposed into the legislation of the Republic of Moldova, namely the Constitution, the supreme law of the state; article 17 guarantees the right to citizenship of the Republic of Moldova, that is acquired, kept or lost under the conditions provided by organic law. Likewise, according to the Constitution, *"no one may be arbitrarily deprived of his nationality nor denied the right to change his nationality"*.

The Law on the Rights of the Child<sup>17</sup> in Article 5 enshrines the child's right to a name and nationality. Thus, *"from the moment of birth the child has the right to a name and is registered according to the provisions of the Family Code"*.

According to art. 55 of the Family Code of the Republic of Moldova *"the child has the right to a family name and surname."* In accordance with these provisions, the child acquires the family name of his/her parents. If the parents have different surnames, the child will take the surname of the father or mother, based on a common agreement of the parents. The child's simple name is given by the parents. If there is a dispute between the parents regarding the child's last name or first name, the guardianship authority interferes.

In various cases, the civil status body, based on the joint request of the parents or, as the case may be, of one of the parents, may decide to change the family name and / or the child's first name. The change of the family name or the first name is accomplished with the help of the guardianship authority, and if the child has reached the age of 10, obligatorily, the procedure is carried out with the child's consent.

According to the Civil Code of the Republic of Moldova, *"Every natural person has the right to the name established or acquired according to the law. The name includes the family name and the first name, and in the cases provided by law and the patronymic. The family name is acquired through the effect of filiation and is modified by the effect of the change of marital status... The first name is established on the date of birth registration, based on the birth declaration"*<sup>18</sup>.

The name of a person is nothing but an attribute of his/her identification and is due to the fact that the personality of a person must appear distinct in interpersonal relationships, compared to the personality of another. The name is a subjective non-patrimonial right, and the content of this right includes the prerogatives of the holder to bear and use the name.

Once the birth has been declared and the person's first and last name has been established, he or she acquires and exercises the rights and exercises the obligations on his or her behalf<sup>19</sup>.

The registration of the birth of children is carried out according to the provisions of Law no. 100-XV of 26 April, 2001 on civil status documents and the Instruction on how to register civil status documents<sup>20</sup>.

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<sup>17</sup> Law on the rights of the child no. 338 of December 15, 1994.

<sup>18</sup> Article 28.

<sup>19</sup> Article 29 of the Civil Code.

<sup>20</sup> Approved by the joint Order of the General Director of the Department of Information Technologies no. 4 of 21 January, 2004 and of the Minister of Justice no. 400 of February 21, 2005.

## ***Translation from Romanian into English***

The obligation to declare the birth of the child is a priority for the parents. The declaration must be submitted within 3 months from the day of the child's birth, or, namely by registering the birth, the child is individualized in the family and society.

The special law that establishes the legal framework of relations related to the citizenship of the Republic of Moldova is the Law on nationality of the Republic of Moldova no. 1024 of 2 June, 2000, on the basis of which the Regulation on the procedure for acquiring and losing the nationality of the Republic of Moldova was approved<sup>21</sup>.

The nationality of the Republic of Moldova, according to the provisions of the Law on nationality, establishes a legal-political link between the natural person and the state, which generates mutual rights and obligations. Nationality of the Republic of Moldova can be acquired through: birth, recognition, adoption, recovery and naturalization.

### **1.3. Experience of other states in ensuring children's rights to name and nationality**

Ensuring the right to the name of the new-born child in **Romania** is regulated by Law no. 119/1996 regarding the civil status documents and Order no. 359 of 4 April, 2012 on the criteria for registration and declaration of the new-born.

The child born is registered immediately after expulsion, in the Birth Register of the unit where the birth took place. The medical birth ascertaining certificate is issued within 24 hours from birth. The certificate contains information about the child's first name, nationality and numerical code. Subsequently, based on the birth ascertaining certificate, the parents have the obligation to declare and register the birth of the child at the local community public service for the registration of persons or, as the case may be, by the civil status officer within the mayor's office of the administrative-territorial unit where the birth took place. The birth is declared within 15 days from the date of birth for the child born alive and within 3 days for the child born dead.

Either parent has the obligation to declare the birth of the child. If the parents for various reasons cannot declare the birth of the child then this obligation is incumbent on the doctor, the persons who were present at the birth, the staff of the designated medical institution or any person who became aware of the birth of the child. The identity document of the mother and of the declarant, the birth ascertaining certificate and, where applicable, the parents' marriage certificate are submitted at the child's birth declaration.

If the deadline of 15 days for declaring the birth of the child has been exceeded, but the declaration was made within one year of the birth, the birth certificate shall be drawn up with the approval of the mayor, as the case may be, the head of the diplomatic mission or consular office.

After the deadline of one year, the drafting of the act is made on the basis of the final and irrevocable court decision, which must contain all the data necessary for elaborating the birth certificate.

The birth certificate of the found child is drawn up within 30 days from the date he/she was found, by the community public service of evidence of the persons in whose administrative-territorial radius the child was found.

If the identity of the mother of the abandoned child is not established, the public social assistance service has the obligation, within 5 days, to obtain the order establishing the name and surname of the child and to declare the birth registration at the community public service of people record.

## ***Translation from Romanian into English***

<sup>21</sup> Approved by the Government Decision of the Republic of Moldova no. 197 of 12 March, 2001.

In the case of an abandoned child, the birth registration will be made on the basis of the minute, the birth ascertaining certificate, the emergency placement order, the answer of police on the result of the checks on the identity of the mother, the provision establishing the name and surname of the child and the birth registration declaration.

Romanian nationality is granted to a child born on the territory of Romania, of parents with Romanian nationality. Also, children are considered citizens of Romania if: they were born on the territory of the Romanian state, even if only one of the parents is a Romanian citizen; both parents were born abroad or only one of them has Romanian citizenship. The child found on the territory of the Romanian status is a citizen of Romania, if none of the parents is found. At the same time, the child can obtain Romanian citizenship by adoption and upon request.

The child's right to name in the ***Russian Federation*** is regulated by art. 58 of the Family Code, according to which every child has the right to name, patronymic and family. The name of the child is given at birth based on the common agreement of the parents, and the patronymic results from the father's name, unless the law or regional customs provide otherwise. The child's last name is determined based on the parents' last name. If the parents have a different surname, the child will bear the surname of one of the parents, based on their mutual agreement.

The procedure for registering the birth of a child is set out in the Law of the Russian Federation no. 143-F3 of 15 November 1997 on civil status documents. Thus, the declaration of birth of the child is submitted within 30 days from the date of birth by one of the parents, a person authorized by the parents, a responsible person from the medical institution where the birth of the child took place or the institution where the child is, to the Civil Status Body in whose territorial area the birth of the child took place or in whose territorial area the child's parents reside.

Also, in some regions of the Russian Federation, the declaration of birth of the child can be submitted in the medical institution where the birth of the child took place or in the Public Service Centers "Мои документы (My documents)". The child's birth declaration can be submitted in writing or verbal, as well as through the web portal, accompanied by the electronic signature.

As in the Republic of Moldova or Romania, the registration of the birth of the child in the Russian Federation is carried out pursuant to the birth ascertaining certificate which is attached to the birth declaration. Also, the registration of the birth of the child can be done on the basis of the court decision by establishing the birth of the child by a concrete woman.

About the found or abandoned child, the police, the medical institution, the guardianship authority or another person is obliged to notify about this fact, but not later than 7 days.

If the birth of the child has not been registered within one year, then the declaration of birth is made by submitting the certificate establishing the birth, the request of the parents or the declaration of the child who has reached the age of majority. If the birth ascertaining certificate is missing, the civil status body will register the birth of the child aged one year or more, based on the court decision establishing the fact of birth. The child's birth certificate is issued on the day of the address and no state fee is charged.

According to Law no. 62-F3 of 31 May 2002 on the nationality of the Russian Federation, the child receives the nationality of the Russian Federation at birth, if both parents or the single parent is a citizen of the Russian Federation; if one of the parents is a citizen of the Russian Federation and the other parent is a stateless person or a foreign national; if the child was born on the territory of the Russian Federation, etc.

## *Translation from Romanian into English*

The right of the child to name in the **Republic of Belarus** is established in the content of art. 68 and 69 of the Family Code and art. 20 of the Law on the Rights of the Child, and the right of the child to Belarusian nationality is provided for in art. 10 of the Constitution of the Republic of Belarus and the Law of 1 August 2002 on nationality of the Republic of Belarus.

In general, the procedure for registering the birth of a child and acquiring nationality is similar to that of the countries mentioned above.

**Spanish** law provides that, in order to ensure the child's right to name and nationality, the birth of the child must be declared within 24 hours of birth, within 8 days. If the declaration of birth was not successful within 8 days, the legislator provided the term of 30 days from the date of birth. After the expiration of the 30 days from the date of birth, the registration of the child's birth is carried out in the presence of the head of the Civil Registrar at the place of birth of the child.

Blood relatives (parents, grandparents, uncles, siblings) or social relatives can declare the birth of a Spanish child. The birth ascertaining certificate of the child is attached to the child's birth declaration and the identity document / documents of the parents are submitted.

The birth of the child in the **Italian Republic** is declared within 3 days from the birth at the medical assistance department within the maternity hospital where the birth of the child took place or within 10 days from the day of birth at the territorial civil status body where the birth of the child took place or where their parents live. The birth certificate is issued on the same day.

If the 10-day deadline for declaring the birth of the child has been exceeded, the parents must argue non-compliance with the legal terms. The representative of the civil status body, obligatorily, notifies the Prosecutor's Office about the late registration of the birth.

If the parents cannot justify their non-compliance within the 10-day period provided for the registration of the child's birth or do not have the birth ascertaining certificate, the child's birth certificate is issued after a thorough investigation and under the court decision on the agreement to register the child's birth in the Register of civil documents.

Based on the child's birth certificate, the parents present themselves at the tax service where a fiscal identification number of the child is issued, based on which the child's medical insurance is issued, which entitles him/her to choose the paediatrician.

Children born by foreigners in the Italian Republic do not automatically receive the nationality of the respective state, but have the citizenship of the parents, for this reason the child's birth declaration must be carried out at the consular offices of that country whose citizens are the parents of the newborn.

The legislation of the **United Kingdom** establishes the obligation to register the birth within 42 days from the date of the child's birth by addressing the Administrative Department of registrations in the territorial area of the hospital where the birth of the child took place or where the parents reside.

The English birth certificate is of 2 types: the abbreviated form which contains data only about the child, is issued free of charge; full form - contains data about the child and parents, for which the state tax is paid. The birth certificate is issued on the same day if the parents have addressed the competent authorities at the place of birth of the child or within a few days if the birth declaration has been submitted in another constituency.

If one of the child's parents is a citizen of Great Britain or legally resides in the territory of this country, the child's English passport can be completed by paying a fee of approximately £ 56.

## **CHAPTER II**

### **CURRENT SITUATION ON OBSERVANCE OF CHILDREN'S RIGHTS TO THE NAME AND NATIONALITY IN THE REPUBLIC OF MOLDOVA**

#### **2.1. Declaring and registering the birth of children: Legal regulations *versus* reality.**

Parents protect the legitimate rights and interests of children. Namely, parents are the legal representatives of their children and act on their behalf in relations with all natural and legal persons, including public administration authorities and courts, without the need for special powers<sup>22</sup>.

Proceeding from the above, namely parents have the obligation to declare the birth of their child, so that later he/she will be assured the right to identity.

The declaration regarding the birth of the child is submitted to the Civil Status Body in whose territorial area the birth of the child took place or the parents of the child have their domicile<sup>23</sup>, within 3 months from the day of the child's birth<sup>24</sup>.

In situations where the parents do not have the possibility to personally declare the birth of the child, relatives or a person authorized by the parents may make the declaration, by the administration of the medical institution where the birth took place or where the child is, by the guardianship authority or other people.

Parents or, as the case may be, other persons authorized to declare the birth submit to the civil status body the birth ascertaining certificate with the presentation of the parents' act or identity documents, as well as the documents based on which the child's father's data will be entered in the child's birth certificate.

The proof of the basis for drawing up the birth certificate are the following documents: medical certificate confirming the birth, issued by a private medical institution, or by a private doctor who received the birth; the minutes (in case of registration of the foundling); the court decision regarding the establishment of the fact of the birth of the child by a concrete woman<sup>25</sup>.

Therefore, from the date of birth registration in the Register of civil status documents and the issuance of the birth certificate, each person is guaranteed the right to a name and continues to benefit from all the guarantees offered by the state.

Parents who are married to each other are registered in the child's birth certificate. The data about the child's mother are entered in the birth certificate based on the medical certificate confirming the birth, issued by the health unit where the birth took place or the medical birth certificate, issued by the private health unit, by the doctor who assisted the birth or the mother addressed after the birth or by a private doctor who assisted the birth. The birth ascertaining certificate is a document drawn up on a standard form, of a unique model. The competence of the bodies invested with the right to issue the birth ascertaining certificate, the manner and terms of its issuance are established by Joint Order no. 110/51/56 of 23 April, 2002 of the Ministry of Health, Department of Statistics and Sociology and Department of Information Technology.

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<sup>22</sup> Art. 61 of the Family Code of the Republic of Moldova.

<sup>23</sup> Law on civil status documents, art. 21 para. (1).

<sup>24</sup> *Idem*, art. 22 para. (5).

## ***Translation from Romanian into English***

<sup>25</sup> Ibidem, art. 20.

The birth certificate is a document drawn up on a standard form, of a unique model. The competence of the bodies invested with the right to issue the birth certificate, the manner and terms of its issuance are established by Joint Order no. 110/51/56 of 23 April, 2002 of the Ministry of Health, Department of Statistics and Sociology and Department of Information Technology.

In the case of divorced parents, in case of marriage annulment or in the absence of the joint request of the parents or the decision of the court on establishing paternity, the surname of the father shall be entered after the surname of the mother, and father's first name - at the indication of the mother or the person declaring the birth of the child. In all these situations, the entry of the data on the child's father at the mother's indication cannot prevent the subsequent establishment of paternity.

The declaration of recognition of paternity is submitted to the civil status body in whose territorial area one of the parents resides or to the civil status body that holds the child's birth certificate, attaching his birth certificate. If the data on the father are entered in the child's birth certificate, the civil status body refuses to receive the declaration of recognition of paternity. In case of impossibility to identify the birth certificate of the person against whom the paternity is established, the problem is examined only after the reconstitution or registration of the birth certificate in the established manner.

*The Ombudsman's institution examined the case of a child who did not have an identity act at the age of eight. Although the child's mother was officially in a marriage relationship, she was de facto a concubine with another man, and her husband had gone in an unknown direction for several years. From the cohabitation relationship, the woman gave birth to a child, because the representatives of the Civil Status Office insisted that the child's last name be that of the woman's husband, according to the marriage certificate, the mother refused to document the child.*

*At the intervention of the ombudsman, with the contribution of the representative of the Directorate of Social Assistance and Family Protection who requested the Civil Status Office, we managed to document this child.*

The normative framework regulates the procedure that refers to the registration of data about the child's father, for the situations when the child is born from an extramarital relationship of the mother. Thus, if during the marriage the woman claims that the child's father is a different man than her husband, the data about the child's father are included at mother's indication only if there is the consent of the husband.

The column about the child's father in the birth certificate may remain blank.

The information about the child's name and surname is entered according to the provisions of the Family Code, as mentioned above, i.e. the child acquires the parents' family name, if the parents have a different family name, based on parental consent, and the child will receive the father's or mother's family name. The child's first name can be simple or composed of two first names, and in case of dispute, the guardianship authority decides. If the child's first name consists of indecent or ridiculous words, the civil status body may refuse to include them in the birth certificate.

The child's birth certificate contains data, such as: personal numerical code, name, surname, sex, nationality, date and place of birth, date of drawing up the document and its serial number in the Register of civil status documents, series, identification data of the birth ascertaining certificate, data about the parents, as the case may be of the declarant or the address of the authority / institution that declared the birth, etc.

The birth certificate is issued based on the birth ascertaining certificate. The child's birth certificate will contain the following data: personal numerical code, name, surname of the child, date and place

## ***Translation from Romanian into English***

of birth, parents' data, date of drawing up the birth certificate and its serial number, name of the civil status body that registered the birth, date issuance of the certificate, etc.

Each born child is assigned a personal numeric code. For the first time this personal numerical code appears in the medical certificate confirming the birth, which then, as we have seen, is entered in the birth ascertaining certificate and birth certificate, as well as in all other documents regarding the person concerned.

Starting with 2009, in order to simplify the procedure for registering new-born children and supporting young families, the Government adopted Decision no. 258 of 3 April, 2009 on simplifying the procedure for registering new-borns.

According to the Government Decision, the Ministry of Justice has taken the necessary measures in order to register the birth within public medical institutions that include maternity hospitals, with the issuance of the respective certificates.

Furthermore, the Ministry of Health and the local public administration authorities, as founders of public medical institutions that include maternity hospitals, have provided rooms free of charge.

*The Ombudsman's Institution registered the application of the child's mother who requested the intervention to document her child. The child was born to an unmarried couple. The birth of the child took place at the parents' home. Subsequently, the mother went to the health unit to benefit from the consultation of specialists and to obtain the medical birth certificate.*

*Due to the lack of living space, the mother, together with the children, lived with rent in different localities. The mother did not complete the child's birth certificate because she had lost the birth ascertaining certificate. The undocumented child and his brother were placed at the boarding school for orphans and children left without parental care.*

*For two years, the boarding school administration, the specialists of the Department of Social Assistance and Family Protection knew that the minor, who will soon reach the age of 14, was not registered in the Register of Civil Status Documents.*

*The mother invoked the fact that she approached the guardianship authority to obtain the necessary support to document the child, but did not receive the necessary help. On the other hand, the guardianship authority invoked the mother's lack of interest.*

*Obviously, the inactions of the specialists and the irresponsibility of the mother have led to the violation of the child's right to have a name at birth and of the right to nationality.*

*The child was documented due to the intervention of the Children's Ombudsman.*

On 01 July, 2017, according to statistical data from the State Population Register, the number of minors living in the Republic of Moldova was 348,549, of which 18,787 children live on the left bank of the Dniester and in Bender municipality<sup>26</sup>. The number of children up to 1 year old was 37,443.

The real number of children whose right to identity is violated is not known, starting from the fact that the guardianship authorities, educational institutions know the number of children who have reached the sight of specialists, and the centralized record is kept through the technical program "OSC Manager" and results from the number of birth ascertain certificates attesting to the number of notices issued by the civil status bodies.

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<sup>26</sup> [www.mtc.gov.md](http://www.mtc.gov.md)

### ***Translation from Romanian into English***

The unique list of data on unregistered new-borns is generated in the technical program "OSC Manager" in the Central Data Warehouse on the segment "Evidence of medical birth ascertaining certificate" to automate notices on the issuance of medical birth ascertaining certificate. The single list includes only the Notices that were received by the civil status offices within the territorial area of the medical institution where the birth took place, and the birth certificate with the respective IDNP was not registered.

Subsequently, according to the Single List, all cases of non-registration of new-born children identified in the following conditions are examined: parents residing on the left bank of the Dniester; parents residing abroad and children who are not registered for various reasons, on which the civil status offices notify the criminal investigation bodies in the territorial area where the birth took place.

Examining the table in which are reflected the statistical indices generated by the State Register of Population we notice that the number of children whose birth was entered in the Register of civil status documents is higher than the number of children born in 2014-2016.

<b>Statistical data provided for by the State Register of Population</b>				
		<b>2014</b>	<b>2015</b>	<b>2016</b>
1	<i>Number of children born</i>	38616	38610	37394
2	<i>Number of children whose birth was entered in the Register of civil status documents</i>	38858	38854	37638
3	<i>Number of birth certificates registered within up to 3 months from the date of birth of the child</i>	41325	41761	40713
4	<i>Number of birth certificates registered within 3 months to 1 year from the date of birth of the child</i>	3899	3827	3683
5	<i>Number of birth certificates drawn up on the basis of a court decision establishing the fact of the birth of a child by a specific woman</i>	38	32	27

The mechanism for recording unregistered births through the child's IDNP is non-functional, especially in the following situations:

- Transcription of birth certificates (when children were born in the Republic of Moldova, but the birth was registered by the authorities of foreign states whose citizenship is held by the parents);
- Registration of the birth of the child on the basis of the court decision on ascertaining the fact of birth by a specific woman, in cases when the birth took place outside the medical institution;
- Birth registration based on a duplicate of the birth certificate.

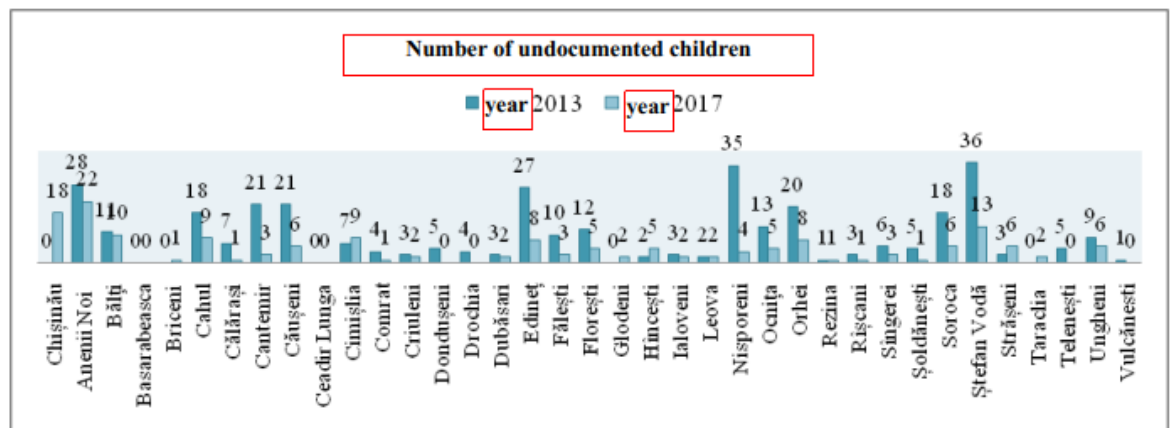
In these situations, the civil status body or the medical institution assigns another IDNP than the primary one assigned at birth by the medical institution, in this context the opinion on the issuance of the birth certificate cannot be deleted from the control<sup>27</sup>.

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<sup>27</sup> Opinion of the Public Services Agency of the Republic of Moldova

## Translation from Romanian into English

According to the information collected from the territorial administrative units, through the district / municipal Councils, in 2017, 169 children without identity were registered with the public authorities, with 176 fewer children compared to 2013<sup>28</sup>. Another 37 children did not have birth certificates, which have been lost, damaged, stolen, etc.



Of the number of children “with no identity” in the spotlight of the authorities this year, 78% grow up in biological families, with one or both parents and only 16% are in foster care (guardianship / trusteeship, PPA, FTH, etc.).

Whereabouts of undocumented children				
Years	Biological family	Extended family	Placement services	Residential institution
2013	318	14	6	5
2017	131	11	27	0

Of the number of undocumented children, 20 come from Roma families, and 41 children are not included in the educational process, contrary to the norms of the Education Code.

According to the authorities, the reasons for not registering the child born in the Register of civil status documents, in most cases, are due to the lack of identity documents of the parents or their irresponsibility.

Other causes determining the violation of the child's right to name by failure to register his/her birth are:

- Misunderstandings in establishing the paternity of the child;
- The refusal of the mother's ex-husband to submit the declaration of removal of the presumption of paternity, under the conditions provided in art. 47 para. (3), (4) Family Code;
- The insistence of the parents to register the birth of the child according to the domicile and the subsequent lack of responsibility for them in order to declare the birth to the civil status body;
- Loss or damage of the birth certificate;

<sup>28</sup> Report of the Centre for Human Rights in Moldova

## ***Translation from Romanian into English***

[http://ombudsman.md/sites/default/files/document/attachments/raport\\_tematic\\_\\_copii\\_nedocumentati\\_red\\_1.pdf](http://ombudsman.md/sites/default/files/document/attachments/raport_tematic__copii_nedocumentati_red_1.pdf)

- Parents' disagreement regarding the assignment of the IDNP personal numerical code, most often for religious reasons;
- Plurality of parents' nationalities creating difficulties in the process of registration of births registered in the Republic of Moldova, in relation to those not subject to registration. In these cases, the parents initially register the birth of children at the diplomatic missions in foreign states whose citizenship they hold, subsequently, they transcribe the civil status document at the Civil Status Offices of the Republic of Moldova;
- Abandonment of children outside medical institutions;
- Illegal introduction of children on the territory of the Republic of Moldova.

***Parents' disagreement with the assignment of the personal numerical code, for religious reasons, becomes a major problem for the civil status bodies. The procedure for refusing the personal identification number and the automated record is regulated only in the field of issuing identity documents<sup>29</sup> and not in the field of issuing civil status documents.***

***The introduction of the procedure for registering new-borns in medical institutions ensures an increase in the number of children with birth certificates, but does not solve the problem as a whole.***

### **2.1.1. Late registration of births**

For the situations in which the declaration of the child's birth did not take place during the 3 months from the day of the child's birth, the legislator provided the procedure for the late registration of the birth, which is carried out according to art. 26 of the Law on civil status documents.

Thus, if the birth of the child is declared after 3 months from the day of birth, but within 1 year from that day, the civil status body in whose territorial area the birth took place draws up the birth certificate. The head of the Civil Status Body, operating the mention on the declaration, approve the registration of the birth within up to 1 year. The application for registration of the birth shall state the reason for the delay in attaching the supporting documents, if any.

Another case in the sights of the Ombudsman Institution was that of a 10-year-old girl, whose biological parents died before the birth was registered.

The child was raised, educated and cared for by a stranger. The minor was born from an extramarital affair of her father, who was officially married to the woman who remained to raise the child.

As a result of the examination of the case, it was established that the girl was born in Ukraine and the birth took place at home. The biological mother abandoned the child from birth, and the father illegally brought the child to the Republic of Moldova. The Ukrainian authorities did not certify the new-born because no one declared the birth. Soon the father of the child died, and the child remained to be raised by his wife. The woman enrolled the child in the educational institution and took care of her education, but could not represent the child, because no form of protection was established on the minor.

The child's right to the name was ensured through the court, following the Ombudsman's intervention to the guardianship authority.

## ***Translation from Romanian into English***

<sup>29</sup>Art.3 paragraph (11) of the Law on identity documents from the national passport system no. 273 of 9 November, 1994 and point 5 of the Regulation on the issuance of identity documents and records of the inhabitants of the Republic of Moldova, approved by Government Decision of the Republic of Moldova no. 125 of 18 February, 2013

After the expiration of the term of 1 year from the day of the child's birth, the birth certificate is drawn up at the civil status body based on the notice on the late registration of the child's birth, investigating the causes of violation of the established deadlines and except for a possible doubling of the respective birth registration.

If necessary, the civil status body asks the police to carry out the appropriate investigations. In addition, the civil status body may request the opinion of the forensic doctor regarding the age and sex of the child, whose birth is to be registered.

The birth certificate can be drawn up later. The subsequent registration of the birth certificate will be carried out only after submitting the documents provided by the legislation to confirm the fact that another birth or death certificate in the name of the given person has not been drawn up until the moment of submitting the application. For this, the approval of the civil status body, approved by the DPSC (Civil Status Main Directorate), is obligatorily issued in the register of reconstituted documents, with the mention "Subsequent registration".

Subsequent preparation of the birth certificate on behalf of a child may be requested by: parents (one of the parents), relatives of the parents or another person empowered by them; guardianship authority; other persons or the institution in whose care the child is.

To the application regarding the subsequent elaboration of the birth certificate are attached: the birth ascertaining certificate; certificate form no. 28 which contains the information regarding the absence of the birth certificate requested from the civil status bodies from the territorial area where the birth took place; explanation (detailed information on the place and date of birth, listing the previous places of residence, the reason for violating the deadline for registration of the act); copies of the identity documents of the parents (of one of the parents) of the child whose birth is to be registered; the certificate regarding the child's medical record, issued by the family doctor, with the obligatory indication of the record period and of the child's health condition; the certificate from the educational institution, to confirm the fact that the minor attends the institution, as well as the communication of the information regarding the documents that were the basis for the child's enrolment in the respective institution; current photo of the child.

If the original birth ascertaining certificate has been lost, a duplicate of it will be presented.

***Classifying the children whose right to identity is violated by age, we ascertain - most of them are between 13 and 17 years old - 53 children or 31% of the number of children without identity. 27% of children whose right to name is violated are between 8-12 years old, and 23% are 4-7 years old.***

Therefore, children are also in the sights of educational, school and preschool institutions which, acting in the best interests of the child, are to notify the guardianship authority about the violation of the child's rights to name and nationality.

Violation of the child's right to a name leads directly to the restriction of the right to education, or children without identity cannot obtain the High School Graduation Certificate, which is issued only on the basis of an act confirming the graduate's identity (birth certificate or identity card) <sup>30</sup>.

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<sup>30</sup> [http://ombudsman.md/sites/default/files/document/attachments/raport\\_anual\\_copii\\_2016.pdf](http://ombudsman.md/sites/default/files/document/attachments/raport_anual_copii_2016.pdf)

## ***Translation from Romanian into English***

The subsequent registration of the child's birth is a complex process, often lasting several years, because, as mentioned above, even the children's parents do not have identity documents and here we refer to the child's mother, or, according to legal provisions, the birth of the child takes place on the basis of the identity document of the woman who gave birth, to which the identity document of the father, the declarations, etc. are attached.

In situations where the parents delay the registration of the child's birth, the guardianship authority has the responsibility to hold the parents accountable and guide them in the documentation procedure.

Acting in order to defend the rights and legitimate interests of the child, taking into account art. 53 paragraph (2) of the Family Code<sup>31</sup>, the guardianship authority interferes to the civil status body or the court for documenting the child, ensuring his/her right to a name.

During the period 2014 - 6 months 2017, the guardianship authority addressed the civil status bodies, for the late registration of the birth of 142 children, in 71 cases the children's documentation has been successful, and another 67 cases are in the process of examination.

The lack of a birth certificate restricted the child's right to education.

In 2016, the People's Advocate for the Protection of Children's Rights examined the case of a 17-year-old girl who, after graduating from the ninth grade, could not obtain the High School Certificate and continued her studies at high school, because her birth was not declared and therefore it was not entered in the Register of Civil Status Documents.

The multiple actions taken by the Ombudsman led to the documentation of the girl and her 16-year-old sister, who was also, violated her right to identity.

<b>CHILDREN FOR WHOM DOCUMENTATION THE TUTORIAL AUTHORITY ADDRESSED THE CIVIL STATUS BODIES</b>							
		<b>Children's whereabouts at the time of identification</b>				<b>Of which</b>	
<b>Year</b>	<b>Children's number</b>	<b>Biologica l family</b>	<b>Extende d family</b>	<b>Placemen t services</b>	<b>Other s</b>	<b>Documente d cases</b>	<b>In the process of documentin g</b>
<b>2014</b>	35	27	5	2	2	22	13
<b>2015</b>	28	21	3	4	0	22	6
<b>2016</b>	21	12	6	3	0	14	7
<b>6 months 2017</b>	58	38	9	6	1	13	41

Also in that period, the guardianship authority filed in court 17 requests for summons to establish the birth of children, in 8 cases the documentation was successful, and another 9 cases are under examination.

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<sup>31</sup>The protection of the rights and legitimate interests of the child is ensured by the parents or the persons who replace them, and in the cases provided by law - by the local / territorial guardianship authority or by other competent bodies. The parents are liable, provided by the legislation, for the non-fulfilment or improper fulfilment of the obligations of care and education of the child.

<b>CHILDREN FOR WHOM DOCUMENTATION THE TUTORIAL AUTHORITY ADDRESSED TO THE COURT</b>
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## *Translation from Romanian into English*

Year	Children's number	Children's whereabouts at the time of identification				Of which	
		Biological family	Extended family	Placement services	Others	Documented cases	In the process of documenting
2014	7	6	1	0	0	1	6
2015	2	1	0	1	0	2	0
2016	3	3	0	0	0	2	1
6 months 2017	5	2	2	1	0	3	2

It is not always through the court that the birth of the child is registered, considering that according to art. 281 of the Code of Civil Procedure, the court finds the facts on which the appearance, modification and termination of the personal or patrimonial rights of natural persons depend. The court does not find the event that took place, but the fact of the birth registration<sup>32</sup>.

### **2.1.2. Registering the birth of abandoned child**

In the case of the found or abandoned child, the birth certificate is drawn up, within one month from the date of its finding, at the civil status body in the territorial area where the child was found. In such situations, a police officer, a doctor and a representative of the guardianship authority shall draw up a report. It is in such situations that the guardianship authority has the obligation to make the written declaration of birth registration.

The person who found the child is obliged to notify the police, presenting the child with all the objects and documents on him.

The report drawn up by the representative of the police, the doctor and the representative of the guardianship authority shall include data on: the date, place and surroundings in which the child was found; sex and the alleged date of birth of the child.

In the case of a child abandoned at birth in the hospital, the manager of the health institution has the obligation to notify the police within 24 hours of finding the fact, and the child's birth certificate will be made based on the medical birth ascertaining certificate and the report by the police officer, together with the manager of the medical institution and the representative of the guardianship authority, who in this case will make the written declaration to the civil status body.

If the family name and surname of the child are not known in the above situations, these data are to be established by the civil status body that registers the birth. The column on parents' data in the birth certificate will be completed with the phrase "unknown".

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<sup>32</sup>Article 281 paragraph (2) letter c) of the Code of Civil Procedure

## ***Translation from Romanian into English***

Also, if the child is subsequently recognized by the mother, the civil status body that registered the birth will request the presentation of the court decision on establishing the fact of the birth of this child by a specific woman or the medical birth ascertaining certificate.

### **2.1.3. Terms and cost of registering the birth of the child**

On 20 June, 2008 by Government Decision no. 738 was approved the Nomenclature and tariffs for the civil status services provided by the Civil Status Service and the Civil Status Offices.

In accordance with the provisions of the mentioned normative act, the registration of the birth certificate, with the issuance of the certificate, is provided on the day of addressing and is free of charge.

The fee of MDL 50 is charged for the subsequent preparation of the birth certificate and the issuance of the birth certificate. In this case, the civil status document is issued within 30 days.

For parents who have 3 or more children and orphaned children, no fee is charged for the subsequent preparation of the birth certificate. Likewise, the guardianship authority is exempted from paying the fee for services provided in the interest of children left without parental care.

Also, in order to solve the documentation problems with identity documents of the Roma population in the Republic of Moldova, the Government, by Decision no. 497 of July 6, 2012, ordered the exemption from the payment of civil status services provided by the Civil Status Service and the Civil Status Offices, Roma persons from the Republic of Moldova, in order to obtain the civil status documents necessary for issuing identity documents.

### **2.1.4. Sanctions applied for late declaration and registration of childbirth**

In order to ensure the child's right to a name, the legislator provided for the obligation to declare the birth within 3 months from the day of the child's birth. Considering that for various reasons the declaration of birth takes place with the exceeding of the term of 3 months, the legislator established the term of declaration and subsequent registration of the birth, i.e. up to 1 year.

For the failure to declare and register the child's birth, the legislator provided sanctions.

Thus, in addition to the fee charged for late registration of the birth of the child, persons who concealed the birth or declared the birth by violating the conditions or deadlines provided by law are fined from 9 to 21 conventional units, which would be MDL 450-1050.

The contravention sanction for concealing the birth, declaring it by violating the conditions or terms is provided in art. 339 of the Contravention Code, and the Ministry of Internal Affairs is the competent body to examine and apply a contravention sanction.

In terms of statistics, between 2014 and 6 months 2017, the territorial subdivisions of the police identified 238 contraventions related to the violation of the legislation on the regime of civil status documents, namely the concealment of childbirth, with fines totalling MDL 24,800<sup>33</sup>.

<sup>33</sup> Letter from the General Police Inspectorate no. 34/4-2089 of 14 August 2017.

<b>Enforcement of sanctions for violating the law on declaring the birth of a child</b>				
	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>6 months 2017</b>
<b>Number of minutes pursuant to art. 339 para. (1) Contravention Code</b>	65	90	66	17

<b>Number of persons sanctioned pursuant to art. 339 para. (1) Contravention Code</b>	65	90	66	17
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Parents are obliged to respect the rights of the children and to make decisions in the interests of the children. Violation of the child's right to name by failure to declare the birth and register the child can be considered as a breach of parental obligations for which they may be deprived of parental rights. Or, according to art. 64 of the Family Code, parents may be deprived of parental rights if: they evade the exercise of parental obligations; abuse parental rights, refuse to take the child out of the maternity ward, etc. Withdrawal of parental rights is the harshest sanction and is to be applied when a request is in the best interests of the child, and state authorities have an obligation to take all necessary actions to prevent the separation of the child from parents and the biological family.

## **2.2. Documenting children with identity cards and passports and ensuring the right to nationality**

On 9 November, 1994, Law no. 273 regarding the identity documents from the national passport system has been adopted, and in order to ensure the right to free movement, Law no. 269 of 9 November, 1994 on leaving and entering the Republic of Moldova has been adopted.

Subsequently, in order to put into practice the legal provisions, the executive adopted a series of normative acts referring to the identity documents from the national passport system, namely: Government Decision no. 210 of March 24, 2014 on granting facilities for the issuance of identity documents; Government Decision no. 125 of February 18, 2013 for the approval of the Regulation on the issuance of identity documents and records of the inhabitants of the Republic of Moldova; Government Decision no. 125 of 08 February 2008 on the implementation of passports and other travel documents containing additional biometric data; etc.

Under the conditions of Law no. 273 of November 9, 1994, identity documents from the national passport system mean: all types of passports, identity cards, residence permits, travel documents of stateless persons, etc.

The passport of the citizen of the Republic of Moldova and the travel document for stateless persons are issued in order to ensure the access of persons to leave and enter the territory of the Republic of Moldova. Already at birth, it is possible to draw up a passport for a child. The validity term of the passport for children up to 7 years old is 4 years, subsequently, the passports are issued for a period of 7 years.

Likewise, children from the moment of birth are issued an identity card of the citizen of the Republic of Moldova for use inside the country.

Citizens of the Republic of Moldova may be issued temporary identity cards, also for use on the territory of the Republic of Moldova, in the following cases: to the person who submitted an application for the issuance of the identity card - during the period of its preparation; the person who does not have all the necessary documents for issuing the identity card; socially vulnerable person - to receive social, medical or legal assistance; the person who does not have an identity document for performing the actions that generate the change or withdrawal of the identity card; the person detained or in pre-trial detention - at the request of the competent bodies; the person who renounces the state identification number and the automated record in the State Register of Population.

The validity term of the provisional identity cards cannot exceed one year, and in the case of persons who renounce the state identification number, the established validity term is up to 10 years.

Declaring and registering the birth of the child with the subsequent issuance of the birth certificate is a necessary procedure for documenting with identity card and passport.

### *Translation from Romanian into English*

Law on identity documents in the national passport system no. 273-XIII of 9 November, 1994, regulates the manner of issuing identity documents.

The process of providing the citizens of the Republic of Moldova with identity documents from the National Passport System and updating the information in the State Register of Population is carried out through the structural subdivisions of the Public Services Agency (PSA) responsible for issuing identity documents.

When submitting the application for the issuance of the identity document, the legal status of the child, his identity, domicile or residence is established. The identification of the child is made by the legal representative, identified by the identity document, based on the declaration on his own responsibility, which is submitted in writing to the responsible person within the subdivision of the Public Services Agency.

Children separated from their parents, over whom guardianship / trusteeship has not been established or who are beneficiaries of social placement services are identified by the guardianship authority or, as the case may be, by the administration of the institution where the child is. In situations when the child's identity cannot be established according to the mentioned aspects, the identity is established through the court.

In order to ensure the right to identity and completion of the identity document, the legislator established facilities.

Thus, the first documentation with identity card is free, regardless of the child's age. Other services implemented by PSA, to ensure the documentation of the population with identity documents are:

- issuance of the passport within one hour to children under 13 years and 10 months;
- reduction of the cost of the passport for children under the age of 12;
- submitting the application for the issuance of identity documents to children up to 3 years of age as a matter of priority, out of line;
- online or telephone scheduling for the provision of the service;
- launching the electronic payment service for the services provided.

In recent years there has been an increase in the number of children with identity documents. According to specialists, the migration process generates the increase in the number of documents.

<b>Statistical data from the State Register of Population regarding the number of children in the Republic of Moldova</b>				
		<b>2014</b>	<b>2015</b>	<b>2016</b>
1	<b>Total number of children</b>	690900	685500	681300
2	<b>Number of children whose first identity card was issued</b>	37136	40025	35909
3	<b>Number of children whose first passport was issued</b>	64270	63900	65456

The process of documenting children with identity documents is problematic, especially for low-income families, for the following reasons:

- the identity document is completed based on the birth certificate. Children without a birth certificate cannot draw up an identity card;

### ***Translation from Romanian into English***

- the identity document is completed in the district centres, as the case may be, in the municipalities, the persons are to pay the round-trip transport fee for 2 persons (child and legal representative);
- at the application for completing the identity document, the document attesting the child's blood group is presented. That certificate shall be drawn up within the Public Health Medical Institutions, as well as in the district centres and shall not be issued on the same day;
- the parent or legal representative of the child must have an identity card;
- when documenting the child, the registration at home or at the residence is made with the parents with their consent, in the absence of the agreement, a provisional identity document is made.

### **2.3. Acquiring nationality of the Republic of Moldova**

The provisions of the European Convention on Nationality are contained in the Law on nationality of the Republic of Moldova which provides that any child, born of parents, both or one of whom, at the time of birth, is a citizen of the Republic of Moldova, is considered a citizen of this state.

It is also considered a citizen of the Republic of Moldova, a child born on the territory of the Republic of Moldova of stateless parents, of parents who have the citizenship of another state or one of whom is stateless, and the other is a foreigner.

Likewise, any child found on the territory of the Republic of Moldova is considered a citizen of this state, as long as the contrary is not proven, until reaching the age of 18 years.

If the adopters of the stateless child are citizens of the Republic of Moldova, the child automatically acquires the nationality of the Republic of Moldova. In situations when one of the child's adopters is a citizen of the Republic of Moldova, and the other is a foreign citizen, they mutually decide on the nationality that the stateless child will have. If the petitioners do not agree on the child's affiliation to the citizenship of the Republic of Moldova, the court has the right to expose itself, based on the interests of the child. The child's consent will be required if he is 14 years old.

In the case of an adopted child who is a foreign citizen and the adoptive parents or one of them has the citizenship of the Republic of Moldova or if one of the adoptive parents is a foreign or stateless citizen, the child may become a citizen of the Republic of Moldova if he renounces the citizenship of another state. Exceptions to this situation are the cases provided by the international agreements to which our country is a party.

If the adoption is declared null and void, the stateless child or a foreign citizen is considered to have never been a citizen of the Republic of Moldova, regardless of whether he / she legally and habitually resides abroad or leaves the country to reside abroad.

The stateless child under the guardianship of the citizens of the Republic of Moldova automatically becomes a citizen of the Republic of Moldova. Likewise, the stateless child automatically becomes a citizen of the Republic of Moldova if one of the guardians is a citizen of the Republic of Moldova and the other is a foreign citizen. As in the case of the adopted child, in which the parents do not agree, the child's affiliation to the citizenship of the Republic of Moldova will be decided by the court.

If the child under guardianship is a foreign national, either tutors or one of them is a citizen of the Republic of Moldova or one of the tutors is a foreign citizen or stateless person, the child may become a citizen of the Republic of Moldova if he renounces the citizenship of the foreign state.

Nationality of the Republic of Moldova can be obtained by naturalization. The foreign citizen or stateless person with legal and habitual residence on the territory of the Republic of Moldova, who knows and respects the provisions of the Constitution, took the test to assess the level of knowledge of the official language and has legal sources of income, can acquire the nationality of our state by

## ***Translation from Romanian into English***

naturalization if he/she observes one of the conditions: he / she has resided on the territory of the Republic of Moldova for 5 years before reaching the age of 18; has resided on the territory of the Republic of Moldova for the last 3 years to parents or children (including adoptive or adopted) citizens of the Republic of Moldova; and so on.

The child acquires the nationality of the Republic of Moldova if he is born by foreign citizens or stateless persons who acquire the citizenship of the Republic of Moldova. If only one of the parents acquires the citizenship of the Republic of Moldova, the parents, by mutual agreement, will decide on the citizenship of the child. In the absence of a joint agreement of the parents on the child's affiliation to the citizenship of the Republic of Moldova, the court will be the one that will present itself on the case, based on the interests of the child.

### **2.3.1. Authorities responsible for examining applications, granting or withdrawing nationality**

Chapter V of the Law on nationality of the Republic of Moldova provides for public institutions with responsibilities related to citizenship, namely: President of the Republic of Moldova; Public Services Agency; Ministry of Foreign Affairs and European Integration with diplomatic missions and consular institutions; Ministry of Interior; Intelligence and Security Service; Commission on Citizenship and Political Asylum Issues under the President of the Republic of Moldova.

### **2.3.2. Procedure for acquiring citizenship**

The application for acquiring citizenship by a person under the age of 18 is submitted by his / her legal representative. A notary must authenticate the request of the legal representative of the child, as the case may be, by the diplomatic representation or consular institution of the Republic of Moldova.

The request for acquiring or regaining citizenship is addressed to the President of the Republic of Moldova and is submitted to the PSA being accompanied by a set of documents provided in art. 36 of the Law on nationality of the Republic of Moldova<sup>34</sup>. The time limit for examining applications may not exceed one year and shall run from the date of submission of all necessary documents.

The child has the right to citizenship from birth, and the state is obliged to respect the child's right to retain identity and citizenship. The legislation of the Republic of Moldova, based on the principle of avoiding statelessness, provides possibilities for the recognition and granting citizenship of the Republic of Moldova to minor children.

Legal regulations exclude the situation for a child to be subject to the condition of losing citizenship. Citizenship is confirmed by the identity document, which, as mentioned in point 2.2. of this Survey, which may also be completed at birth.

<b>Statistical data from the State Register of Population regarding the number of children in the Republic of Moldova</b>				
		<b>2014</b>	<b>2015</b>	<b>2016</b>
<b>1</b>	<b>Number of children who acquired the citizenship of the Republic of Moldova:</b>	37136	40025	35909
	<b>a) By birth</b>	28562	29799	23102
	<b>b) By recognition</b>	69	49	103
	<b>c) By adoption</b>	3	0	5
	<b>d) By recovery</b>	4	4	4
	<b>e) By naturalisation</b>	1	0	0
<b>2</b>	<b>Number of children whose citizenship of the Republic of Moldova has been revoked</b>	0	0	0
<b>3</b>	<b>Number of children who renounced the citizenship of the Republic of Moldova</b>	147	128	138

### **2.3.3 Special conditions for foreign children located in the territory of the Republic of Moldova**

Law no. 200 of July 16, 2010 on the regime of foreigners in the Republic of Moldova, establishes the legal regime applicable to minor foreigners on the territory of the Republic of Moldova without their legal representatives.

Thus, according to art. 85 of the mentioned law, in the case of minor foreigners who entered and remain unaccompanied on the territory of our country, the competent authority for foreigners establishes their identity and mode of entry into the country, ensures them, regardless of how they enter the Republic of Moldova, representation through a competent institution according to the law, which will provide them with the necessary protection and care, including accommodation in special childcare centres, under the same conditions as minors citizens of the Republic of Moldova.

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<sup>34</sup> In order to acquire and regain the citizenship of the Republic of Moldova, the applicant shall present the following documents: a) application-questionnaire; b) autobiography; c) certificate from home about the composition of the family; d) the receipt for the payment of the state tax; e) photos of the respective format; f) certificate that he / she does not hold the previous citizenship or certificate regarding the approval of the renunciation of this citizenship, except for the cases provided in art. 16 paragraph (1). The certificate of approval of renunciation of the citizenship of another state may be presented after the issuance of the decision of the Commission on Citizenship and Political Asylum Issues under the President of the Republic of Moldova on the approval of the granting of citizenship, on the basis of which the body authorized to receive the applications regarding the citizenship of the Republic of Moldova issues, as the case may be, the guarantee of acquiring the citizenship of the Republic of Moldova; g) other documents resulting from the provisions of the law. The listed documents are submitted in the official language. The public authorities that have information about the fact that the applicant does not meet the conditions for granting the citizenship of the Republic of Moldova will communicate them to the Commission on Citizenship and Political Asylum Issues under the President of the Republic of Moldova.

Foreign children on the territory of the Republic of Moldova enjoy the same rights and social guarantees as minor citizens of the Republic of Moldova, being provided with the necessary social assistance and inclusion in the curriculum.

If the child's parents do not reside in the Republic of Moldova, the authority shall return the child to the parents' country of origin or to the country where other family members have been identified, with the child's consent.

In situations when the child's parents or relatives cannot be identified or the child is not accepted in his country of origin, the authority grants him the right to temporary residence on the territory of the Republic of Moldova.

***During the years 2014 - 6 months 2017 on the territory of the Republic of Moldova were not certified cases of entry / exit of children unaccompanied by parents or legal representatives.***

The enunciated law also establishes, at art. 86 norms and procedures for repatriation of persons who were born on the territory of the Republic of Moldova, but who for certain reasons did not acquire the citizenship of the Republic of Moldova, as well as their descendants, regardless of place of residence.

		<b>2014</b>	<b>2015</b>	<b>2016</b>
1.	<b>Number of children who immigrated to the Republic of Moldova together with their parents</b>	69	45	68
2.	<b>Number of children repatriated to the Republic of Moldova</b>	5	13	6

## ***Translation from Romanian into English***

Under the conditions of Law no. 270 of 18 December 2008 on asylum in the Republic of Moldova, children entering the asylum procedure are subject to protection measures for children at risk and children separated from their parents. In these situations, the Bureau of Migration and Asylum of the Republic of Moldova is to take all necessary measures for the rapid registration of children and immediate referral to the guardianship authority in order to ensure all necessary protection measures.

According to the Bureau of Migration and Asylum, there is an increase in the number of refugee children and beneficiaries of humanitarian protection from year to year.

		<b>Situation on 01.01.2014</b>	<b>Situation on 01.01.2015</b>	<b>Situation on 01.01.2016</b>	<b>Situation on 01.01.2017</b>
1.	<b>Number of refugee children and beneficiaries of humanitarian protection</b>	31	54	77	70
2.	<b>Number of children seeking asylum</b>	22	22	30	14

Most applicants for humanitarian protection come from Syria (37 cases in 2016, compared to 20 cases registered in 2014), followed by Ukraine (15 cases in 2016, compared to 0 cases in 2014).

During the last two years, the number of asylum-seeking children in Ukraine has increased, if in 2014 no case was registered, in 2015 there were 14 cases, and in 2016 - 12 cases<sup>35</sup>.

The procedure for recognizing the stateless statute was introduced in our country in 2012 by making amendments to Law no. 200 of July 16, 2010 on the regime of foreigners in the Republic of Moldova. Only one child who subsequently acquired the citizenship of the Republic of Moldova requested recognition of stateless status.

Minors who have been granted refugee status, stateless persons or who have been granted humanitarian protection are issued an identity card according to the legal status regulated in the Regulation on issuing identity documents and records of the inhabitants of the Republic of Moldova<sup>36</sup>.

### **2.4. Observing the rights to name and nationality of children on the left bank of the Dniester**

Analysing the situation as a whole in the country, regarding the observance of children's rights to names and nationality, we find that efforts are being made to document all children. The situation of the people on the left bank of the Dniester with reference to the documentation and registration of the birth is complex starting from the simple idea that the documents issued by the authorities of the self-proclaimed Transnistrian republic are not recognized and do not have legal force.

Also, the national authorities do not have the leverage to monitor the situation of children born on the territory of the Republic of Moldova whose parents are domiciled in the region on the left bank of the Dniester.

The legal provisions contain regulations by which the declaration of the child's birth and its registration can take place in the medical institution, at the civil status body in whose territorial area the birth took place or the parents have their domicile, so the constitutional authorities do not have official data on the number of new -born children, whose birth was or was not declared to the civil status entities on the left bank of the Dniester.

The process of documenting children on the left bank of the Dniester with identity documents is difficult for the following reasons:

### *Translation from Romanian into English*

- the legal representative who is to identify the child has an identity card issued by the alleged Transnistrian authorities, therefore he cannot submit the identification statement on the grounds that he himself is to be identified and documented with valid national identity documents;
- the lack of a mechanism recognized by the authorities of the Republic of Moldova for placement in social services or the establishment of guardianship / curatorship over children, inhabitants of the Transnistrian region;
- the lack of a mechanism for registering the property right of persons on the left bank of the Dniester over real estate by cadastral bodies of the Republic of Moldova, because the documents issued by the alleged Transnistrian authorities certifying the right of ownership or use of real estate at the residence, are outside the legal framework of the Republic of Moldova;

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<sup>35</sup>Source: Letter from the Bureau of Migration and Asylum of the Ministry of Internal Affairs.

<sup>36</sup>Decision of the Government of the Republic of Moldova no. 125 of February 18, 2013

- the impossibility of updating the information about the natural persons from the Transnistrian region, both about those that are already included in the State Register of Population, and about the persons that are not registered. These factors distort people's record of:

- internal migration processes (registration at home / residence, deregistration);
- external migration processes (repatriation of Moldovan citizens to the localities on the left bank of the Dniester, authorized emigration to settle with living abroad, etc.);
- change of legal status (acquisition of citizenship of another state);
- change of marital status (marriage, divorce);
- change of personal data;
- registration of birth, death, adoption, etc.

Also in this context, it should be mentioned that on April 10, 2012, the Superior Council of Magistracy adopted Decision no. 209/14, according to which “*any act issued by the self-proclaimed authorities in Transnistria contravenes the Constitution, equally to any judgments, decisions, sentences pronounced by the courts established in the given region illegally. Thus, any collaborations, legal collaborations and proposals for legal solutions with the structures in the Transnistrian region are unacceptable*”.

The citizens of the Republic of Moldova residing on the left bank of the Dniester are forced to obtain two court decisions on the same factual situation: a decision handed down by the Transnistrian court and a decision handed down by the constitutional court.

However, the procedure for examining the cases of citizens of the Transnistrian region in the constitutional courts is not applicable if the child adopted on the basis of a Transnistrian court judgement, wishes to complete the identity documents of the citizen of the Republic of Moldova after reaching the age of 18. Or, the constitutional court, with reference to art. 10 of the Law on the legal regime of adoption, rejects the application regarding the approval of the adoption if the adoptable child has already reached the legal age.

## **2.5. State policies to ensure the child's right to name and nationality**

The UN Convention on the Rights of the Child guarantees the right to the name and nationality of all children from birth<sup>37</sup>. At the same time, it encourages States Parties to the Convention to provide the necessary support to parents in overcoming crisis situations.

In its comments to the Government of Chisinau, the UN Committee on the Rights of the Child<sup>38</sup> recommended that the State party take all necessary measures to ensure priority compliance with the principle of the best interests of the child, in accordance with art. 3 of the Convention, and its incorporation into all legal provisions, judicial and administrative decisions, projects, programs and services that have an impact on children. To this end, the State Party must take the necessary measures to raise awareness of the practical application of this principle.

Thus, in order to ensure compliance with the principle of the best interests of the child, as already mentioned, in 2009 the procedure for registering new-born children and providing them with identity cards was simplified, by the adoption of the Decision no. 258 of 3 April, 2009 by the Government of the Republic of Moldova.

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<sup>37</sup> Article 7.

<sup>38</sup> Concluding Remarks of the Committee on the Rights of the Child: Republic of Moldova, Session of 18 and 19 September 2017, at which the 4th and 5th Consolidated Reports on the Implementation

Also in 2009, in order to financially support the citizens of the Republic of Moldova, the Government Decision no. 844 of 18 December, 2009 on providing citizens of the Republic of Moldova with identity cards was adopted, according to which the first documentation of citizens of the Republic of Moldova with identity cards is free of charge.

In order to support the Roma population, on 8 July, 2011, by Government Decision no. 494, the Action Plan on supporting the Roma population in the Republic of Moldova for the years 2011-2015 was approved. One of the objectives of the Action Plan was the annual increase by 5% of the rate of Roma people documented with identity documents given that the access of the Roma population to basic services and difficulties in achieving fundamental economic and social rights are conditioned by the lack of identity documents.

In order to solve the documentation problems with identity documents of the Roma population in the Republic of Moldova, the Government adopted Decision no. 497 of July 6, 2012 on granting exemptions for the payment of civil status services. Subsequently, the actions regarding the support of the Roma population were extended for the period 2016-2020 with the adoption of Government Decision no. 734 of June 9, 2016

On 14 June, 2013, the Parliament of the Republic of Moldova adopted Law no. 140 on the special protection of children at risk and children separated from their parents, which establishes the procedures for the identification, assessment, assistance, referral, monitoring and evidence of children at risk and children separated from their parents, as well as the authorities and the structures for applying those procedures.

For the execution of the provisions of Law no. 140 of 14 June 2013, the Government adopted the Instruction on the inter-sectoral cooperation mechanism for the identification, assessment, referral of assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking<sup>39</sup>.

Following the examination of the subject of undocumented children at the meeting of the National Council on Child's Right Protection on 4 April, 2016, by Decision no.1 it was ordered "the

## ***Translation from Romanian into English***

*establishment of an inter-institutional working group for solving the existing problems in order to ensure the child's right to birth registration.*

Pursuant to the Decision of the National Council on Child's Right Protection, the inter-institutional working group was to conduct a situational analysis of the effectiveness of the national child registration system and develop recommendations to ensure interoperability of data provided by different authorities responsible for child registration, to operate amendments of the existing normative framework and to streamline the way of communication and the collaboration procedure of the competent structures, in order to optimize the formula of monitoring and assistance of the parents in the process of registering the birth of children.

At the same time, the Ministry of Labour, Social Protection and Family (currently the Ministry of Health, Labour and Social Protection) had the task to present to the NCCRP (National Council on Child's Rights Protection) secretariat, within 30 days, the information on the number of undocumented children in each administrative-territorial unit, recorded by social assistance services; general information on the causes of failure to document and measures taken, and monitoring, every 6 months, of the documenting children process.

The Ministry of Justice proposed to the State Chancellery the reengineering of the birth registration service, by elaborating a new technical and legal procedure regarding the birth registration in medical institutions, which will exclude the need for parents to present the medical birth ascertaining certificate to the civil status bodies, for the state registration of the birth<sup>40</sup>.

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<sup>39</sup> Decision of the Government of the Republic of Moldova no. 270 of 8 April, 2014.

<sup>40</sup> Minutes of the NCCRP meeting of 4 April, 2016

***In October 2017, the Government came with amendments in the normative acts that provide for the simplification of the procedure for completing identity documents. Citizens will no longer have to present the civil status documents when requesting the service of completing the identity card or passport because these data are already processed by the Public Services Agency.***

We note that the national authorities have combined their efforts to ensure the right to identity for each person on the territory of the Republic of Moldova, improving the legislative and normative framework, developing inter-sectoral mechanisms. However, ensuring that children's right to names and citizenship is respected must continue to be on the agenda of both medium- and long-term decision-makers.

## **CHAPTER III**

### **CONCLUSIONS AND RECOMMENDATIONS**

The Constitution of the Republic of Moldova guarantees the protection of maternity, children and young people by the state, which will facilitate, through economic and other measures, the formation of the family and the fulfilment of its special obligations. At the same time, the mother and child are guaranteed the right to special help and protection. Children and young people are provided with a special assistance regime in the realization of their rights.

To this end, the normative and legislative framework was harmonized, increasing the allowances for raising children, developing and implementing mechanisms to protect children at risk and those separated from parents, simplifying the procedure for documenting the population, introducing various facilities for elaborating identity documents.

Despite efforts put, children and adults without identity remain potential victims of human exploitation and trafficking. Failure to ensure the child's right to name and citizenship leads to a violation of other rights, namely:

- The government has the quality of insured<sup>41</sup> when we talk about compulsory health insurance, for preschool children, pupils, children not enrolled in the educational process until the age of 18, but medical services are to be provided under an act confirming the child's identity.
- The state ensures the right to education of all children until the age of 18<sup>42</sup>. On the one hand, the educational institution includes the child in the study process in order not to infringe his right to education, on the other hand, at the graduation of the gymnasium cycle the student is unable to pick up the gymnasium certificate in the absence of an act confirming identity.
- For orphaned children and those under guardianship / trusteeship, the state, in order to ensure the right to assistance and social protection, approved the provisional rules of spending money for students from vocational schools, specialized secondary and higher education institutions, boarding schools and orphanages<sup>43</sup>. The financial means are granted on the basis of the act confirming the identity of the orphaned child or of the child under guardianship / trusteeship.
- The natural person acquires the capacity to work at the age of 16. At the same time, the person can conclude an individual employment contract at the age of 15, if, consequently, his health, development, training and professional development will not be endangered<sup>44</sup>. In order to avoid the exploitation of children through work as well as to comply with the legal provisions according to which undeclared work is prohibited<sup>45</sup>, the employment of the child in the field of work is to be carried out on the basis of an identity document.

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<sup>41</sup>Law on compulsory health insurance no. 1585 of February 27, 1998.

<sup>42</sup>Article 35 of the Constitution of the Republic of Moldova, Article 13 of the Education Code of the Republic of Moldova.

<sup>43</sup> Decision of the Government of the Republic of Moldova no. 870 of July 28, 2004.

<sup>44</sup>Articles 46, 96, 100, 306 of the Labour Code.

<sup>45</sup>Article 71 of the Labour Code

## *Translation from Romanian into English*

- In order to ensure a guaranteed minimum monthly income for disadvantaged families, Law no. 133 of 13 June, 2008 on social assistance has been adopted. The applicant for social assistance, together with the application for social assistance, must present the identity documents of all family members<sup>46</sup>. Based on the application, identity documents and family composition, the family income will be determined and the amount of social assistance will be established. The amount of the minimum guaranteed monthly income for each family member is established from the minimum guaranteed income for the applicant, for another adult member of the family, for each child, etc. In the absence of the identity document of the family members, the amount of social assistance will be established differently from the real needs of the family.

The legislator provided that for socially vulnerable persons, who do not have all the necessary documents for completing the identity card, temporary identity cards should be issued to them, in order to benefit from social, medical or legal assistance, but the validity term cannot exceed one year<sup>47</sup>. At the same time, in case of issuance of the provisional identity card, the existence of civil status documents registered in the name of the applicant is established. Therefore, the civil status document remains a precondition, including for the receipt of the provisional identity card.

Citizens of the Republic of Moldova and stateless persons permanently residing in the Republic of Moldova are required to hold identity cards from birth. Namely the identity card is the document that confirms the person's membership in the citizenship of the Republic of Moldova. The identity card reflects the information about the person's citizenship.

- The Constitution of the Republic of Moldova enshrines the defence of the homeland as a right and a duty of every citizen. The obligation of the citizen of the Republic of Moldova to defend his homeland is fulfilled by performing military service<sup>48</sup>.

All citizens of the Republic of Moldova upon reaching the age of 16 are registered military. Recruits, who have been registered military by the territorial medical-military commissions, receive a recruitment certificate. This document is a mandatory document for the documentation of the young person who has reached the age of 16 with the national identity document and / or the international passport. The young person whose right to name has not been provided does not have the possibility to fulfil military service as the recruitment certificate shall be issued on the basis of the civil status certificate.

- In the absence of the identity document, a young person cannot be admitted to the exam for issuing a driving license and cannot obtain a driving license<sup>49</sup>.

- In the absence of the document confirming the child's identity, his right to free movement (when entering and leaving the country) is restricted.

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<sup>46</sup>Decision of the Government of the Republic of Moldova for the approval of the Regulation on the establishment and payment of social assistance no.1167 of October 16, 2008.

<sup>47</sup>Law on identity documents in the national passport system no. 273 of 9 November, 1994.

<sup>48</sup>Law on the preparation of citizens for the defense of the Fatherland no. 1245 of 18.07.2002.

<sup>49</sup>Decision of the Government of the Republic of Moldova for the approval of the Regulation on the driving license, the organization and conduct of the examination for obtaining the driving license and the conditions of admission to road traffic no. 1452 of 24 December, 2007

Although the lack of the person's identity card restricts the assurance of several rights, this fact is not an impediment to the detention, arrest or conviction of the child, whose right to a name is violated. The person who committed a prejudicial act is to be held liable. Children are liable to criminal liability from the age of 16, in some cases from the age of 14<sup>50</sup>. In such cases, at the request of the competent bodies, the person detained or in pre-trial detention shall be issued with a provisional identity card.

*Compared to 2013, progress has now been made in ensuring children's rights to names and citizenship. The number of children without identity decreased by about 50%, according to the information accumulated and systematized. There is an increase in the annual registration and documentation rate of Roma new born, which in 2015 reached 90% and an increase in the number of Roma people with civil status documents by 15% annually<sup>51</sup>.*

The statistics tell us about the number of children without identity who are in the spotlight of the authorities and not about the real number of children who are not guaranteed the right to name and citizenship.

The cases of children who still do not have the right to a name, are in the records of the authorities for several years and are among the most complex.

The real situation of children on the left bank of the Dniester is not known, as there is no state mechanism for monitoring minors in the region controlled by unconstitutional authorities.

Access to childcare and protection services is conditional on ensuring the right to a name and citizenship.

Based on the problems faced by parents, children's legal representatives and / or representatives of guardianship authorities in the process of documenting children, the following recommendations are proposed to improve the situation:

• **Recommendations for improving the legislative framework:**

1) Law no. 100 of 26 April, 2001 on civil status documents:

- in art. 22 para. (5) which stipulates that the term for declaring the birth is made within 3 months from the day of the child's birth, the phrase “no later than 3 months” will be replaced by “no later than 30 days”;

- in art. 21 para. (1) shall have the following wording “*The registration of the birth of the child shall be made at the civil status body in whose territorial area the birth of the child took place.*”;

- in art. 13 regarding the recognition and confirmation of civil status facts will be amended and supplemented, so that the competent authorities of the Republic of Moldova will recognize the civil status facts produced in the region on the left bank of the Dniester;

2) In the Contravention Code of the Republic of Moldova, at art. 339 para. (1) the sanction in the form of a fine for concealing the birth or declaring the birth by violating the conditions or terms provided by law shall be from 10 to 15 conventional units;

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<sup>50</sup> Article 21 of the Criminal Code.

## ***Translation from Romanian into English***

<sup>51</sup> The action plan regarding the support of the Roma population in the Republic of Moldova for the years 2016-2020 approved by the Government Decision of the Republic of Moldova no. 734 of 9 June, 2016.

3) Law on public finances no. 397 of October 16, 2003 is to be revised in order to distribute the financial means for the remuneration of the specialist in the protection of children's rights within the town halls whose attributions are provided in Law no. 140 of 14 June, 2013 on the special protection of children at risk and children separated from their parents;

4) Law no. 273-XIII of 9 November, 1994 on identity documents in the national passport system, is to be revised so that information about the blood group will be excluded from identity cards and passports.

- **Recommendations for improving the regulatory framework and internal procedures:**

1) revision of the mechanism for recording unregistered births through child IDNPs in order to avoid duplication, given that currently the notice on the issuance of the birth certificate cannot be deleted from the control;

2) regulation of the automated evidence procedure in the field of issuing civil status documents;

3) intensifying inter-sectoral cooperation for the identification and documentation of children whose right to name and citizenship is violated;

4) ensuring a viable mechanism for monitoring the situation of children on the left bank of the Dniester and documenting them with identity documents from the national system.

- **General recommendations:**

1) establishing / streamlining the mechanisms responsible for keeping records of the population at the local level;

2) intensifying efforts to monitor and keep track of future mothers, especially those from vulnerable and / or uneducated families, postnatal supervision of the child;

3) ensuring the schooling of children without identity documents;

## **METHODOLOGY**

### **for the elaboration of the Survey “Observing Children’s Right to Name and Nationality”**

The methodology of elaboration of the Survey “Observing children’s right to name and nationality” establishes the process of elaboration of the analysis regarding the way of achieving the observance of fundamental rights and freedoms established by the UN Convention on the Rights of the Child and Law no. 338-XIII of 15 December, 1994 on the rights of the child.

Basic **objectives** in the research process are the following:

1. Assessing the level of respect and assurance of the child's rights to name and nationality;
2. Causes of non-compliance with the child's rights to name and nationality;
3. The problems which the authorities face in ensuring respect for the child's rights to name and citizenship;
5. Promoted policies to ensure respect for the rights of the child to name and nationality.

**Purpose** of Survey: the analysis of the way of respecting the child's right to name and nationality. The main **areas** covered in the Survey were:

1. Analysis of the national legal framework and international standards in the field of children's rights, in particular as regards the right to a name and nationality;
2. Analysis of the international experience in the field of ensuring the child's right to name and nationality;
3. Analysis of the current situation in the Republic of Moldova (including the region on the left bank of the Dniester) in the segment of children's documentation, ensuring the right to citizenship and humanitarian protection of refugee children and asylum seekers;
4. Analysis of the causes and problems that lead to the violation of the child's rights to name and nationality.

The level to observe the child's rights to name and nationality was achieved by collecting and structuring information and other written, relevant materials, namely:

1. *primary information* provided by the Ministry of Health, Labour and Social Protection, the Public Services Agency, the Civil Status Service, Level II Local Public Authorities, the National Bureau of Statistics, the Bureau of Migration and Asylum, which represents:

- statistical data on the number of undocumented children without identity documents;
- information on carrying out actions to document children with birth certificates and identity cards;
- data on acquiring the citizenship of the Republic of Moldova;

### ***Translation from Romanian into English***

- information on policies and initiatives at national level;
- data on future prospects in the field (policy development, services, etc.).

#### ***2. additional information obtained on the basis of:***

- analyses, studies, research in the field;
- articles / press releases from the media.

#### ***3. information obtained from the analysis of documents and data in the field:***

- strategies, concepts, programs related to children's documentation, as well as the actors responsible for this segment;
- legislative and normative acts that define the organizational-functional competencies of the responsible actors in the field.

#### ***4. information obtained from consultative meetings with relevant actors.***