

Children's right to identity in Romania

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Creation of identity

Birth registration:

- The main laws regulating birth registration are Law No. 272/2004 on the Rights of the Child, Law No. 119/1996 on Civil Status Acts, and the G.D. 64/2011 on the methodological norms for unitary applications of provisions concerning civil status.
- Whilst Art. 14(3) of Law No. 119/1996 set the timeline for early registration at 15 days following birth, this period was subsequently extended to 30 days under the Government Emergency Ordinance 33/2016, for implementation of 'No child without identity' policy, included in the anti-poverty programme, Emergency Government Ordinance 33/2016.
- After one year following the birth, if the birth was not registered, it becomes the responsibility of the Public Service for Social Assistance to register the child. The registration must be approved by a local civil court. If the person being registered is still a child, the medical assessment procedure is free of charge, but it carries a cost for individuals who apply for birth registration after reaching adulthood.
- Birth certificates represent proof of citizenship for children younger than 14. Birth certificates contain a CNP (a personal identification number) which is only granted to Romanian citizens and is required to access national services such as healthcare or the education system.
- Children of parents who have not been registered themselves or who hold no ID documents are particularly vulnerable and will be prevented from accessing birth registration procedures as the mother's identity document (if she is known) is mandatory for issuing the child's birth certificate. There is no carve out under the law for such children and it is necessary for the mother to first undergo the birth registration procedure, obtain a favourable court decision, and receive identity documents before the child/children can be issued with identity documents.
- According to a local contact, the lack of legal identity disproportionately affects Roma rural communities in the country.

Nationality and statelessness:

- Underage children of Romanian citizens or having at least one parent of Romanian citizenship, even if they were born outside Romania, and even if they have another citizenship, are Romanian citizen.
- However, whereas stateless children (who are officially registered as such) may still have access to some rights under applicable legislation, children whose births are never registered are, in practice, invisible from a legal standpoint and thus are prevented from accessing and benefiting from even basic rights.¹
- According to Romanian citizenship law (Law No. 21/1991 regarding Romanian citizenship), there are four ways to become a Romanian citizen, two of which involve the system of *jus sanguinis* (birth and adoption), meaning that the child becomes a Romanian citizen if he/she has a Romanian parent.
- Foundlings on Romania's territory, in line with the 1961 Convention, are considered to be Romanian citizens until it is proven otherwise. However, whilst the conferral of Romanian nationality is automatic, certain administrative conditions have to be met in order for this provision to be effective in practice.

Unfortunately, Romania's existing national legislation limits the scope of the 1961 Convention and children born on Romanian territory to parents who are stateless² or of foreign nationality may only acquire nationality through a 'generally' procedure, which they can access together with their parents – if they are under 18 years of age – or individually, after they turn 18.³

- Children under 18 born to foreign citizen parents or parents with no citizenship will acquire Romanian citizenship at the same time as their parents (Section 10, Citizenship Act).
- According to Section 9 of the Citizenship Act, Romanian citizenship can also be granted on request to a foreign citizen or to a person without citizenship who: a) was born and resides in Romanian territory at the request date or, even though he was not born in this territory, has been residing in the Romanian territory for at least five years, or if he has been married to a Romanian citizen, for at least 3 years; b) proves attachment towards the Romanian State and Romanian people by his behaviour and attitude; c) has turned 18; d) has legal means of existence; e) has a general good behaviour and has not been convicted in the country or abroad for a crime that makes him unworthy of being a Romanian citizen; f) has a good knowledge of the Romanian language enabling him to integrate himself in the social life.
- Romania is bound by the provisions of the 1961 Convention and has a principle obligation in relation to the prevention and reduction of childhood statelessness. Romania, therefore, is under an obligation to grant nationality to children who would otherwise be stateless who are born in its territory and to foundlings found in its territory, as well as to otherwise stateless children of Romanian nationals born abroad.
- However, a local contact highlighted that Romania does not have reliable data on the stateless population, as the statistics only include those with a residence permit, and does not yet have a statelessness determination procedure and there are significant gaps in safeguards for the prevention of statelessness.⁴ In addition, certain populations are completely missing from existing data, including children born in Romania to parents whose countries of citizenship have a complex citizenship granting procedure, which may remain unfinished due to a lack of awareness of it, or an inability to complete the process.

Assisted reproductive technologies and surrogacy:

- Romania continues to permit anonymous donation of human reproductive material such as oocytes, which leads to gaps in identity creation.⁵
- According to a report from the COE Committee on Bioethics, only the surrogate woman giving birth and the father are mentioned in the birth certificate or other official documents connected to the birth.⁶

Potential considerations:

- *What initiatives are foreseen to facilitate the registration of the births of children, whose parents have not been registered or do not have any proof of legal identity?*
- *What actions are undertaken to prevent statelessness amongst children on Romania's territory and to facilitate the obtaining of a nationality?*
- *Are any legal reforms foreseen to ensure the legal identity and access to information about biological, gestational and genetic origins of children born from ART and surrogacy?*



Alternative care:

- About a quarter of children in public care live in residential care, mostly children with disabilities. The number of children without parental care due to work migration of caregivers continued to decrease to 71,152 (June 2023).
- According to UNICEF, there has been a notable percentage decrease in the rate of children in formal alternative care between 2015 and 2021: in 2015 there were 1,465 children and in 2021 there were 1,247 in formal care per 100,000 population aged 0-17 years.⁷ This suggests that concerted efforts at reform, including the introduction of gatekeeping and increased attention to prevention and family support services, and especially in some of the countries that have had high rates of children in formal alternative care may be resulting in an overall reduction in the rate of children in formal alternative care. Other factors mentioned by a local contact include a decrease in birth rates and ongoing migration.
- A National Strategy for the Protection and Promotion of Children's Rights "Protected Children, Safe Romania" 2022-2027 was adopted, whose overall aim is to ensure the effective realisation of the rights of all children living in the country, including the most vulnerable, in all areas of life, by ensuring adequate and equal access to quality public services. 20 targets are included in the adopted Strategy, including a 30% increase in the number of children benefiting from family separation prevention services.⁸
- Indeed, according to UNICEF, 'Romania has been working on a continued process of deinstitutionalisation of children without parental care, achieving important progress. The current legal framework (law on the promotion and protection of child rights) ensures a strong protective environment with a general prohibition of institutionalization of children under 7 years of age (though with the significant exception of children with disability, for whom the minimum age limit is set at 3). All these efforts, as well as strengthened efforts to prevent separation of children from families through programmes like the Minimum Package of Services, brought to a slow but continuous decrease of the number of children in institutional care. Nonetheless, recent data shows that in mid-2024, 25 per cent of all children in the special protection system (9,954 children), were still hosted in the 1,240 public and private residential care facilities. Additionally, data shows that almost 1 in every 4 children in residential care are children living with disability, who are continuously at risk of being left behind by the processes of transition to family-based care, due to the lack of specialized care and services'.⁹

By December 2024, there were 35,912 children in alternative care, including 9,579 in residential care and 22,333 in foster care or kinship care.¹⁰ Nonetheless, a local contact mentioned that little is known about the wellbeing of children in foster care and there is a notable lack of capacity and lack of mechanism for the implementation of the right to participation for children in foster care. In the absence of robust research evidence, there is a significant number of anecdotal narratives of child abuse and exploitation in foster care.

Adoption:

- Romania is a State Party to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.¹¹ The amended Romanian adoption law went into effect on 7 April 2012. The new law only allows for intercountry adoptions of Romanian children by relatives up to the fourth degree of kinship (up to first cousins) and Romanian citizens who are habitually resident abroad.

- If after being registered as eligible for domestic adoption for two years no adoptive parents habitually residing in Romania can be found, then the child will be considered for limited intercountry adoption as detailed above.
- The most recent statistics show that 1,587 children were adopted domestically during the year 2022 and that 16 were adopted internationally during the same period. It is worth also highlighting that by the end of 2022, there were still 6,702 children declared adoptable in the country, of which most were placed with foster families, and 2,796 families had been declared eligible to adopt.¹² A local contact highlights that many of these children may be older children.¹³

Humanitarian situation:

- The war in Ukraine forced over 4.5 million persons (UNHCR, December 2023) across borders into Romania from either Ukraine or the Republic of Moldova and has had a major impact on Romania. The government continued, with international support including UNICEF's, to provide essential services and cash assistance to refugees from Ukraine, following the implementation of the National Response Plan launched in 2022.¹⁴
- The war in Ukraine brought additional challenges to the Romanian child protection system – with over 700,000 children having crossed the border into Romania. Among these, the border police and local child protection authorities identified and protected almost 5,344 unaccompanied or separated children. This was possible due to the quick response by the Prime Minister's Office with support from many actors, including the National Child Protection Authority and UNICEF. To decrease children's risk of abuse, exploitation, and violence UNICEF supported the government to roll out PRIMERO, an open-source software to identify, register, and refer children from Ukraine to specialised services.¹⁵
- In addition, UNICEF, together with the Romanian Government, national and local authorities, UNHCR and other UN agencies, along with non-government organisations, provided protection, assistance through direct services and referral to enhanced national/local services and community-based interventions, including through establishment and roll-out of Blue Dots - Children and Family Support Hubs. These Hubs are dedicated refugee children and family support centers and represent an integrated model focusing on providing support for the most immediate needs of children and women, and include child-friendly spaces offering integrated services including family reunification and restoring family links, registration of the most vulnerable, as well as basic legal advice, referral services for cases of violence or health conditions, etc.¹⁶

Potential considerations:

- *How is the implementation of the National Strategy for the Protection and Promotion of Children's Rights "Protected Children, Safe Romania" 2022-2027 having an impact on the prevention of entry into care and on the process of child deinstitutionalisation in Romania?*
- *What initiatives have been developed to strengthen the domestic adoption of children, including those with disabilities and other special needs?*
- *How are the legal identity and family relations of children from Ukraine on Romania's territory being fully safeguarded, including with a view to family reunification and the prevention of trafficking?*

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Falsification of identity

Child marriage:

- Article 272 (1) of the Civil Code 2009 sets the minimum legal age of marriage is 18 years. However, under Article 272 (2), an individual can marry at 16 years with parental consent, based on a medical certificate or with authorisation from the tutelary authority.¹⁷
- According to research by Girls Not Brides, 7% of girls in Romania marry before the age of 18 and 1% marry before the age of 15. Data refers to formal marriages only from Population and Housing Census 2021 and misses the month at the first marriage in the calculation, which might lead to some bias. A 2005 study reports that child marriage is most common in Kalderash Romani communities, but seldom practised by Cashtale Roma.¹⁸
- Many contributing factors to child marriage in Romania include kidnapping, pre-marital sex, and poverty.¹⁹
- Child marriage is apparently almost absent from the policy framework in Romania, include those related to Roma communities in the country.²⁰

Child trafficking:

- In a 2024 article, findings suggest that approximately 50% of all victims of human trafficking in Romania are children, while more than 90% of sexually exploited child victims are girls and come from rural areas, official figures from the Romanian Government show. The same data claims a total of 1,525 children have become victims of human trafficking in Romania in the last five years, although the real number is thought to be significantly higher.²¹
- In November 2024, UNICEF released the first Practical Guide for Referring Cases of Child Trafficking for Romanian Professionals, designed to support better identification and assistance of child victims of human trafficking.²²
- It appears that the Ukraine refugee crisis brought, inter alia, increased risks of child trafficking, exploitation and abuse – particularly to vulnerable children on the move.

Potential considerations:

- *What is being undertaken to ensure the implementation of the legal minimum age for marriage in Romania and to prevent this practice amongst the children and communities most at risk?*
- *How is the new guide on the referral of child trafficking cases being implemented? What are the initial outcomes, including amongst children from Ukraine?*

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Preservation of identity and access to origins

Access to origins:

- In accordance with Articles 10 and 51 of Law No. 119/1996 on the registration of the civil acts, Romanian authorities can issue birth certificates (duplicates) only to the holders of the birth certificates, and copies of birth registration documents can be obtained upon application to the Civil Status Service if the original document has been lost, stolen or destroyed. The person named on the certificate is the person responsible for requesting the replacement document.

Adoption:

- In Romania, the adoptee's right to know his/her origins is enshrined in Article 26 of the Constitution (1991) and is regulated by Article 71 on the right to privacy of the Civil Code (Law No. 287/2009) as well as Article 9(2) of Law No. 272/2004 on the protection and promotion of the rights of the child, which provides for the right of the child 'to know his/her parents'.
- According to Article 474 of the Romanian Civil Code, adoption-related information is confidential, including data identifying individuals involved in the adoption process. The way the adopted person is informed about their adoption and biological family is outlined in Law No. 273/2004. Furthermore, it is worth mentioning Government Decision No. 448/2017 on the approval of methodology regarding the contact of natural parents or biological relatives, the access of the adoptee to information about their own origins and past, as well as the access of natural parents or relatives of the adoptees to information about the adopted person.
- In practice, information concerning the child's origins is centralised in the records of the National Authority for the Rights of Persons with Disabilities Children and Adoptions (NARPDCA). The NARPDCA supports the adopted person in view of the exercise of his/her right to get to know his/her own origins and past and supplies to his/her natural parents and biological relatives information about the adopted person (Law No. 273/2004).²³
- The adopted persons, who does not have yet full legal capacity, but knows that they are adopted may request the NARPDCA the information about the place of birth, institutional track and personal history, on their behalf or through their legal representative. These pieces of information are supplied without revealing the identity of the biological parents or relatives and it may be supplied only if the adoptee participates to at least one counseling session, which confirms that the adoptee is psychoemotionally balanced.²⁴
- The counseling may be carried out by the General Directorate of Social Assistance and Child Protection territorially in charge with the adoptee's residence, by an authorised private body, as well as by private social assistance and/or psychology practice, associated practices or private limited companies having signed agreements with the NARPDCA.²⁵
- After acquiring full legal capacity, the adoptee may request the court to authorise his/her access to the information available with any public authority regarding his/her natural parents'/birth relatives' identity. Prior to court notification, the adoptee shall ask the NARPDCA to issue a document certifying the adoption and whether filiation was established to one of his/her natural parents before the adoption. The adoptee shall also attend at least one counselling meeting to assess whether she/he is psychologically and emotionally balanced.²⁶
- Also, when the adoptee asks to be authorised to access information available with any public authority regarding their natural parents or relatives' identity, the NARPDCA examines its own records to see if there is any request from the natural parents or biological relatives for getting information about him/her.²⁷
- Adopted persons, natural parents or biological relatives may benefit, upon their request, of counseling, as well as other activities aiming to prepare and organise the actual meeting between them or to facilitate their putting in contact.²⁸
- It is worth mentioning that a local contact highlighted the difficulties faced by some adoptees to regain Romanian citizenship. Indeed, not all Romanian born intercountry adoptees can regain their Romanian citizenship if they wish to gain it in order to embrace and gain recognition for their full identity, because the amendment of citizenship law changed in 1999 removed the preservation of intercountry adoptees identity. The Romanian citizen child adopted internationally until 14 December 1999 could retain their Romanian citizenship even if they acquired the citizenship of their foreign adopters. A Romanian citizen child adopted internationally after 14 December 1999 lost Romanian citizenship if they acquired the citizenship of their foreign adopters.

- By collaborating with other Romanian authorities, competent institution/s that might be in possession of information are asked to supply further information and documents necessary so that the adoptee may find information on his/her adoption background.²⁹

Potential consideration:

- *CHIP welcomes the efforts undertaken to promote children and adoptees' rights to access personal information; what additional initiatives are foreseen to further strengthen these mechanisms?*

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Restoration of identity

Past practices of care and adoption:

- In the early 1990s, Romania struggled to gain control of the interest and subsequent high number of intercountry adoptions, with concerns for these children's rights. Romania restricted adoptions in mid-1991, suspended them in 2001, and adopted a legal ban on the practice in 2004, with the exception of adoption by close relatives, particularly grandparents.³⁰
- In 2012, Romania's Law No. 273/2004 was amended in order to extend the categories of potential adopters to include relatives up to the fourth degree of kinship, the spouse of the child's natural parent and, significantly, Romanian citizens who were habitually resident abroad.³¹ The enactment of the law came together with instruments aimed at implementation, such as methodological standards, the operation of the body in charge of adoption, the intervention of private bodies adoption and accreditation.
- In 2016, Romania enacted a new decision on the services and activities that can be carried out by Romanian private bodies as intermediaries in the adoption procedure, as well as the methodological norms on the adoption procedure and some forms, tools and documents used in the adoption procedure.
- The profile of children currently adoptable internationally are children over the age of two, although most of them are over five years old and may show delays in development or with different degrees of disabilities.³² A 'simplified' procedure has been implemented for their adoption, which allows potential adoptive families to play an active role in the matching with a child in a domestic adoption only.³³
- The country is now also focusing on the preservation and access by adoptees to their origins. In 2017, it published its decision on contact with the biological family, access to information about origins as well as the biological family's access to information about the adoptee.³⁴
- In addition to providing support in searches for origins, Romania has also developed post-adoption activities, which are organised with a plan and intend to provide specialised support and assistance to the adoptee and the adopters, in line with the needs identified or expressed during post-adoption monitoring.³⁵
- However, according to a local contact, many children who were adopted internationally from Romania left the country with false documents. Many of them lost their Romanian identity through adoption.³⁶ Romania still has no legal provision for care leavers (ex-Likewise, children's rights to identity were also failed in the care system, as ept intercountry adoptees) to access to their child protection files, and while accessing information about the biological family is regulated for intercountry adoption, the procedure is far more difficult in domestic adoption cases.³⁷

Potential consideration:

- *What actions are being undertaken to ensure that adoptees whose identity may not have been fully preserved in the past are being supported? How are missing elements being searched for and ascertained? How is the government helping them to restore elements of their original identities?*

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