

---

## Habitat – Residence as a Subject Regulating the Subjectivity of Natural Persons in Civil – Legal Relations

Risto Ilioski Ph.D.<sup>a\*</sup>, Liridon Zenku Ph.D.<sup>b</sup>

<sup>a,b</sup>Primary Court Kichevo, Address: Bulevar Osloboduvanje no. 17, 6250, Kichevo, Republic of North  
Macedonia

<sup>a</sup>Email: [ristoi@yahoo.com](mailto:ristoi@yahoo.com)

<sup>b</sup>Email: [liridon.zenku@unt.edu.mk](mailto:liridon.zenku@unt.edu.mk)

### Abstract

Habitat – residence is a subject important for regulating the subjectivity of natural persons in civil law. Namely, in addition to the personal name and citizenship, habitat - residence is an attribute of a natural person. So with the help of this subject, natural persons have the opportunity to effectuate their subjectivity, ie in other words to be parties in civil - legal relations. Thus habitat – residence also appears as a means of individualizing natural persons in civil law. In the positive legislation of the Republic of North Macedonia there is a Law on registration of the habitat and residence of citizens. The goal of this paper is to research and perform scientific processing to the extent necessary for the habitat, ie residence in accordance with this legal text, from the aspect of civil law, but also to offer appropriate remarks and suggestions, in order to improve of the existing law and more consistent and comprehensive application of the same. Hence I think except the theoretical dimension of this paper, will be of great benefit to practitioners, which emphasizes the practical side of this paper.

**Keywords:** attribute; civil law; habitat; natural persons; residence.

---

*Received:* 2/2/2025

*Accepted:* 4/1/2025

*Published:* 4/14/2025

---

\* Corresponding author.

## **1. Introduction**

As a property important for regulating the subjectivity of natural persons, the habitat – residence is of particular importance so that natural persons can appear as parties in civil - legal relations. The habitat – residence is an attribute of natural persons. Namely, given that it is possible for several people to have the same first and last name in everyday life, with the help of the habitat – residence the subjectivity of the natural person is regulated in more detail, that is, in a way it enables a more complete individualization of the natural person, which is certainly necessary in civil law.

The paper first explores the very concept of habitat, the characteristics of habitat, the possibilities for changing habitat, then a conceptual definition of residence is made, the specific situations of registering and deregistering residence, the characteristics of residence and in relation to habitat and residence, theoretical dilemmas, the issue of the homeless, the significance of habitat, i.e. residence for civil law, and also in the paper we will offer our own suggestions for the appropriate legal solutions in order to improve them, in order to more consistently overcome problems in practice.

## **2. Concept and characteristics of habitat**

The habitat have great importance when natural persons enter into civil - legal relations. Considering that there are possible situations where several persons have the same name and surname, through habitat further individualizes natural persons. That it is an important feature is evidenced by its representation in international acts, highlighting its international dimension. Thus, the Universal Declaration of Human Rights [1] in Article 13, paragraph 1 stipulates that: "Everyone has the right to freedom of movement and habitat within the borders of each State", while the following paragraph 2 states that: "Everyone has the right to leave any country, including his own, and to return to his country." Furthermore, the International Covenant on Civil and Political Rights [2] in Article 12, paragraph 1 regulates that: "Everyone lawfully within the territory of a State has the right to freedom of movement within that State and to freely choose his habitat", further in the following paragraph 2 it stipulates that: "Everyone has the right to leave any country, including his own." In this regard, the Constitution of the Republic of North Macedonia of 1991 [3] in Article 27, paragraph 1 stipulates that: "Every citizen of the Republic of North Macedonia has the right to freedom of movement within the territory of the Republic and to freely choose their place of habitat", while the following paragraph 2 regulates that: "Every citizen has the right to leave the territory of the Republic and return to the Republic." Furthermore, in paragraph 3 states that: "The exercise of these rights may be limited by law, only in cases where this is necessary for the protection of the security of the Republic, the conduct of criminal proceedings or the protection of human health."

The definition of habitat is contained in the original text of the Law on Registration of the Habitat and Residence of Citizens from 1992, without the corresponding subsequent amendments and supplements [4]. Thus, Article 2, paragraph 1 states that: "Habitat is the place in which a citizen has settled with the intention of permanently living there and in which he has secured an apartment for living". From here, one can also see the elements contained in that definition. Namely, on the one hand, it is necessary for there to be a place where the

citizen has settled, and on the other hand, the intention to live permanently is indisputable. Thus, science notes that for the existence of a habitat, certain conditions are required, namely: living in one place (material element) and the intention to live permanently in one place (will element) [5]. Thus, intention and how are important elements when determining the legal definition of habitat. The theory further states that, "habitat is the legal seat of a natural person, the place where he is permanently present in the eyes of the law, regardless of whether he is currently (occasionally) actually residing somewhere else" [6].

The latest definition of habitat in the Law is determined by the amendments and supplements to the legal text from 2023. Namely, Article 2, paragraph 1 states that: "Habitat is a place and address in the Republic of North Macedonia, where the citizen lives, i.e. has settled with the intention of permanently living for the purpose of exercising rights and obligations in family, professional, economic, social, cultural life, as well as exercising similar interests."

The initial legal definition of habitat in our country in the basic legal text requires that the citizen has secured a living apartment. In this context, Article 2, paragraph 2 stipulates: "A citizen is considered to have secured a living apartment, within the meaning of this law, if he or a member of his family has a habitable apartment on the basis of ownership or a lease agreement in accordance with the law." Hence, when it comes to the grounds for registering the habitat, according to the law, these are ownership and the lease agreement. Insisting only on these two grounds, we believe that leads to a situation where certain citizens do not register their actual habitat, and thus in some way do not respect the legal provisions. Here, of course, the frequently practiced Lifetime Support Agreement is unjustifiably omitted on the one hand.

However, this has been resolved with the amendments to the Law of 2023. Namely, Article 3-a, paragraph 1 of the amendments and supplements of 2023 stipulates, among other things, that: "Registration and deregistration of a habitat and reporting a change of address of an apartment is carried out on the basis of a request submitted by the citizen. The request with the necessary documentation can also be submitted in electronic form through qualified electronic registered delivery using a means of electronic identification, through the National Portal for Electronic Services, in accordance with the regulations in the field of electronic governance and electronic services." Here, the law now adds more bases as positive rights, besides ownership and lease. Thus, other grounds appear besides the Lifetime Support Agreement such as the service agreement, a property tax decision for a residential building in which the citizen lives, and proof of paid property tax for the said building, but here the issue of the homeless is also resolved, such as the written notification of a homeless person from the competent social work center to the Ministry of Internal Affairs, as well as other grounds regulated by Article 3-a [7].

Namely, according to Article 2, paragraph 5 of the 2023 legal amendments, a homeless person is a person who does not have a habitat and a personal identification document issued by a competent authority in the Republic of North Macedonia. Thus, although the issue of the Lifetime Support Agreement and the issue of the homeless were not regulated by the original version of the Law, I believe that the amendments to the legal solutions are justified by adding and legally regulating the aforementioned issues.

In this way, more cases of everyday life will be covered by legal regulation, on the basis of which the actual habitat of citizens can be regulated. Given the frequent use of this Lifetime Support Agreement, as an agreement with obligatory-legal and inheritance-legal elements, I believe that this agreement contributes to determining the right and exact habitat in certain situations in which citizens may find themselves. Namely, according to Article 1029 of the Law on Obligations:[8] "With the Lifetime Support Agreement, the support provider undertakes to support the support recipient or a third party for life, and the support recipient in return leaves him all of his property or a certain part of the property, the transfer of which is postponed until his death." Hence, the Lifetime Support Agreement, will take its place as one of the bases for registering the habitat.

When it comes to changing of habitat after the adoption of the new decision on registration of habitat, the citizen is deregistered from the previous habitat (Article 3, paragraph 1). This is the new legal solution from 2023. While according to the latest amendments, as we have described, the issue of homeless people is also resolved. Thus, a homeless person can register a habitat at the address of the Center for Social Work or at the address of a natural person who has agreed for the homeless person to register a habitat at his address (Article 3, paragraph 6). In this context, I think that Social work centers should have an active role when it comes to registering the habitat of homeless people. Of course, in accordance with the principle of free initiative, supplemented by the principle of legal certainty, I believe that a homeless person could be allowed to register a habitat with a natural person, of course with his consent and under strictly defined legal conditions.

### **3. Concept and characteristics of residence**

Regarding residence, there is a legal definition in the original text regulated by the Law on Registration of Habitat and residence of Citizens. Namely, Article 2, paragraph 3 states that: "Residence is the place where a citizen temporarily resides, outside the municipality in which his or her habitat is located". In science, it states that, "it is a place where a natural person is located, for a short or long time, without the intention of permanently living there".[9] Namely, residence is a temporary place of residence of a specific person, for example due to a function that is performed for a certain time or a temporary dislocation of the work that he or she performs [10].

The legal amendments of 2023 have also undergone appropriate changes when it comes to the place of residence. First of all, the new legal definition reads: "Residence is a place and address in the Republic of North Macedonia in which a citizen temporarily resides for certain reasons, without intending to live permanently." (Article 2, paragraph 2). Furthermore, a citizen who intends to stay for longer than 30 days outside his or her place of habitat is obliged to register his or her place of residence within eight days after arriving at the place of residence. (Article 4, paragraph 1). The legislator correctly changed the legal deadline of three days initially set in the law with the amendments of 2023 to eight days. The deadline of three days is short, especially considering that this is a citizen who intends to stay for longer than 30 days.

If a citizen uses accommodation services in catering, tourist enterprises, student dormitories or boarding schools, or other legal entities that perform such activities, or with persons who provide accommodation services, the registration and check-out of the place of residence is carried out by the service provider, regardless of the

length of the citizen's stay (Article 5, paragraph 1). Registration of the place of residence is carried out no later than 48 hours after accommodation, and check-out before leaving the facility in which the citizen was accommodated (Article 5, paragraph 2).

The Law on Registration of Habitat and residence of Citizens also contains legal provisions for actions in cases where citizens travel abroad. Thus, a citizen who intends to temporarily stay abroad for three months to one year or to work abroad for more than one year is obliged to report his/her departure abroad to the competent authority in the place of habitat, or at the border crossing, or immediately after departure to the diplomatic and consular mission of the Republic of North Macedonia in that country, i.e. within three days to report his/her return to his/her place of habitat in our country, whereby the citizen is also obliged to report any minors traveling with him/her (Article 8, paragraph 1 and paragraph 2). Furthermore, for citizens who have not reported their departure abroad for more than three months, the competent authority will ex officio record this (Article 8, paragraph 3).

Here, as can be seen, there is a duality when it comes to regulation. That is, on the one hand, for citizens who intend to temporarily stay abroad for three months to one year, and on the other hand, for citizens who will be on temporary work abroad for more than one year. Here, I believe that such a division is unnecessary when it comes to citizens departure abroad. The question is debatable when a citizen goes abroad, will he/she return to the Republic of North Macedonia a year ago or is the citizen sure that he/she is going abroad for a temporary job for longer than a year. I believe that certain changes need to be made in this regard, so that it is assessed when a citizen intends to temporarily stay abroad for more than three months. Thus, instead of a period of three months to one year and a period of more than one year for temporary work, there should only be a period of more than three months. While when it comes to the period for reporting the return to the place of habitat in the Republic of North Macedonia, I believe that the period of three days is too short and thus contributes to disrespect for the Law. I believe that legal amendments should be made here, where the deadline would be defined at 15 days. This way, a longer deadline would be provided, unlike the current one, when it comes to the obligation to report the return to the habitat in our country.

When it comes to the realization of the right of citizens to move freely, that is, to freely choose their place of residence, restrictions are possible only by law in certain strictly defined cases. Thus, the Constitution of the Republic of North Macedonia, Article 27, paragraph 3 states that: "The realization of these rights may be restricted by law, only in cases where it is necessary to protect the security of the Republic, conduct criminal proceedings or protect human health." So we are talking about the following cases: protection of the security of the Republic, conduct criminal proceedings, as well as protection of human health. Namely, "quarantine" is isolation that consists of restricting the movement of sick or suspected sick people or contacts with sick people with certain high-risk diseases, in designated premises where the risk of spreading infections is reduced to the lowest possible level, in the presence of personnel using appropriate protective equipment and with a special regime of movement and behavior. [11]

The restriction is certainly justified, and this is especially noticeable today where measures are being taken to protect human health.

#### **4. Significance for civil law**

Habitat or residence have great significance for civil law, when subjects enter into civil-legal relations. Thus, natural persons are individualized with the help of this attribute. When there are persons with the same first and last name, the identity of the natural person is individualized with the help of this attribute. In science, it is stated that, "the legal regime of the habitat or residence not only has an impact on the closer determination of the individualization of the natural person, but in civil law it has a particular substantive and procedural significance"[12].

Furthermore, the theory notes that, "... the place of residence has other functions of a material - legal and procedural - legal nature" [13]. This is particularly evident through the analysis of certain legal provisions in the field of civil law. Thus, taking into account the Law on Obligations, Article 308, paragraph 2 provides the following: "When the place of performance is not determined, and cannot be determined even according to the purpose of the work, the nature of the obligation or other circumstances, the performance of the obligation shall be carried out in the place where the debtor had his seat, i.e. habitat, and in the absence of habitat, his place of residence at the time the obligation arose". This is a reserve dispositive norm. Namely, it is a statutory (reserve) legal solution that aims to fill the gap in the will of the parties to the obligation, with regard to the place of performance of the obligation [14]. Furthermore, in the same legal text, when it comes to the place of fulfillment of monetary obligations, Article 309, paragraph 1 states that: "Monetary obligations shall be fulfilled in the place where the creditor has his seat, i.e. habitat, and in the absence of habitat, his place of residence." These provisions actually reflect the material - legal meaning.

If we take into account the Law on Civil Procedure [15], we can also see the procedural - legal significance of the habitat or residence of the natural person. Namely, if the law does not determine the exclusive territorial jurisdiction of another court, the court that has general territorial jurisdiction over the defendant is competent for trial (Article 38, paragraph 1). Namely, the court with general territorial jurisdiction for trial is in whose territory the defendant has his/her habitat, provided that if the defendant does not have a habitat in the Republic of Macedonia, the court in whose territory the defendant has a place of residence has general territorial jurisdiction (Article 39, paragraph 1 and paragraph 2). If the defendant, in addition to his/her habitat, also has a place of residence in another place, and according to the circumstances it can be assumed that he/she will stay there for a longer period of time, the court of the defendant's place of residence also has general territorial jurisdiction (Article 39, paragraph 3).

The significance of habitat, or residence, for civil law is also reflected in the Law on Non-Contentious Proceedings [16] Thus, Article 14 states: "Unless otherwise determined by this or another law, to solve in the non-contentious proceedings territorial jurisdiction is the court in whose area the proposer has his/her habitat or residence."

#### **5. Conclusion and discussion**

Considering that this is a property significant for regulating the subjectivity of natural persons, the habitat-

residence is an attribute of the natural person. Thus, through this property, the natural person has the opportunity to exercise his subjectivity, whereby habitat-residence also appears as a means of individualization of natural persons in civil-legal relations. Namely, if we take into account that situations are possible for several persons to have the same name and surname, through the habitat, natural persons are even more individualized.

In addition to its international dimension, as evidenced by international acts, there are provisions in this direction in the Constitution of the Republic of North Macedonia itself, which also provides for strictly defined restrictions.

According to the Law, habitat is a place and address in the Republic of North Macedonia, where a citizen lives, i.e. has settled with the intention of permanently living for the purpose of exercising rights and obligations in family, professional, economic, social, cultural life, as well as exercising similar interests. The legislator has accepted several bases for determining the habitat from the ownership and the lease agreement provided for in the initial version of the law. Of course, a life support agreement also finds its place here, and the legislator has correctly regulated the issue of the homeless, from the aspect of their habitat.

As for the place of residence, taking into account the legal amendments, the place of residence is a place and address in the Republic of North Macedonia in which a citizen temporarily resides for certain reasons, without intending to live permanently.

Furthermore, in the paper I propose changes regarding the manner of regulating cases when citizens go abroad.

The habitat or residence has great significance for civil law, when subjects enter into civil - legal relations. It is a matter of material - legal and procedural - legal significance. Such significance is perceived through the analysis of certain legal provisions in the field of civil law.

## **References**

- [1] Universal Declaration of Human Rights: Available <https://civil.org.mk/wp-content/uploads/2013/05/djeklarazia.pdf>. [27.01.2025].
- [2] Law on Ratification of The International Covenant on Civil and Political Rights “Official gazette of SFRJ” number 7/1971.
- [3] Constitution of the Republic of North Macedonia “Official gazette of Republic of Macedonia” number 52/91, 1/92, 31/98, 91/01, 84/03, 107/05, 3/09, 49/11 and 6/19.
- [4] Law on Registration of Habitat and residence “Official gazette of Republic of Macedonia” number 36/92, 12/93, 43/00, 66/07, 51/11, 152/15, 55/16 and “Official gazette of Republic of North Macedonia” number 302/2020, 67/2022 and 209/2023.
- [5] Р. Ковачевић – Куштримовић, Грађанско право, (општи део), друго измењено и допуњено

издање, Издавачко графичко предузеће “Сириус” – Ниш, Ниш, 1995, pp. 80.

- [6] О. Станковић, В. В. Вудинелић, Вовед во Граѓанско право, Издавачко предузеће “Номос“, Београд, 1996, pp. 64.
- [7] Law on Registration of Habitat and residence “Official gazette of Republic of Macedonia” number 36/92, 12/93, 43/00, 66/07, 51/11, 152/15, 55/16 and “Official gazette of Republic of North Macedonia” number 302/2020, 67/2022 and 209/2023.
- [8] Law on Obligations “Official gazette of Republic of Macedonia” number 18/01, 4/02, 5/03, 84/08, 81/09 161/09 and 123/13.
- [9] Р. Ковачевић – Куштримовић, Граѓанско право, (општи део), друго измењено и допуњено издање, Издавачко графичко предузеће “Сириус” – Ниш, Ниш, 1995, pp. 80.
- [10] Р. Ковачевић – Куштримовић, Граѓанско право, (општи део), друго измењено и допуњено издање, Издавачко графичко предузеће “Сириус” – Ниш, Ниш, 1995, pp. 80.
- [11] Law on Protection on Population from Infectious Diseases “Official gazette of Republic of Macedonia” number 66/2004, 139/2008, 99/2009, 149/2014, 150/2015, 37/2016 and “Official gazette of Republic of North Macedonia” number 257/ 2020).
- [12] Р. Живковска, Општ дел на граѓанското право, „Европа 92“, Кочани, Скопје, 2011, pp. 146.
- [13] А. Групче, Имотно (Граѓанско) право, општ дел – второ изменето и дополнето издание, Култура – Скопје, Скопје, 1983, pp. 132.
- [14] Г. Галев, Ј. Дабовиќ Анастасовска, Облигационо право, Правен факултет „Јустинијан Први“ – Скопје, Скопје, 2008, pp. 253.
- [15] Law on Civil Procedure “Official gazette of Republic of Macedonia” number 79/05, 110/08, 83/09, 116/10, 7/11 – fair copy, 124/15.
- [16] Law on Non-Contentious Proceedings “Official gazette of Republic of Macedonia” number 9/2008.