

RIGHT TO A NAME IN TERMS OF IDENTITY RIGHT¹

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Abstract

The identity of a person mainly supports discussions in a philosophical way, its definition being the subject of multiple debates. However, from a philosophical point of view there is no unanimity regarding the concept of identity, the established interpretations cumulating a series of common points, but subject to the mark of personality. In order to satisfy the need to differentiate humans in all manifestations of social life, and in order not to give rise to confusions about one's identity, the use of the name was imposed. The aim of this article is to contribute to a better understanding of both rights and to emphasize each and any existing connection between them. Another aspect that determined the elaboration of this article is represented by the fact that the doctrine is largely limited in treating the name right only in the chapter allocated to the identification attribute of the natural person without emphasizing its valences according to the conclusive legal relations.

Key words: name, identity, digital identity, fundamental rights.

JEL Classification: K15, K36

1. Preliminary issues

A person's identity mainly supports philosophical discussions, its definition being the subject of multiple debates³. However, from a philosophical point of view there is no unanimity regarding the concept of identity, the established interpretations cumulating a series of common points, but subject to the imprint of the personality. A general conception presents identity as a set of data through which a person manages to identify himself among other people. Man, a social and rational being, can only be conceived in relations with his fellows, as a result it was necessary to create and perfect a way of personal designation.

For a better understanding of the concepts, the distinction between «identity» and «identification» of the natural person, should be highlighted⁴. The process of identifying the individual is a complex one, which involves an operation carried out by those means to which the law assigns the quality of individualization both family and social, on the territory of a particular state, while the identity of the individual is supported and proven by those documents called identity documents drawn up for this purpose by authorized persons.

Therefore, identity documents are certainly built on the basis of identification attributes. Therefore, in the civil status documents, identification elements or personal data are mentioned, such as: name⁵, surname, address of the domicile of the person concerned, sex and citizenship⁶. However, a complete identification of a person is not made on the basis of the data specified in such an identity document, being necessary to know other elements related to marital status. As demonstrated in French doctrine: "the name is not only related to the identification of the person, but also to his identity"⁷.

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³ Cătălin Andrei Drumea, *Dreptul la identitate*, <https://www.juridice.ro/288515/dreptul-la-identitate-2.html>, accessed on 5.11.2020.

⁴ Dumitru Lupulescu, Ana Maria Lupulescu, *Atributele de identificare ale persoanei fizice*, Universul Juridic Publishing, Bucharest, 2015, p. 192.

⁵ Oana Nicoleta Retea, *Infringement in One's Right to a Name, Intrusion in Private Life or Family Life? The European Court of Human Rights Perspective*, „Perspectives of Business Law Journal”, vol. 5, no.1, November 2016, pp. 133-141.

⁶ Dumitru Lupulescu, Ana Maria Lupulescu, *op. cit.*, 2015, p.192.

⁷ François Terré, Dominique Fenouillet, *Droit civil. Les personnes. Personalité-Incapacité, Protection*, Dalloz Publishing, 8th edition, Paris, 2012, p. 200.

2. Name. Identity. Identification

"What is in a name⁸?" asks Shakespeare in Romeo and Juliet⁹ play. A name represents a unique individual, Victor Hugo for example, without an *a priori* recognition of a certain property, says John Stuart Mill. According to Saussure, a name would not be a linguistic sign, while for Freud the name is a connection, a binder with one's own personality¹⁰. Constitutive element of the language of each people, any name of a person is basically a sound sequence used constantly in the community to designate a certain person¹¹. Therefore, the appearance of names¹² it is conditioned by the existence of a human group, of man as a social being.

The name¹³ becomes a legal notion from the desire to establish a unitary way of identifying persons, the object of the regulations being in fact its structure and rules of acquisition and not the name itself. Thus, the name as an attribute of identification includes "family name" and "first name"; the first element being established by the links between the different families, while voluntarism characterizes the procedure for determining the first name by the parents.

A brief analysis of the name from the point of view of legal aspects reveals an evolution in its regulation from property law (especially in the French system¹⁴) to extra-patrimonial law with personal values (currently the vast majority of legal systems adopt this direction)¹⁵.

In order to satisfy the need to differentiate one's peers in all manifestations of social life, and in order not to give rise to confusions about one's identity, the use of the name was imposed. Everything that is nominative in private and public life is attached to this institution of human rights. The name is a factor of order and individualization¹⁶.

From the point of view of the Civil Code, the three essential elements are distinguished that allow the identification of a natural person: the name - is the one that designates it; domicile - represents the geographical position in which it is located; marital status - establishes the legal identity and is the premise of its registration through civil status documents. The elements that form a person's marital status constitute a whole and make his civil status unique and indivisible, and according to the doctrine, the relationship between status and person is similar to that between his body and his shadow.

The Romanian civil code regulates the attributes of human identity as well as the methods of identification, through the provisions contained in Chapters II and III, Title II of Book I. Thus, Article 58 presents the rights of personality and shows in the first paragraph that "Everyone has the right to life, to health, to physical and mental integrity, to dignity, to one's own image, to respect for privacy, as well as other such rights recognized by law". This enumeration is completed by the provisions of art. 59, specifying the attributes that lead to the identification of a person, respectively "... right to name, domicile, residence and marital status". All these rights seem to be attributed to any person who is born in Romania and is subject to the legislation of our country. However, this is not the case,

⁸To be seen: Bjorn Kunoy, *What's in a name that which we call a rose by any other name would smell as sweet? Reflections on ECJ's Trade Mark Case Law*, „German Law Journal”, vol. 08, no. 06/2007, p. 635-656.

⁹ William Shakespeare, *Romeo and Juliet*, in *The Complete Work of W. Shakespeare*, Collins Publishing, Glasgow, 2006, p. 948-958;

¹⁰ Friederich Nietzsche, *Despre genealogia moralei, traducere din limba germană de H. Stanca și J. Ianoși*, Echinox Publishing, Cluj, 1993, p. 15-18.

¹¹ Christian Ionescu, *Mică enciclopedie onomastică*, Publishing House Enciclopedică Română, Bucharest, 1975, p. 8.

¹² George Plastara, *Drept civil român*, vol. I., „Cartea Românească” Publishing, Bucharest, 1927, p. 153.

¹³ Daniel Gutmann, *Le sentiment d'identité. Étude de droit des personnes et de la famille*, Ed. L.G.D.J., Paris, 2000, p. 184.

¹⁴ Gérard Cornu, *Droit civil. Introduction. Les personnes. Les biens*, 5th edition, Montchrestien Gérard Cornu, Paris, 1991, p. 203. Nicolae Titulescu, in support of the non-patrimonial character of the right to name, considers that the object of property cannot be divided, without diminishing “the usability of each owner”. "Take the name of Popescu or Ionescu. Whole families enjoy this name, they use it, they derive from it all the utility they are likely to have without being harmed by anything, because there are other Popescu and Ionescu families. Or, does this perfect cumulative use of the name fit in with the exclusive property right? Not". In his argument, Titulescu adds that: “the patronymic name was born from the addition of an orbiquet drawn from the profession, from the home, from the physical qualities, etc. which have not the slightest relation to the idea of property”. Nicolea Titulescu, *Drept civil*, All Beck Publishing, Bucharest, 2004, p. 136.

¹⁵ Călina Jugastru, *Respectul vieții private – delimitări conceptuale, precizări privind domeniul protecției legale*, in. Institutul de Istorie „G. Barițiu”, Cluj-Napoca, Series Humanistica, tom II, 2004, p. 347.

¹⁶ Ovidiu Ungureanu, Cornelia Munteanu, *Drept civil. Persoanele în reglementarea noului Cod civil*, Hamangiu Publishing, Bucharest, 2011, p. 170.

the end of article 59 of the Civil Code requires that the respective identification attributes will be recognized to persons only if "they have been acquired in accordance with the law". In Switzerland, the Civil Code expressly provides for the rights of the personality, which mainly concern the right to privacy and honor, the right to domicile, the right to a name, the name being that element of the personality which determines the person's identity.¹⁷

Therefore, the name belongs to both the rights of the personality¹⁸ and the state of the person, being the result of filiation, but also the bearer of the person's identity¹⁹. In this sense, the protection of the right to name in its capacity of non-patrimonial²⁰ personal right, is realized from several angles. First of all, this right is recognized at the level of legislation by express regulation within the Civil Code (art. 59 identification attribute, art. 82-85 structure and method of attribution, establishment, change through administrative procedure, art. 74 component of privacy, art. 254 defense as a non-patrimonial right, etc.).

We appreciate that by including the right to name in the sphere of the right to intimate life²¹, to which we add the premise according to which the name is an element that also belongs to the family, it also knows a constitutional regulation through art. 26 the right to intimate, family and private life from the Romanian Constitution²². Secondly, it also benefits from a criminal protection (art. 327 of the Penal Code - false identity), being considered the highest degree of defense. In addition, its enshrinement in various special laws (Law no. 272/2004 on the protection of children's rights, Government Ordinance no. 41/2003 which includes the administrative procedure for changing the name, Law no. 273/2004 which includes issues related to adoption, Law no. 119/1996 on civil status documents, etc.) is the next degree of protection allocated to this category of rights. Also, the existence of institutions whose main purpose is to supervise activities closely related to the right to a name (for example, the People Registration Service), increases the indirect protection conferred on it.²³

According to the provisions of art. 8 para. (1) of the Convention on the Rights of the Child²⁴, signatory States undertake to respect "the right of the child to preserve his or her identity, including nationality, name and family relations". Provisions on the right to the name of the child are found at the international level and in Article 24 paragraph 2 of the International Covenant on Civil and Political Rights²⁵ as well as in Article 10 paragraph 3 of the European Convention on the Adoption of Children²⁶. We find that all the previous provisions condition the name, respectively the recognition of the child's identity, by the registration of his birth, based on the national legal provisions.

Following the development of society, the digitization of daily relationships has led to changes including the identification of the individual²⁷. The initial purpose of the censuses was only for information in order to know the number²⁸ of people, occupation, etc., later developing databases for storing information on name, surname, address, etc. both for the taxpayer population and for the mobilized²⁹ one, aiming in this way to make a record of the population. Due to the fact that there

¹⁷ Andreas Bucher, *Personnes physiques et protection de la personnalité*. Helbing Lichtenhahn Publishing, Zurich, 2009, p. 95.

¹⁸ Oana Nicoleta Retea, *Dreptul la nume - Atribut de identificare. Drept al personalității*, Uniformizarea dreptului-efecte juridice și implicațiile sociale, politice și administrative/Uniformisation of the law-legal effects and social, political, administrative implications, Hamangiu Publishing, Iași, pp.19-26.

¹⁹ Cătălin Andrei Drumea, *Dreptul la identitate*, (<http://www.juridice.ro/288515/dreptul-la-identitate-2.html>) last accessed on 5.11.2020.

²⁰ Ion Dogaru, Sevastian Cercel, *Drept civil. Persoanele*, C.H. Beck Publishing, Bucharest, 2007, p. 118; Vasile Bîcu in Marian Nicolae (coord.), *Drept civil. Persoanele*, Universul Juridic Publishing, Bucharest, 2016, p. 69.

²¹ Oana Nicoleta Retea, *Infringement in One's Right to a Name, Intrusion in Private Life or Family Life? The European Court of Human Rights Perspective*, Perspectives of Business Law Journal, vol. 5, no.1, November 2016, pp.133-141.

²² Valerian Cioclei, in Ioan Muraru, Simina Elena Tănăsescu (coord.), *Constituția României. Comentariu pe articole*, C.H. Beck Publishing, Bucharest, 2008, p. 254.

²³ Oana Nicoleta Retea, *Dreptul la nume. Jurisprudență națională și europeană*, C.H. Beck Publishing, Bucharest, 2018, p. 240.

²⁴ It was adopted in 1989 at the UN level and ratified by Romania with the adoption of Law no. 18/1990.

²⁵ Published in the Official Gazette no. 146 of November 20, 1974.

²⁶ Published in the Official Gazette, part I, no. 67 of 31.03.1993.

²⁷ Ion Dogaru, Sevastian Cercel, *Drept civil. Persoanele*, C.H. Beck Publishing, Bucharest, 2007, p. 155.

²⁸ Ernest Lupan, *Drept civil. Persoanele. Scheme*, C.H. Beck Publishing, Bucharest, 2007, pp. 60-61.

²⁹ Ernest Lupan, Ioan Sabău-Pop, *Tratat de drept civil român. Vol. II Persoanele*, C.H. Beck Publishing, Bucharest, 2007, p. 101.

were people with either the same name or the same address, there was a need to implement a unique element for each person, which is represented by the personal numerical code.

The first regulation of the personal numerical code was made by Decree no. 59/1978 amending Law no. 5/1971 which referred to the identification documents of Romanian individuals³⁰. As a result, the attribution of the C.N.P. falls at national level, to the community public services for population registration, and in their absence, to the executive authorities of the administrative-territorial units³¹; and outside the country this task falls to diplomatic missions and consular offices through the Ministry of Foreign Affairs. Even if the C.N.P. must be included in the civil status documents, it is not provided in the category of civil status³² attributes, thus giving rise to numerous debates in doctrine³³. Also, according to the provisions of art. 65 of the Civil Code, it is possible to identify a person according to genetic fingerprints, but only in cases of judicial, criminal or civil proceedings, as well as in the case of a scientific investigation ordered within the legal provisions or if justified by medical reasons³⁴.

3. The right to identity according to art. 6 of the Romanian Constitution

According to the provisions of the fundamental law contained in article 6 paragraph (1) - "the state recognizes and guarantees to persons belonging to national minorities the right to preserve, develop and express their ethnic, cultural, linguistic and religious identity"; paragraph (2) - "the protection measures taken by the state for the preservation, development and expression of the identity of persons belonging to national minorities must comply with the principles of equality and non-discrimination in relation to other Romanian citizens". Thus, the fundamental right to "identity" provides protection to persons belonging to national minorities, and not to the minority as a group; in another order of ideas art. 6 is in accordance with art. 4 of the Constitution which, regulating the unity of the people, prohibits collective rights³⁵. The analysis of the notions included in this article aims, first, the definition of the national minority³⁶, and then the structure of the right to identity could be observed (holders, object, limits).

Thus, in international law there is no exact and generally accepted definition of the national minority. Such a situation has generated contradictory problems in the perception of states on the issue of national minorities. There are states that consider that there is no minority on their territory (for example France or some Latin American states) but also states that recognize the existence of minorities in their territories and have included in their constitution's provisions on minority rights. The first international treaties on the protection of religious minorities contained provisions stipulating that Protestants and Catholics must live together in peace and quiet, as well as provisions affirming the principle of religious freedom and equality. This principle was later confirmed at the Congress of Vienna in 1815.

Even within the UN, it has not been possible to formulate a broad consensus definition despite discussions that have lasted more than two decades. Recommendation no. 1201 of the Parliamentary Assembly of the Council of Europe from 01.02.1993 in art. 1 defines national minorities as designating a group of persons who: a) live on the territory of a state and are its citizens; b) maintain long-term, lasting and permanent ties with that State; c) manifests distinct ethnic, cultural, religious or linguistic characteristics; d) are sufficiently representative, even if they are smaller than the rest of the population of a state or a region of that state; e) are motivated by the concern to keep together

³⁰ Dumitru Lupulescu, Ana Maria Lupulescu, *Atributele de identificare ale persoanei fizice*, Universul Juridic Publishing, Bucharest, 2015, p. 186.

³¹ Carmen Tamara Ungureanu, *Drept civil. Partea generală. Persoanele*, Hamangiu Publishing, Bucharest, 2013, p. 310.

³² To see: Sevastian Cercel, *Drept civil. Persoana fizică*. Universitaria Publishing, Craiova, 2007, pp. 214-217.

³³ Ion Dogaru, Sevastian Cercel, *Drept civil. Persoanele*, C.H. Beck Publishing, Bucharest, 2007, pp. 156-157; Carmen Tamara Ungureanu, *Drept civil. Partea generală. Persoanele*, Hamangiu Publishing, Bucharest, 2013, pp. 310-311.

³⁴ Ernest Lupan, Szilárd Sztranyiczki, *Persoanele în concepția Noului Cod civil*, C.H. Beck Publishing, Bucharest, 2012, p. 138.

³⁵ Dan Claudiu Dănișor, *Constituția României comentată. Titlul I- Principii generale*, Universul Juridic Publishing, Bucharest, 2009, p. 216.

³⁶ Irina Nicoleta Ghigiu, *Protecția juridică a drepturilor lingvistice ale minorităților naționale*, Universitaria Publishing, Craiova, 2017, p.13.

what constitutes their common identity, including their culture, traditions, religion or language³⁷.

In the Romanian Constitution³⁸, the concept of minority³⁹ has the following valences: equality in rights and non-discrimination of citizens; guaranteeing the rights of persons belonging to national minorities to preserve, develop and express their ethnic identity, declaring an ethnic, linguistic or religious community as a national minority.

Starting from its structure, the right to identity includes the holder of the right, namely the person belonging to national minorities⁴⁰, the object of the right, the aspects of reality that are protected, respectively the protection of the right to identity.

The right to identity is an inherent right belonging to national minorities, which has as a correlative obligation the obligation of states to protect this right. The object of the right to identity of persons belonging to national minorities includes: ethnic⁴¹ identity; cultural⁴² identity; linguistic⁴³ identity, religious⁴⁴ identity.

The right to identity conferred, by art. 6 of the Constitution, to persons belonging to national minorities knows some limits drawn by the other principles of the Romanian constitutional system. Therefore, the right to identity is an individual right, and not a collective one, being guaranteed in the private space, not in the public one. In addition, the Romanian Constitution itself outlines a limitation of this right, being represented by the measures taken by the state to preserve, develop and express the identity of persons belonging to national minorities, a limitation that must comply with the principles of equality and non-discrimination against other Romanian citizens⁴⁵.

4. Digital identity

In the context of this digitization, it is necessary to emphasize the need for an express regulation of the right to identity in the online environment. In this regard, the European Parliament, in April 2019, had a motion for a resolution on universal digital identity as a fundamental right of all European citizens. Thus, having regard to Rule 133 of its Rules of Procedure, it was proposed for the following reasons: a) whereas a number of rights recognized by European Union law must be complied with on the internet, in particular Article 16 of the Treaty on the Functioning of the European Union (TFEU) and Article 8 of the Charter of Fundamental Rights of the European Union;

³⁷ Dan Claudiu Dănișor, *Constituția României comentată. Titlul I- Principii generale*, Universul Juridic Publishing, Bucharest, 2009, p. 218.

³⁸ Mihai Constantinescu, Antonie Iorgovan, Ioan Moraru. Elena Simina Tănăsescu, *Constituția României revizuită-comentarii și explicații*, All Beck Publishing, Bucharest, 2004, p.8.

³⁹The main international legal instruments on the protection of national minorities are: the Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; Framework Convention for the Protection of National Minorities; European Charter for Regional or Minority Languages.

⁴⁰ Dan Claudiu Dănișor, *Constituția României comentată. Titlul I- Principii generale*, Universul Juridic Publishing, Bucharest, 2009, p. 220.

⁴¹Ethnic identity has two meanings through the art. 6 of the Constitution. Thus, the ethnic group is targeted by its objective features such as: language, political organization, economic independence, possession of a territory, while the subjective conception treats belonging to a group as well as belonging to the nation, prevailing the position of subjects over some existing features. The right to ethnic identity therefore concerns both the right of members of the ethnic group to be identified by other members of society through the traits they consider essential to their identity but also their right to refuse to be identified by some traits they do not consider defining for their identity.

⁴²Cultural identity refers to identification with or belonging to a particular group based on several cultural categories, including nationality, ethnicity, race, sex, and religion. Cultural identity is built and maintained through the process of sharing collective knowledge, such as traditions, heritage, language, aesthetics, norms and customs.

⁴³Linguistic identity aims at language as a factor of cohesion of the communities that use it, regardless of the territorial area, respectively the political structure. The right of peoples to self-determination has been closely linked to the linguistic identity related to the national problem.

⁴⁴The guarantee of religious identity is based on art. 29 of the Romanian Constitution dedicated to freedom of conscience in conjunction with art. 6. The obligation incumbent on the state to guarantee religious identity aims at its secularization. This character supposes the liberation of the state and public services from the influence or domination of the churches. In other words, state neutrality refers to the impossibility of recognizing a cult. This is debatable in our system due to the fact that the church is a public space, which is partly subsidized by the state.

⁴⁵ Dan Claudiu Dănișor, *Constituția României comentată. Titlul I- Principii generale*, Universul Juridic Publishing, Bucharest, 2009, pp. 241-246.

b) whereas these rights, in particular the right to data protection and privacy, the right to be forgotten and the right to access the internet are intrinsically linked to the notion of digital identity; c) whereas, once recognized, the right to digital identity becomes an inalienable right of a person, which the Union undertakes to guarantee, regardless of the links of the interested party with the legal system of his country of origin⁴⁶.

In this regard, the Commission should have proposed a piece of legislation recognizing the right to digital identity and specifying its content, limits and guarantees and how it interacts with other fundamental rights; stressing that the right to digital identity must be recognized as a fundamental right of all and, as such, must be protected by EU law and granted to anyone who acquires EU citizenship; as yet undefined.

In addition, we emphasize that a series of legal consequences emerge, at national level, after the pronouncement of Decision no. 4546 dated 27.11.2014 by Î.C.C.J. according to which the social networking platform Facebook was recognized as a public space. Thus, the crimes that have as a constitutive element the "public space" can be committed in the online environment, on the social network Facebook, as well as the contravention deeds. Last but not least, Facebook posts can be the subject of tortious civil liability, if the content of the messages interferes with the right to honor, dignity, image, name, etc. In other words, given that in order to connect on such a platform, you are not required to provide documents proving your identity, anyone can create fake accounts to hide their identity.

Based on art. 73 C. civ. everyone is recognized the right to his own image and paragraph (2) of art.73 affirms the right of any person to exercise his right to his own image by prohibiting or impeding the reproduction of the image, physical appearance, voice and the use of such reproduction. Also, by using the name in bad faith in conjunction with the use of the image in the light of defamatory posts distributed in the public space on the social networking platform Facebook is circumscribed to the situation provided by art.74 letter h) C. civ. at the same time constituting an infringement of one's right to privacy.

Therefore, if the existence of an image damage is ascertained, being at the same time seriously affected his dignity, criminal liability is imposed. The illicit deed, as an element of liability, is identified as any deed committed in violation of the rules of objective law and which causes damage to the subjective right belonging to a person. Thus, the European Court of Human Rights stipulates that compensation must be reasonably proportionate to the damage to reputation, taking into account, at the same time, the degree of damage to protected social values, the intensity and severity of their harm, or through insulting expressions and actions undertaken in the sense that the level of compensation claimed must be sufficient⁴⁷.

In this context, we specify that freedom of expression⁴⁸ is not and must not be absolute, and the right to freedom of opinion and expression must be exercised within its natural limits, without prejudice to the rights and legitimate interests of others⁴⁹. Although the Romanian legislator set very wide limits on the manifestation of freedom of expression, by establishing its inviolability, he took into account that this could not harm dignity, honor, privacy or the right to one's own image, affecting the latter leading to the civil liability of the person who has manifested his freedom of expression beyond the limits recognized by the constitutional text⁵⁰.

⁴⁶ https://www.europarl.europa.eu/doceo/document/B-8-2019-0236_RO.html, accessed on 5.11.2020.

⁴⁷ Supreme Court of Justice, Civil Section, Decision no. 62 of January 10, 2001 apud Mitru Carmina, *Aspects regarding the reparation of moral damages in the jurisprudence of national lawsuits and the jurisprudence of C.E.D.O.* Journal of Legal Sciences, Vol-Romanian Civil Code between tradition and reform at 140 years of application, p.133.

⁴⁸ According to art. 30 paragraph (1) of the Romanian Constitution, regulated in Title II - Fundamental rights, freedoms and duties, Chapter II - Fundamental rights and freedoms "Freedom of expression of thoughts, opinions or beliefs and freedom of creations of any kind, live speech, writing, images, sounds or other means of public communication are inviolable"; according to par. (2) "Censorship of any kind is prohibited"; according to par. (6) "Freedom of expression may not prejudice the dignity, honor, private life of the person or the right to self-image".

⁴⁹ CEDO, Judgment of 8 July 1968 by Lingens v. Austria.

⁵⁰ It is expressly stipulated in the Constitution that, according to the provisions of Title II - Fundamental Rights, Freedoms and Duties, Chapter I - Common Provisions, of art. 20 paragraph (1) that: "The constitutional provisions regarding the rights and freedoms of citizens will be interpreted and applied in accordance with the Universal Declaration of Human Rights, with the pacts and other treaties

However, the scale of the activities carried out in the online environment also requires the need for a concrete way of verifying the identity, especially since the actions undertaken in the online environment attract a person's responsibility⁵¹.

5. Conclusions

Putting the problem from the point of view of the reaction of the human psyche to the impact with the environment, the satisfaction of the need for identity aiming at the linguistic, national and cultural components has an integrating and balancing role of the being in relation to the world. At the same time, the need for otherness cannot be ignored, as an expression of the relationship to the other, expressed in the plan of communication through dialogue. Man is, therefore, a social being, for whom communication creates a space of becoming, precisely by sharing individual values to obtain general, collective value, configuring the group as a form of social existence.

In recent years, the concept of "personal identity" has come to play a role in international law. The European Court of Human Rights has ruled that "privacy", as protected by Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) is a sufficiently broad term to encompass multiple aspects of physical and social identity of the person⁵². Therefore, this article is limited to presenting the perspectives of the name as a means of proving the identity of a person, respectively the perspective of the right to identity which is not limited to aspects of civil law -name- attribute aimed at the identity of the individual, but goes beyond it, also aiming at a cultural, ethnic, religious, linguistic identity regarding people.

In addition, entering a virtual world, a person can rename their name to maintain anonymity, although once public spaces are recognized, these online environments, also have legal consequences, which is a reason to be able to have a way to protect your identity. Given the significance of digital identity in relation to online services and its consequences for individuals, the right to digital identity should be recognized, it cannot be denied without violating the fundamental principles of freedom and justice.

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11. Marian Nicolae (coord.), *Drept civil. Persoanele*, Universul Juridic Publishing, Bucharest, 2016.

to which Romania is a party.”, Respectively para. (2) “If there are inconsistencies between the pacts and treaties on fundamental human rights, to which Romania is a party and domestic laws, international regulations shall take precedence, unless the Constitution or domestic laws contain more favorable provisions”.

⁵¹Mehedinți Court, sentence no. 26 of 23.09.2020, civil section I.

⁵²In the *Dadouch v. Malta* case, the ECtHR found that "privacy" may include means of personal identification, for example "ethnic identification". The Court included under Article 8 the mother's request to change the name of the dead child, which sought to weaken the connection with the biological father (*Znamenskaya v. Russia*) but also the refusal of the authorities to admit a change of surname by administrative procedure (*Stjerna v. Finland*).

12. Oana Nicoleta Retea, *Infringement in One's Right to a Name, Intrusion in Private Life or Family Life? The European Court of Human Rights Perspective*, „Perspectives of Business Law Journal”, vol. 5, no.1, November 2016, pp. 133-141.
13. Ovidiu Ungureanu, Cornelia Munteanu, *Drept civil. Persoanele în reglementarea noului Cod civil*. Hamangiu Publishing, Bucharest, 2011.