

How do we qualify primarily the concept of „residence” of the natural person in Romanian private international law?

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Abstract

The provisions of Article 2570 of the Civil Code regulate two types of habitual residences, namely: the habitual residence of the individual (paragraphs 1 and 2) and the habitual residence of legal persons (paragraphs 3 and 4). The Romanian Authority must use pursuant to Article 2570 of the Civil Code the Romanian meaning of the concept of “residence”. Therefore, in order to make the primary qualification of the concept of “residence” in Romanian private international law it is necessary to take into account the scope of the concept of residence in Romanian domestic law. This article aims to study and analyze the instrument of the institution of residence of the following legislation: We will try to analyze in the first point which is the meaning of the notion of residence in Romania of Romanian citizens, and in the second point we will study the meaning of the notion of residence in the case of foreigners who establish their residence in Romania. Article 88 Civil Code; Chapter IV (art.26- 41) of the Emergency Ordinance no. 97/2005 on the records, domicile, residence and identity documents of Romanian citizens republished (2011); Government Decision no. 516/2009 amending Government Decision no. 839/2006 regarding the form and content IDs, the sticker on the book of their residence and property. Decision no. 516/2009; the provisions of Emergency Ordinance no. 194/2002 on foreigners in Romania republished (in 2011) and the provisions of Government Emergency Ordinance no. 102/2005 on the free movement of citizens of member states of the European Union and European Economic Area (republished in 2011) in order to derive the Romanian qualification of the notion “residence of the individual”.

Keywords: *the residence of the individual Romanian citizen, the residence of the individual foreign citizen, the residence of the individual foreign citizen in Romania, the residence of the individual EU citizen.*

JEL Classification: K33

1. What do we mean by the notion of residence in Romanian private international law?

Civil Code in Article 2570 with the marginal name “*Determination and proof of habitual residence*” states: “*For the purposes of this book, the habitual residence of the natural person is in the country where the person has his or her principal residence, even if he has not fulfilled the legal formalities for registration. The habitual residence of a natural person acting in the exercise of his professional activity is the place where that person has his principal place of*

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business. (paragraph 1) For the determination of the main housing, the personal and professional circumstances which indicate durable links with that State or the intention to establish such links shall be taken into account. (Paragraph 2)

Having regard the provisions of paragraph 1 and 2 of Article 2570 of the Civil Code we can say that the *habitual residence of the individual in Romania is the address in Romania where the respective individual (Romanian citizen, foreign citizen or stateless person) has his main home and where he carries out mostly his personal, social and professional activity.*

The residence is a point of contact, for example, for:

- *status of the individual (civil status, capacity and family relationships).*

Thus, for example Article 2589 paragraph (1), the first thesis of the Civil Code states: "The general effects of marriage are subject to the law of the common habitual residence of the spouses, in the absence of the law of the common citizenship of the spouses." From these provisions we observe that the general effects of marriage are governed by the law of the common habitual residence and in the absence of this law, by the law of common citizenship. Thus, the connecting point is mainly the common habitual residence and, in the alternative, the common citizenship;

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- *the substantive conditions of legal acts*, if the debtor of the characteristic benefit is a natural person. Thus, according to Article 2638 of the Civil Code, the substantive conditions of the unilateral legal act and of the contract are established - in the absence of the elected law - by the law of the state with which that legal act presents the closest links, considering that there are such links with the law of the state in which the debtor has, on the date of conclusion of the act, as the case may be, the habitual residence, the trade fund or registered office;

- *the substantive terms of the contract of sale, the service contract, the franchise contract, the distribution contract, etc.*, in the absence of the parties' election of the law applicable to the respective contract, these are governed by the law of the state where the seller has its habitual residence (in the case of the contract of sale). Thus, for example, Article 4 paragraph (1) letter (a) of Regulation No. 593/2008 *on the law applicable to contractual obligations (Rome I)* provides that, in the absence of a law that the parties agree to apply to the sale / purchase contract, it is subject to the law of the state in which the seller has his habitual residence;

- *responsibility for damage on personality*. According to Article 2642 paragraph (1) of the Civil Code, the claims for damages based on a prejudice to private life or personality, including through the media or any other public means of information, are ruled, at the choice of the injured person, either by the law of the country of his habitual residence; or by the law of the state in which the damaging result has occurred; either by the law of the State in which the author of the damage has his habitual residence or registered office;

- *inheritance*. According to Article 2633 of the Civil Code “The inheritance is subject to the law of the state on the territory of which the deceased had, at the time of his death, the habitual residence;”

- *competent jurisdiction in certain situations*. Thus, according to Article 3 paragraph (1) letter (a) of Regulation (EC) no. 2201/2003 of November 27, 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility, repealing Regulation (EC) (EC) No 1347/2000 as amended by Regulation (EC) Council Regulation (EC) no. 2116/2004 of December 2, 2004 “Have jurisdiction in matters relating to divorce, legal separation and marriage annulment the courts of the Member State:

(a) on the territory of which there is:

- the habitual residence of the spouses
- the last habitual residence of the spouses as one of them still lives there or
- the habitual residence of the defendant or
- in the case of a joint application, the habitual residence of one of the spouses or
- the plaintiff's habitual residence if he/she has lived there for at least one year immediately prior to the filing of the application; or
- the habitual residence of the plaintiff if he/she resided there for at least six months immediately prior to the filing of the application and if he is either a national of that Member State or, in the case of the United Kingdom and Ireland, he/she has his “domicile” in that place.”

Habitual residence, just like domicile, refers to *lex domicilii* law system.

2. What do we mean by the notion of “residence of the natural person (individual)” in Romanian law?

2.1. The notion of *residence* of Romanian citizens in Romania

Article 88 of the Civil Code defines the residence of the individual as “*the place where he has his secondary residence*”.

In Article 30 of the Emergency Ordinance no. 97/2005 on *the registration, domicile, residence and identity papers of the Romanian citizens*, republished in 2011, the residence is defined as “*the address where the individual declares that he has his secondary place of residence other than his or her domicile.*”

Article 26 (2) of the Emergency Ordinance no. 97/2005 republished in 2011 states that “*Romanian citizens can have at the same time only one domicile*

and / or one residence. If they have more homes, they can establish their domicile or residence in any of them". So, Romanian citizens can only have **one residence** in Romania.

According to Article 31 paragraph (1) of the Emergency Ordinance no. 97/2005 republished "The residence shall be entered in the identity document at the request of the individual who lives more than 15 days at the address where he has his secondary residence."

Studying Article 31 paragraph (1) of the Emergency Ordinance no. 97/2005 it would seem that the residence will have to be *mandatorily* entered in the identity document at the request of the individual if he lives for more than 15 days at that address. However, this term would be mandatory if the Emergency Ordinance no. 97/2005 had not undergone some modification through the 2011 republication. Article 43 letter c) of the Emergency Ordinance no. 97/2005 stipulates that non-compliance with the provisions of Articles 25 and 36 shall constitute a contravention and shall be sanctioned by a fine of 75 lei to 150 lei. It is noted that, as the ordinance was republished, Article 43 letter c) sanctions with a fine from RON 75 to RON 150 the person who hosts another person for an uninterrupted period of more than 30 days, except for the situations provided by Article 32 letter (a). From these provisions we find that the 15-day period is not mandatory, it is not mandatory for the registration of the residence at the request of the individual as long as a person can accommodate another person for 30 days, except for the situations provided by Article 32 letter (a), respectively the situation in which the person lives at a different address than the domicile one, in the interest of the service or for tourist purposes.

Paragraph 2 of Article 30 of the old regulation of the ordinance stated that "The indication of establishment of residence shall be granted for the requested period, but not longer than one year, and shall be valid for as long as the person actually resides at the address declared as a residence. Upon the expiration of this term, the person may request the registration of a new mention of establishment of residence." In the doctoral thesis "*Patrimonial relations between spouses in the Romanian private international law*" we stated that "*We do not understand why the Romanian citizen must apply for the residence renewal visa every year, as long as the person concerned has not changed his residence.*" At present, we have now found that the legislator abrogated this line in 2011 when the ordinance was republished.

Therefore, corroborating the provisions of Article 88 of the Civil Code and the provisions of Article 30 of the Emergency Ordinance no. 97/2005 republished, we can define the Romanian residence of the Romanian citizens as follows: the residence is the address in Romania where the Romanian citizens have their secondary residence and where they live for a shorter period than the one spent at the main dwelling.

2.2. The notion of *residence* in case of foreigner who establish their residence in Romania²

Next we will try to investigate the meaning of the notion of *residence* in the case of foreigners who establish their residence in Romania. The regime of foreigners in Romania is regulated by the Emergency Ordinance no. 194/2002 on the regime of foreigners in Romania republished³.

Studying the Emergency Ordinance no. 194/2002 republished, we also find that in the 2008 republishing there is no section and not even an article expressly regulating the establishment of the foreigner's residence in Romania, as Article 76 regulates the residence of foreigners in Romania stating that "*Foreigners holding a permanent right of residence have the right to establish or change their domicile on the territory of Romania under the same conditions as the Romanian citizens*". *If a foreign national holding a right of permanent residence has the right to establish or change his domicile on the territory of Romania under the same conditions as a Romanian citizen*, we continue to consider that the emergency ordinance does not establish special formalities in the matter of determining the residence of the foreign citizen on the territory of Romania.

Article 3 (2) provides that foreigners who legally reside in Romania may move freely and may establish their residence or, where appropriate, their domicile, anywhere on the territory of Romania. From this paragraph it could be inferred that the right of the foreigner to establish his residence in Romania would depend on the lawfulness of his presence on the Romanian territory, namely on:

a. compliance with the provisions of: Article 6 paragraph (1) (conditions for entering the territory of Romania), Article 11 (which limits the legal temporary residence until the deadline established by the visa or by the residence permit or by the residence book), Articles 50-69 (conditions and procedure for extending the right of temporary stay); compliance with the provisions of Article 13 paragraph (2) stipulating that "The foreigner who changes his domicile or residence is obliged, within 15 days from the date of his transfer to the new address, to appear before the Romanian Territorial Office for Immigration, for being registered and making the appropriate mentions on the identity document."

and of

b. failure to meet the requirements imposed by: Article 77 (Cases of cancellation and revocation of the right of residence in Romania), Article 85 (Declaration as Undesirable) and Article 94 (Making the expulsion of the foreigner).

² N-C Anitei, What do we mean by the notion of "residence" by the notion of "residence" in the case of foreigners who establish their "residence" in Romania? Article presented at International Conference Legal and Administrative Challenges in Cross-Border Cooperation (LSCCC 2017) | April 6th, 2017 | Cernivtsi, Ukraine, pp. 15 http://conferinta.info/wp-content/uploads/2017/03/Program_LUMEN_RSACVP2017_Conference__associated-events.pdf (consulte on 15.10.2017), published in „Journal of Legal Studies”, no. 1-2/2017.

³ Republished in 2004 and in 2008.

According to Article 104 paragraph (6) of the Emergency Ordinance in question, the tolerated foreigner is required to appear monthly or whenever he is summoned to the territorial formation of the National Immigration Office which has granted him tolerance and announce any change of *residence*. It follows from this provision that a tolerated foreigner resides in the territory of our country. Pursuant to the first paragraph of Article 102, tolerance of stay on the territory of Romania is the permission to remain on the territory of the country, granted by the *National Immigration Office, to foreigners who do not have the right of residence* and who, for objective reasons, do not leave the territory of Romania. Therefore, the quality of tolerance implies the lack of right to stay on Romanian territory.

Corroborating the provisions of Articles 102 paragraph (1) and 104 paragraph (6), we conclude that a foreigner without a right to stay in our country (namely, not legally residing in Romania) may, however, have a Romanian residence. Although we have shown in the mentioned paper that the provisions of the Emergency Ordinance no. 194/2002 emphasize the false reasoning according to which the legality of the presence of the foreigner in Romania is an indispensable condition for the establishment of a Romanian residence, this falsity is maintained in the republishing of the mentioned ordinance in 2008 because a foreigner with no right of residence on the territory of our country (namely, who is not legally resident in Romania) may, however, have a Romanian residence. Taking into consideration that the Emergency Ordinance no. 194/2002, republished, does not contain any special provisions that particularize the institution of the Romanian residence of the foreigner, we consider that the Romanian legislature has left the definition of this notion under the common law (Article 88 Civil Code, interpreted *per a contrario* and Article 30 of the Emergency Ordinance no. 97/2005 republished) but also to the interpretation of the provisions of Article 76 of the Emergency Ordinance no. 194/2002 republished. Consequently, the Romanian residence of a foreigner, for the Romanian jurist must mean the address in Romania where the foreign citizens have their secondary residence and where they live for a shorter period than the one spent at the main residence.

Taking into account the fact that the provision of Article 30 of the Emergency Ordinance no. 97/2005 republished refers exclusively to Romanian citizens, is it possible for a foreigner to have several Romanian residences? *According to the Romanian legislator, a foreigner can have only one residence in Romania.* Although there is no express provision to this effect, in the Emergency Ordinance no. 194/2002, however, we can see the use of the common noun "residence" only in singular, in the drafting of Article 11 paragraph (2), Article 13 paragraph (2) and Article 104 paragraph (6) of the same normative act.

2.3. Residence in the case of free movement on the territory of Romania of the citizens of the Member States of the European Union, the European Economic Area and the citizens of the Swiss Confederation

Government Emergency Ordinance no. 102/2005 *on the free movement on the territory of Romania of the citizens of the Member States of the European Union and of the European Economic Area and of the citizens of the Swiss Confederation* republished⁴ in 2011 does not define the concept of residence of a citizen of a Member State of the European Union, but in Article 2 paragraph (1) section (4) defines the *right of residence* (the right of the European Union citizen to stay and reside on the territory of Romania under the law) and at section 5 defines the notion of *resident* (a citizen of the European Union or a member of his family who exercises their right to move and reside freely within the territory of Romania under the law).

From Chapter III “*The conditions for the exercise of the right of residence on the territory of Romania by the citizens of the European Union as well as by the members of their family*” we find that the residence can be of three kinds:

- a) up to 3 months without any additional condition (Article 12);
- b) more than 3 months, but not more than 5 years (to be obtained by a registration certificate or a residence card following the fulfilment of the conditions laid down in Article 13);
- c) permanent – conditional law (Article 22) which is granted by the issuance of a permanent residence card. Permanent residence requires domicile in Romania.

It follows from the above that a citizen of the European Union has the right to move freely and to reside on the territory of Romania for three months without any other formality. This involves acquiring a *residence* in the sense of a secondary residence for a determined period of time. Therefore, in the view of the legislator, the acquisition of a Romanian residence by a citizen of the European Union should not be conditional on the existence of a registration certificate or of the residence card (the latter for a family member who does not have the nationality of a Member State of the European Union).

Is it possible for a citizen of a Member State of the European Union and his non-national family members to have more than one Romanian residence? *In the opinion of the Romanian legislator, the answer is negative.* Although there is no express provision to this effect in the Emergency Ordinance no. 102/2005 with subsequent modifications and completions, we can remark, however, the use of the common noun “residence” only in singular, in the drafting of Article 3 letter b) which establishes the freedom to travel and to establish the residence or, where appropriate, the domicile anywhere on the territory of Romania.

⁴ Official Gazette, Part I no. 774 of November 2, 2011.

By summarizing the definitions of the Romanian residence and of the residence abroad, both belonging to the foreigner, a citizen of the European Union or not, we obtain the following Romanian qualification of the general notion of “the residence of the foreigner”: a secondary and temporary residence of the foreigner which, in case of its placing on the Romanian territory, is the only one of its kind there.

By comparing the definitions of the residence of the Romanian citizen and of the residence of the foreigner, we infer the Romanian qualification of the “natural person's residence” concept: the secondary and temporary housing of the individual, a housing which, when found on the territory of Romania, is the only one of its kind where there is a shorter time than the one spent at the main housing.

In conclusion, under Romanian law, the residence of the natural person means the address in Romania where the respective individual (Romanian citizen, foreign citizen or stateless person) has his secondary residence and where he lives for a shorter period than the one spent at the main housing.

2.4. Which are the legal provisions in the various European regulations on “habitual residence”?

At the level of the European Union, various regulations define or explain the notion of “*habitual residence*.” In this regard, we mention:

- Article 2 paragraph (1) (a) of Regulation (EC) No. 862/2007 on *Community statistics on migration and international protection and repealing Regulation (EEC) 311/76 on the compilation of statistics on foreign worker*⁵ defines “*habitual residence*” as “*the place where a person normally spends the daily rest period, without taking into account temporary absence for recreation, holidays, visits to friends and relatives, business, medical treatment or religious pilgrimage, or, in the absence of information, the legal or registered place of residence.*” From this article, we note that habitual residence is the legal or registered place where the person spends most of his daily time, except for the following temporary absences: recreation, holidays, visits to friends and relatives, business, medical treatment or religious pilgrimage.

- Article (2) letter (d) of Regulation (EC) no. 763/2008 of the European Parliament and of the Council of July 9, 2008 *on population and housing censuses*⁶ provides that “*habitual residence*” means *the place where a person normally spends his daily rest period, independent of the temporary absence for recreation, holidays, visits to friends and relatives, business, medical treatment or religious pilgrimages. “The habitual residence in the geographical area concerned shall be considered to be specific only to persons who:*

⁵ of the European Parliament and of the Council of July 17, 2007 published in Official Gazette no. L 199 of 31-07-2007, pp. 23-29.

⁶ of the European Parliament and of the Council of July 9, 2008 published in the Official Gazette no. L 218 of August 13, 2008, pp. 14-20.

(i) lived in their usual place of residence for an uninterrupted period of at least twelve months before the reference date; or

(ii) have arrived at their place of habitual residence no more than twelve months before the reference date, with the intention of remaining for at least one year.”

If the circumstances described in (i) and (ii) cannot be determined, “habitual residence” means the place of the legal or registered domicile. “From the provisions of this article, we observe two definitions according to the “reference date”, two definitions on the “habitual residence”, thus in the first meaning “habitual residence” is defined as the place where a person normally spends a daily rest period of at least twelve months before the reference date, with the exception of the following situations of temporary absence aimed at recreation, holiday spending, visits to friends and relatives, business travel, medical treatment or travel to religious pilgrimages; in the second meaning, “habitual residence” is defined as the place where a person arrived at the place of habitual residence no more than twelve months before the reference date normally spends the daily rest period, uninterrupted with the intention to stay for at least one year, except for the following temporary absence situations, which are aimed at recreation, holiday spending, visits to friends and relatives, business travel, medical treatment or travel to religious pilgrimages.

• The Annex⁷ to Regulation (EC) No 1201/2009 of November 30, 2009 implementing Council Regulation (EC) no 763/2008 of the European Parliament and of the Council of June 9, 2008 on population and housing census as regards technical specifications for the topic: “Place of habitual residence” makes a number of specifications listing the exceptional situations in which certain categories of persons are present in that annex, which Member States must take into account when it comes to ‘habitual residence’ as defined in Article 2 letter (d) of Regulation (EC) no. 763/2008. These special situations are:

a) “Where a person regularly lives in more than one residence during the year, the residence where he spends most of the year is considered as his habitual place of residence, whether or not elsewhere in the country or abroad. However, a person who works outside the place of residence during the week and who returns to his family home during the weekend considers family home as his usual place of residence, regardless of where his / her place of work is elsewhere country or abroad.” It should be noted that where a person has more than one habitual residence, the place where the person spends most of the year, regardless of whether he is elsewhere in the country or abroad, except in the case in which the person works outside the place of residence during the week and who returns to the family home at the weekend, where family home is considered to be his habitual place of residence regardless of the location of the place in another locality in the country or abroad;

⁷ Published in JO nr. L 329 of 15/12/2009 pp. 29-68.

b) *“Elementary and secondary school students living outside their domicile during the schooling period consider their family housing as their habitual place of residence, regardless of whether they continue their studies elsewhere in the country or abroad.”* It is noted that habitual residence of the primary and secondary school student is the family housing even if they are studying elsewhere in the country or abroad.

c) *“Students in tertiary education who live outside their domicile during a period of study in a higher education institution or university, consider the place they occupy during the academic year as their habitual place of residence, regardless whether we talk about an institution (for example, a boarding school) or a private residence and regardless of whether they continue their studies elsewhere in the country or abroad. Exceptionally, when studying in the country, their habitual place of residence can be considered the family housing.”* So the habitual residence of the tertiary education student is the housing he occupies during the academic year regardless of whether he continues his studies in another locality in the country or abroad except in exceptional situations where family housing can be a habitual residence if studying in the country.

d) *“An institution is considered as the habitual residence of all those who, at the time of the census, have lived or are likely to live for 12 months in this place.”* So the habitual residence of a person may be the institution in which at the time of census, that person has lived or is likely to live for 12 months.

e) *“The general rule as to the place where a person spends his daily rest period applies to persons who perform their compulsory military service and to members of the armed forces living in military barracks or camps.”* It is noted that the habitual residence of persons who carry out the compulsory military service and members of the armed forces living in barracks or military camps shall be the place where that person normally spends the daily rest period, except for the following situations of temporary absence aimed at recreation, holiday, visits to friends and relatives, business travel, medical treatment, or travel to religious pilgrimages.

f) *“The place of the census is considered as the place of habitual residence for homeless, nomadic, vagabond people and for whom there is no notion of habitual residence.”* We find that the habitual residence for homeless, nomadic, vagabond people and for persons for whom there is no notion of “habitual residence” is the place where the census is carried out.

g) *“A child who resides alternately in two places of residence (for example, if his parents are divorced) must consider the place where he spends most of his time as his habitual place of residence. If he spends an equal period of time to each of his parents, the place of habitual residence is the place where the child spends the night of the census”.* We note that the habitual residence of a person who lives alternatively in two places of residence for example, (if his parents are divorced) is where he spends most of his time, unless the child has a period of time equal to each parent when it is considered that the place of habitual residence is the place where the child spends the census night.

• In English law „Court of Appeal (England & Wales) (Civil Division) — United Kingdom) „, Case C-497/10),⁸ the notion of 'habitual residence', as is apparent from Articles 8 and 10 of Regulation (EC) no. 2201/2003 of the Council of November 27, 2003 concerning jurisdiction and the recognition and enforcement of court judgments in matrimonial matters and in the matters of parental responsibility, repealing Regulation (EC) no. 1347/2000 “must be interpreted as meaning that the residence corresponds to a place expressing a certain integration of the child into a social and family environment. To that end, when the situation of a child who lives only for a few days with his mother in a Member State other than that in which he has his habitual residence, in which he has been displaced, in particular, the duration, the regularity, the conditions and the reasons for the stay on the territory of that Member State and of the removal of the mother in that State must be considered and, on the other, the age of the child, the geographic and family backgrounds of the mother , as well as the family and social relationships that she and her child have in the same Member State. It is for the national court competence to determine the child's habitual residence, taking into account all the factual circumstances of each individual case. If the application of the above criteria leads, in the main proceedings, to the conclusion that the habitual residence of the child cannot be established, the determination of the competent court should be made on

• the criterion of “child's presence” within the meaning of Article 13 of the Regulation.”

3. Conclusions

By corroborating the provisions of Article 88 of the Civil Code and the provisions of Article 30 of the Emergency Ordinance no. 97/2005 republished, we can define the Romanian residence of the Romanian citizens as follows: the residence is the address in Romania where the Romanian citizens have their

⁸ published in Official Gazette C 328, 4.12.2010. The case is available at: www.eur-lex.europa.eu. [Judicial cooperation in civil matters - Regulation (EC) 2201/2003 - Matrimonial matters and parental responsibility - Child of unmarried parents - Concept of 'habitual residence' of a young child - Concept of 'custody') Parties to the **main proceedings**: Plaintiff Barbara Mercredi Defendant Richard Chaffe. The object of the action. Request for a preliminary ruling - Court of Appeal (England & Wales) (Civil Division) - Interpretation of Articles 8 and 10 of Council Regulation (EC) no 2201/2003 of the Council from November 27, 2003 concerning jurisdiction and the recognition, in matters of parental responsibility, of Council Regulation (EC) no. 1347/2000 (OG L 338, p. 1, special edition, 19/vol. 06, p. 183) **Object of the action** - Concept of habitual residence - Baby born in the United Kingdom, having a British father and a French mother and having the nationality of the mother, the parents being not married - A child moved by the mother to Réunion - Legal displacement at that time because then the mother was the holder of parental responsibility for the child - Subsequent claims made by father asking for parental responsibility, alternative residence and right to visits filed with the British courts - High Court order ruling the return of the child to the United Kingdom - Order challenged by the mother on the ground that the child's habitual residence was no longer in the United Kingdom at the time the court was seised.

secondary residence and where they live for a shorter period than the one spent at the main dwelling.

In conclusion, the habitual residence of a natural person is either the address in Romania, or the address in any EU member state, or the address in the Swiss Confederation, where the respective individual (Romanian citizen, citizen of the European Union or the Confederation, foreign or stateless) that person has his principal residence and where he carries out for the most part all his personal, social and professional activity in compliance with certain terms, conditions established by the legislation in force and taking into account the special situations provided for in these regulations.

Through the residence of a foreigner in Romania, the Romanian jurist must understand the address in Romania where the foreign citizens have their secondary residence and where they live for a shorter period than the one spent at the main dwelling.

In conclusion, we mention that the definitions of residence are a precious auxiliary means in the process of primary qualification of the notion of residence as a point of connection for various juridical relations born abroad but unknown to the Romanian law system. Through these notions, the Romanian authority will try to classify these legal relationships according to their residence and then to determine the applicable material law.

So, the scope of the notion of residence in private international law is much broader. Thus, the Romanian authorities have the freedom to recognize or not as a point of connection those situations which do not present the fundamental features of the residence established by Romanian law. The same conclusion is reached by the remark that the notions used in the context of conflict of rules become, through primary qualification, adaptations of the concepts used in domestic law.

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