

**Analysis of the challenges concerning  
registration at a permanent address and  
possession of identity documents of persons  
living in homes without valid lawful basis**

*Legal framework, actions of the  
administration and practical problems*

**2022- Bulgaria**



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## Abbreviations used:

AC - Administrative Court

ASL - Amendments and Supplements to the Law

CRAS - Civil registration and administrative services

CRA – Civil Registration Act

LBPD - Law on Bulgarian Personal Documents

LMP - Law on Municipal Property

MI - Ministry of Interior

MRDPW - Ministry of Regional Development and Public Works

NCCPA - National Classifier of Current and Permanent Addresses

NGO - Non-governmental organization

RIBPD - Regulations for issuing Bulgarian personal documents

SGCC - Service of Geodesy, Cartography and Cadastre

SM - Sofia Municipality

SCAC - Sofia City Administrative Court

SAC - Supreme Administrative Court

## I. Purpose of the study

### 1. General objective:

The study aims to contribute to the adequate addressing of a serious problem affecting a significant number of Roma in the country: impossibility or significant difficulties in implementing the administrative procedure for registration at a permanent address and obtaining an identity document.

### 2. Specific objective:

The objective is to identify the procedural obstacles associated with registering at a permanent address and obtaining an identity document for certain groups of the population, as well as supporting the development of tools for relevant capacity building at local level.

## II. Summary

Since the launch of ROMACT in Bulgaria in 2014, the Programme Implementation Team has faced hundreds of people deprived of an identity document, as well as municipal administrations who find it difficult to address the problem. It more often affects the population living in marginalized neighborhoods in some of the municipalities participating in ROMACT. By the beginning of 2022, a total of 58 municipalities had participated in the Program. Some of them received expert advice on ROMACT and successfully addressed the issue. In another part, however, the problem persists to this day, which is why the Program conducted a study to identify and analyze obstacles and difficulties for local administrations related to the issuance of ID cards to residents. At the time of the survey, we found that in 21 municipalities that participated in ROMACT (35%), about 600 citizens reported that they had a problem obtaining an ID card, mainly due to problems with their address registration.

In Bulgaria, being registered at a permanent address and possessing an identity document are the right and obligation of every individual. However, according to data received from the Ministry of Interior in Bulgaria, as of March 2021, 244,822 persons have been identified as not having a valid identity document, out of which 121,073 persons have never held one<sup>1</sup>. Worryingly, this number is growing rapidly. These persons can in no way formally identify themselves, therefore their rights are severely limited and the fulfillment of a number of obligations is impossible. The analysis of information based on the previous reports and field research conducted by ROMACT indicates that the lack of registration at a permanent address is one of the main reasons why a significant proportion of citizens do not have identity documents. The reasons why persons cannot receive registration at a permanent address and therefore an identity document are rooted in the current regulation of the *Civil Registration Act (CRA)* and sub-normative acts on the matter, as well as in the administrative practices under these legal regulations. In summary, the current legal requirements provide for the presentation of a document of ownership or use of property through which a person wishes to register at a permanent address; while administrative rules require address registration at an address included in the *National Classifier of Current and Permanent Addresses in Bulgaria (NCCPA)* in order to obtain an identity document. On the other hand, to include an address in the *National Classifier*, the bylaws stipulate that the address must imply a habitable building, the administration further interpreting this by adding on the

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<sup>1</sup> Data from the report "Collection and analysis of additional information on persons without personal documents in Bulgaria", prepared in April 2021 by the IGA Fund in the framework of the project "The Invisibles We See", implemented with the support of the Trust for Social Alternative Foundation

meaning that the building must be legal. For the persons who cannot present the required documents, the CRA has provided a procedure for establishing the circumstances through a municipal commission for address registration. However, its powers are not established in the legislation, which makes it a practically non-functioning body. Therefore, the citizens have only the opportunity to go to court to appeal against the refusals of the administration to register. However, it is impossible for the administrative courts to solve the mass problem of so many people, given that the majority of them do not have the necessary financial resources or sufficient legal knowledge to take advantage of the possibilities of judicial appeal. Therefore, judicial procedure cannot be recommended as a tool to solve the problem.

The issues mentioned in this study have been identified many times in the course of ROMACT activities at municipal level. The team of the Programme in Bulgaria had encountered hundreds of people deprived of an identity document, as well as municipal administrations which encounter difficulties in addressing the problem. The lack of registration at a permanent address and personal documents create a number of restrictions for individuals, which in turn exacerbate their poverty and social exclusion. It is also obvious that there is a lack of coordination between different levels of institutions where the remedy to the problem depends on and where concrete steps need to be taken.

### III. Methodology of the analysis

The present analysis was performed based on a combined methodology.

It includes, on the first-place, collection and analysis of information from interviews with representatives of municipal administrations in the municipalities of Peshtera, Bratsigovo, Tvarditsa, Lukovit, Samokov, Vratsa and Septemvri where the ROMACT program operates. Additionally, information was collected and analyzed by representatives of Civil Registration and Administrative Services (CRAS) Regional Administrations/Regional Directorates in Plovdiv and Vratsa, representatives of the General Directorate CRAS of the Ministry of Regional Development and Public Works (MRDPW), representatives of the Directorate "Bulgarian identity documents" of the Ministry of Interior (MI), representatives of Community Active Groups established under ROMACT in the municipalities where the program is implemented and affected persons from the surveyed municipalities<sup>2</sup>. A total of 26 respondents were interviewed, 12 of them from municipal specialized services and mayors, 2 from Regional Administrations/Regional Directorates CRAS, 2 from the General Directorate CRAS of the Ministry of Regional Development and Public Works, 1 representative of the Ministry of Interior, 2 representatives of Community Active Groups established under ROMACT, and 7 affected persons. The interviews were conducted using semi-structured questionnaires<sup>3</sup>.

The questions for the municipal employees aimed to collect information concerning the existing problems with registration at a permanent address and obtaining identity documents, the approximate number of the affected population and its group characteristics, the existence of administrative procedures for solving problems, difficulties

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<sup>2</sup> The interviewees are included in a list representing Annex 1 to this document.

<sup>3</sup> The semi-structured questionnaire is attached in Annex 2 to this document.

and their nature. The collected information analyzes the practical procedures performed by the responsible administration.

The questions directed to the representatives of the Regional Administrations/Directorates CRAS and the General Directorate CRAS aimed to collect information concerning the mechanisms for control of the administrative procedures related to the registration at a permanent address.

The representatives of the Ministry of Interior were directed some questions to collect information concerning the difficulties related to the issuance of identity documents to persons who have problems with their registration at a permanent address and the consequences for the work of law enforcement agencies.

The representatives of the Community Active Groups were asked about the forms of assistance to the persons who have problems with the registration at a permanent address and the issuance of personal documents.

The interviews of the affected persons gathered information about their point of view related to their problems to apply for registration at a permanent address and to be issued identity documents, as well as the consequences and problems caused by the lack of registration and identity document.

Next, the methodology includes an analysis of the legislative framework in its development over the years, as well as relevant case law<sup>4</sup>. The analysis of the legal framework aims to identify possible deficiencies in the legal provisions. The review of relevant case law aims to answer the question to what extent the problem is rooted in the deficits of the law and to what extent - in the actions of administrative bodies due to incorrect/inaccurate interpretation of legal provisions. The conclusion, as will be seen from the present analysis, is that the problem has two sides. On the one hand, the current legislation contains gaps and deficits that hinder its implementation and leads to refusals to register at a permanent address and issue identity documents. On the other hand, the responsible administration finds it difficult to interpret the legislative gaps and, as a result, prefers to adhere to the requirements for registration at a permanent address, which are explicitly stated in the CRA. Thus, the administration acts only on the basis of the rules written in the law and in practice does not exercise its powers to decide independently within the procedures governing the necessary actions in cases of inability of applicants to submit explicitly listed registration documents at a permanent address.

#### IV. Summary of information obtained through semi-structured interviews

Municipal authorities and administrations have massively identified a problem related to registration at a permanent address, and consequently - the issuance of identity documents. The specialized administrations (with some small exceptions) do not explicitly collect and process data on the number of persons who are not registered at a permanent

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<sup>4</sup> The practice available in the database of the Ciela legal information system has been studied.

address. The latter could be analyzed as a weakness and is explained by the administrative authorities by the fact that they do not have an explicit obligation to keep such statistics, as well as by the practical lack of administrative resources.

*The municipality of Peshtera, for example, does not have accurate data on how many people residing in the municipality do not have a registration at a permanent address. According to the specialized administration, these are primarily persons who have migrated to live in Peshtera from other settlements and cannot prove a valid legal basis to live at the address where they live. Among this group, the largest is the number of young Roma women who came to the municipality after cohabiting with local families. The problem of these young women is also passed on to their children, as according to the CRA, minor children are registered at their mothers' addresses. For this reason, a significant number of children between the ages of 14 and 18 (for whom it is mandatory to issue a first ID card with a four-year validity period) do not have an identity document. Subsequently, upon reaching the age of majority, they again do not receive registration at a permanent address and are threatened with being left without an identity document. Secondly, these are people who live in illegally constructed buildings for which they do not have documents; or persons residing in addresses not included in the NCCPA. According to the municipal administration, such addresses exist. Registration at such addresses took place until 2011, when the CRA provided for a single application by the person, as there was no requirement to submit documents proving a valid legal basis for residence at the address. The specialized administration is of the opinion that the technical refusal to issue a registration certificate at a permanent address is not an obstacle to the issuance of an identity document, given the certificate itself, as an official written document, is not required by the police when issuing an identity document. This was because the relevant police officers carried out official inquiries in the CRAS electronic system to which they had access. However, there is no comment on the problem that the lack of registration in the register of CRAS or the tick "address outside the NCCPA" is a reason for the police to refuse to issue an identity document.*

According to data collected by municipal administrations, the group of affected people includes, first and foremost, people living in the Roma neighborhoods. The reasons for this are, first of all, the mass lack of property documents or other documents giving permission to live in the properties where the persons wish to register; the illegality of the inhabited buildings, which is the reason for the exclusion of the addresses from the National Classification of Addresses in the Republic of Bulgaria; overcrowding at certain addresses, which does not meet the restrictions of the CRA regarding the number of persons who can be registered at a certain address.

*According to information from municipal officials of Lukovit municipality, the problem with registrations at a permanent address in the municipality occurs almost exclusively among the Roma population. A significant part of the Roma lives in illegally constructed buildings for which they do not have ownership documents. The properties, moreover, in most cases are not declared in the municipal department "Local taxes and fees" and their occupants do not pay taxes for them. They also do not have legal utility bills. The specialized*

*administration informs that some of the persons who cannot register at a permanent address in Lukovit have old address registrations in other locations/municipalities but have migrated to Lukovit for a long time. Upon expiration of their identity documents, they failed to renew them, as they could not register in Lukovit, and their old address registrations in other locations were deleted since the addresses are not included in the NCCPA or due to the fact that they have been deleted by Deregistration Commissions. The municipal administration informs that there have been cases in which individuals have applied for their actual residence through the Municipal Address Registration Commission, but this is not a working mechanism as the Commission checks, among other things, whether individuals pay taxes or not, and if they have unpaid debts to the municipal budget. In case it is established that the persons do not pay taxes or that they have obligations to the municipal budget, this is perceived by the administration as a ground for refusing to register at a permanent address. The administration did not collect data on the number of persons who are not registered at a permanent address, but actually live in the municipality.*

In order to address the problem, the mayors set up Address Registration Commissions, which according to the CRA are obliged to consider cases of persons who cannot present the legally required documents for registration at a permanent address. In practice, however, these Commissions in a significant part of the cases do not solve the problems, mainly due to the understanding of the municipal administration that the persons who turn to the commissions must submit the documents required by the CRA. The latter is a paradox, because if they had such documents, the persons would not turn to the commissions at all.

*According to the information collected from the municipality of Bratsigovo, the Address Registration Commission does not have the authority to recommend registration at a permanent address only on the basis of factual establishment of residence at a given address and without presenting documents on the legality of residence. The municipality informs that they have data on persons of Roma origin who are not registered at a permanent address due to the fact that they were deregistered at the request of the owner of the land on which their houses were built. These affected persons continue to actually live in their homes, but this fact is not considered as an objective prerequisite for registration at a permanent address through a procedure before the Municipal Commission for Address Registration. Other affected persons from the Municipality of Bratsigovo cannot receive registration at a permanent address, as according to the municipal administration the lack of documents giving grounds for legal residence is a mandatory condition for registration at a permanent address. The specialized administration does not have a specific answer to the question of what documents, corresponding to the legal concept "other documents, proving the ownership or use of the property"<sup>5</sup>, would be accepted for registration at a permanent address. It should be noted that in the case of the municipality of Bratsigovo, these are persons who were born in the municipality and have always lived there.*

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<sup>5</sup> According to the requirement of art. 92, para. 2, item 3 of the Civil Registration Act



In some cases, the municipal administrations have terminated the use of the procedure for registration at a permanent address through the Municipal Commission for Address Registration, after being sanctioned by the relevant CRAS Regional Directorate.

*According to the information received from an employee in the municipality of Tvarditsa, after registration at the permanent address of persons who do not submit any documents under the procedure with the Municipal Commission for Address Registration, the municipality is sanctioned by the relevant CRAS Regional Directorate for violations of the procedure.*

It turns out that the main problem for the municipalities is that the powers of the commissions for address registration are not defined either in the CRA or in the bylaws. Therefore, in some municipalities the problem is solved by looking for ways to create a documentary basis for individuals to live at the addresses where they wish to register.

*For example, in the municipality of Samokov, lease agreements are signed, with which individuals rent plots of municipal property on which their houses are built, albeit without construction documents.*

However, many municipal administrations prefer to refuse to register at a permanent address in order not to be sanctioned by the CRAS Regional Directorates.

*The specialized administrations in the municipalities of Peshtera, Bratsigovo, Lukovit and Septemvri inform that checks of the documents on applications for registration at a permanent address are carried out at least twice a year by the CRAS Regional Directorates. During these inspections, the documentation is reviewed "sheet by sheet" and in the absence of documents required by the CRA, the municipal administration suffers sanctions.*

Cases have been identified in which the municipal administration is of the opinion that it is not possible to register at a permanent address, including through the procedure with the Municipal Address Registration Commission, if the persons do not have a document of ownership or rental agreement of their property. This is the main reason why the municipal administrations refuse to follow the steps and the procedure recommended in the "Guidelines for permanent address registration and issuance of identity documents" prepared under the ROMACT program<sup>6</sup>.

*The administration in the municipality of Vratsa considers that registration at a permanent address of persons living in dwellings without legal grounds cannot be done in any case, as it will somehow legalize the factual situation of these persons living in illegal dwellings. In this municipality, on the other hand, more comprehensive information has been collected on the number of persons who are not registered at a permanent address. However, the*

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<sup>6</sup> See guidelines at: <https://coe-romact.org/content/bg-guidelines-permanent-address-registration-and-issuance-identity-document>

*approach followed when registering at a permanent address is for the administration to "advise" persons to register at an address that is included in the NCCPA, with the consent of their owners. However, a number of persons turn out to be registered at addresses where they do not actually reside, but only for the purpose of obtaining registration and issuance of an identity document. Such persons are under constant threat of being deregistered at the request of property owners to the municipality.*

According to the information collected, the understanding in the Regional Administrations is that the municipal services should strictly comply with the rules and regulations of the CRA and bylaws and require ownership documents or other documents entitling to legal residence of the property. There is no common understanding either among the municipal administrations or in the CRAS Regional Directorates about what CRA understands under the possibility to present the so-called "other documents"<sup>7</sup> for address registration. In most cases, the Municipal Address Registration Commissions check the electronic files in the respective municipalities as to whether the applicants have declared properties in the local *Municipal Taxes and Fees Department* and whether the buildings are included in the relevant Cadastral Register. If such documents are not established, the Municipal Commission shall give a negative opinion on the respective application for registration at a permanent address. In many cases, an on-the-spot check is not carried out to establish the actual habitat of the applicants, as it is considered that this is not a ground for registration at a permanent address.

It turns out, however, that the stated problems and opinions of the specialized municipal administrations contradict the opinion of the CRAS General Directorate on the affected issues. According to it, the legislation does not contain significant deficits that are of a nature to prevent registration at a permanent address and result in restriction of the rights of citizens - affected persons:

- According to the information provided by the state experts to the CRAS General Directorate, the Address Registration Commissions should give an opinion on address registration based on establishing the factual situation and after an on-site inspection;*
- It is stated that the legality of buildings has nothing to do with the inclusion of the addresses where they are located in the National Classification of Addresses. According to the CRAS General Directorate, the legality of the addresses is not subject to the CRA and the bylaws, as there is no legal requirement for this;*
- There is also an opinion that the inclusion of addresses in the National Classifier is the exclusive competence of the mayors and the CRAS General Directorate cannot interfere even with the issuance of methodological instructions, as the legal requirements were clear. In addition, it is argued that such a guideline would violate the principles of local self-government enshrined in the Law on Local Self-Government and Local Administration;*
- In a discussion on the ambiguity regarding the powers and procedure before the Municipal Address Registration Commission, the opinion was shared that determining the powers of the Address Registration Commissions could be considered and useful;*

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<sup>7</sup> Art. 92, para 2, item 3 of the CRA.

- *Regarding the issue of including in the legislation at least an approximate list of so-called "other documents" providing information about the inhabited property by persons requesting address registration, experts hold the opinion that this is not appropriate because the situation in different municipalities was different;*
- *It is also stated that a possible repeal of the current requirements for the provision of documents for ownership or use of properties in which a request for registration at a permanent address is requested would not be appropriate. According to the employee of the CRAS General Directorate, such repeal of the CRA would create preconditions for violation of the rights of the citizens-owners, which means not to register arbitrary persons in their properties only on the basis of their applications. In this sense, it is argued that it is rather the personal responsibility of each person to organize his or her life in such a way as to have the legally required registration document at a permanent address;*
- *In a discussion on possible restriction of the rights of persons who receive from municipal administrations refusals to register at a permanent address, the employee of the CRAS General Directorate takes the view that such persons have the opportunity to protect their rights by appealing the refusals of municipalities before administrative courts.*

According to the information provided by the Ministry of Interior, the issuance of an identity document is subject to the existence of an up-to-date registration at a permanent address existing in the NCCPA. The representatives of the Ministry of Interior, who in practice issue identity documents, inform that their electronic system does not allow the issuance of a document when the applicant is not registered at a permanent address in the CRAS system. The employees of the Bulgarian Identity Documents Directorate at the Ministry of the Interior are of the opinion that the legislation regulating registration at a permanent address contains deficits, which in practice prove to be an obstacle to the issuance of an identity document. In this sense, they unequivocally support the view that a change in legislation needs to be considered and adopted.

Representatives of the Community Action Groups from the surveyed municipalities, who are trying to help those affected, say that the problem with registration at a permanent address in Roma neighborhoods is quite widespread. According to them, many persons cannot register at a permanent address and obtain an identity document, and this mainly affects persons between the ages of 14 and 18 whose parents live at addresses that not included in the NCCPA; or they do not have documents for their properties.

*According to a representative of the Community Active Group of Peshtera Municipality<sup>8</sup>, the problem disproportionately affects young women of Roma origin, as when they marry or actually cohabit, they move to the home of their new families, but cannot receive registration at a permanent address there due to lack of documents on the ownership and use of housing. The respondent also said that the Address Registration Commissions do their research mainly on available documents and records in the electronic files of the municipality and various services and do not make "on-site" visits to actually establish the addresses of applicants. As a result, persons without registration at a permanent address*

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<sup>8</sup> Interview with Yuksel Yasharov, Chairman of the non-profit association "Sun for Everyone" - Peshtera

*and personal documents cannot use any administrative and social services and thus their rights are severely limited.*

According to the representatives of the Community Action Groups, the Roma from the territorially segregated neighborhoods are denied registration at a permanent address not only due to the lack of documents for ownership and use of the property, but also because more people live at certain addresses than provided in the restriction of the CRA for the maximum number of inhabitants at an address<sup>9</sup>.

*A representative of the Community Action Group from Nadezhda district in Sliven<sup>10</sup> said that many people in the neighborhood are not registered at a permanent address and lack identity document, as on the addresses where they actually live, there is more than one building, and the municipal administration considers the area required per person by the CRA only for the building, which is included in the Cadastral Register, as it does not make site visits. In practice, however, there are additional buildings built at one address that house expanding Roma families, but this is not taken into account by the administration.*

The interviews with affected persons provide information concerning the difficulties they experience with the implementation of the procedure for registration at a permanent address and the provision of an identity document. Many people say that the municipal services refuse to even provide them with the application form for registration at a permanent address. In this way, they cannot initiate an administrative procedure. They cannot even reach the issuance of an administrative refusal, which they may appeal to the administrative courts. They have little knowledge of the procedure for registration through the Address Registration Commission, and in cases where they know it; they consider it non-functioning. In the general case, these are people with more limited legal knowledge, as well as with very limited financial resources. Therefore, they easily give up and do not seek their rights in court. On the other hand, the lack of address registration and identity document makes their lives extremely difficult, as they cannot exercise any of their rights.

*Resident of the Roma neighborhood "Nadezhda" in Sliven<sup>11</sup>: "I live at my mother's address, living without marriage with the mother of my children. My mother does not have a document of ownership of the house we live in and therefore I cannot get a registration at a permanent address. I have tried to register several times, but the municipality does not even provide me with an application for registration. Therefore, I do not have and have never had an identity document. I have four children, aged 4 to 10. The mother of my children is also currently not registered at a permanent address, as her registration at her parents' home has been canceled due to overcrowding at the address. So, our children are not registered at a permanent address".*

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<sup>9</sup> § 1, item 1 of the Additional Provisions of the Civil Registration Act: "Persons who may normally live in a dwelling" is the maximum number of persons who may inhabit a dwelling, with one person having at least 10 sq. m. of living space."

<sup>10</sup> Interview with Sasho Yordanov, Chairman of the NGO "Mother Center - Sliven"

<sup>11</sup> Ch.Z.Ch., male, of Roma origin

## V. Personal stories of affected persons

### 1. The story of families from Vratsa

Twelve families of Roma origin from the town of Vratsa live in a building owned by the Regional Administration-Vratsa, where they have settled with the tacit consent of the municipal authorities and the Regional Administration itself. They are a total of 64 people, 31 of whom are minors. During the implementation of the activities under the ROMACT Program, some of them were found not to have identity documents, as the municipal administration refuses to register them at a permanent address at the address of the building they inhabit without legal grounds. Some of the affected families have address registrations at other addresses, but they are fictitious, provided by property owners only for families and their members to be able to register at a permanent address and thus acquire the right to be issued identity documents. There are minor children in all families, including those less than 3 years of age, as well as people with disabilities. Persons without identity documents are practically unable to exercise any of their rights. Despite the efforts of the ROMACT team to find a reasonable solution for the families, on 14 September 2021, the mayor of Vratsa issued an order to abolish the building, arguing that it was collapsing. Its occupants were informed through a message placed on the facade of the building on 20 October 2021 that they must vacate the building immediately, as the removal had been planned. A few days later, the building was removed.

Most of the families did not receive an alternative housing from the municipal administration, as they were not registered at a permanent address in the municipality. Due to public and media interest in the case, the mayor of Vratsa posted a statement about the case in his profile on the social network Facebook, which, among other things, summarized the reasons why these people do not have ID cards, namely: some of them are accommodated in this a building of former city governors without an accommodation order; another part is self-accommodated after being evicted from the social housing in which they were accommodated due to inability to pay rent and electricity and water bills; a third of the residents of the collapsing building came from other settlements, and a fourth, whom the mayor thought they can rent from the free market, stayed there because *“no one wants to give them their home because of the specific features of their way of life”*.

### 2. The story of Z. from Sliven

Z. is a 24-year-old woman of Roma origin who lives in the Nadezhda district. She cohabits with the father of her minor child. Z. is not registered at a permanent address either at the address of her parents or at the address where she actually resides. The father of her child also does not have a registration at a permanent address; he has an identity document, which, however, is legally invalid, as it was issued with an address NCCPA no longer recognizes. Z. never had an identity document. Therefore, she cannot even receive the birth certificate of her child from the municipal administration, as she cannot identify herself with a document as the mother.

### 3. The story of Z. from Bratsigovo

Z. is a 44-year-old woman of Roma origin from the town of Bratsigovo. She is married. The family has 7 children between the ages of 3 and 14. Z. and her husband have identity documents, which are invalid, however, as the municipal administration has deregistered the family from the address where they actually live at the request of the owner of the property where their house was built illegally. New, valid identity documents cannot be issued to them, as they no longer have a valid registration at the specified address. Their 14-year-old child has not been issued an identity document either, since there is currently no registration at a permanent address due to the deregistration of the parents. Younger children are also not registered at a permanent address, and if the current status quo of the family is maintained, they will also not receive identity documents when they reach the age of 14.

## VI. Legal framework of the researched problem<sup>12</sup>

In Bulgaria, registration at a permanent address and possession of an identity document are the right and obligation of everyone. Data from the Ministry of Interior from March 2021 show that 244,822 people have been identified in the country without a valid identity document, out of which 123,749 people do not have a valid identity document, and the rest of 121,073 people have never possessed one<sup>13</sup>. This number is growing rapidly. These persons can in no way formally identify themselves, therefore their rights are severely limited and the fulfillment of a number of obligations becomes impossible. This is because the current Bulgarian identity documents were issued for the first time in 2000 and were renewed in 2010. In 2011 and 2012 changes were adopted in the relevant regulation of the CRA, which in practice makes it difficult for people living in dwellings without being able to

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<sup>12</sup> The development of the legal framework regarding the registration at a permanent address and the issuance of identity documents has been studied and analyzed by the author of the present analysis during the last 10 years. The author's research and opinions, including those used in the present analysis, include:

1. Opinion to the Parliamentary Legal Committee on a draft amendment to the Civil Registration Act 2011, unpublished;
2. "Civil registration in Bulgaria - a state of uncertainty. Study of problems related to the issuance of personal documents to citizens of Roma origin under the Civil Registration Act "Report published by the Open Society Institute - Sofia, Sofia, 2013, available at: [https://osis.bg/wp-content/uploads/2018/04/OSI\\_Publication\\_Roma\\_5.pdf](https://osis.bg/wp-content/uploads/2018/04/OSI_Publication_Roma_5.pdf)
3. Domestic cases, Identity documents - Bulgaria, Budapest, 2016, published by the European Center for Roma Rights, available at: <http://www.errc.org/cikk.php?cikk=4409>
4. Opinions to the National Ombudsman regarding annual reports for 2017, 2018 and 2019, unpublished;
5. Interview for Marginalia, Daniela Mihailova - Hundreds of Roma families are insecure in their homes, Sofia, 2017, available at: [https://www.marginalia.bg/monitoring-na-publichnite-resursi-za -Romskoto-vklyuchvane /21810 /;](https://www.marginalia.bg/monitoring-na-publichnite-resursi-za-Romskoto-vklyuchvane-/21810/)
6. "Demolition of Roma housing in Roma neighborhoods: Sustainable solution for Roma integration or discrimination against Roma in Bulgaria", published by the Open Society Foundation and NGO "Equal Opportunities Initiative", Sofia, 2017, co-authored with Alexander Emilov Kashumov, available at: <https://www.equalopportunities.eu/bg/reports/roma-evictions-and-demolition-of-roma-houses-bg.html>
7. Opinion in connection with the preparation of the Civil Monitoring Report on the implementation of the NRIS of the Republic of Bulgaria, prepared by the Amalipe Center for Public Administration, 2018, unpublished;
8. Opinion to the Ministry of Labor and Social Policy, the Ministry of Education and Science, the Ministry of Interior, the Ministry of Health and the Ministry of Regional Development and Public Works: "The right and obligation to register at a permanent address and have an identity document - legislative Framework, Problems and Recommendations ", Sofia, 2021, co-authored with Alexander Alexandrov Kashumov, within the project "The Invisibles We See ", funded by the Trust for Social Alternative Foundation, unpublished.

<sup>13</sup> For the source of the data provided, see footnote 2 above.

prove a valid legal basis for this, as well as for homeless people, to register at a permanent address and, consequently, to obtain an identity document. This is because registration at a permanent address is a necessary condition to obtain an identity document.

## VII. Obstacles to obtaining registration at a permanent address

The analysis of the legislation shows that certain persons cannot be registered at a permanent address and receive an identity document due to limitations in the current regulation of the CRA<sup>14</sup> and bylaws, as well as in administrative practices. In general, the present requirements provide for the presentation of a document for ownership or use of the property in which the person wishes to register at a permanent address; on the other hand, the presence of an address registration at an address included in the NCCPA is a condition for issuing an identity document. To include an address in the NCCPA, the bylaws provide for a habitable building in it, and the administration further interprets this requirement, adding to it the meaning that the building must be legal. For persons who are unable to submit the required documents, the CRA provides for a procedure to establish the circumstances through the Municipal Address Registration Commission, but its powers are not established in the legislation, which in practice makes it a non-functioning body. Thus, the citizens have only the opportunity to go to court to appeal against the refusals of the administration to register. However, it is impossible for the administrative courts to solve the mass problem of so many people, given that most of them do not have the necessary financial resources or sufficient legal knowledge to take advantage of the possibilities of judicial appeal. Therefore, judicial procedure cannot be recommended as a tool to solve the problem.

### 1. Legal framework of registration at a permanent address: Civil Registration Act and Ordinance № RD-02-20-9 of 21 May 2012 on the functioning of the unified civil registration system

The legal framework governing registration at a permanent address includes the CRA<sup>15</sup> and *Ordinance № RD-02-20-9 of 21 May 2012 on the functioning of the unified civil registration system*. According to the CRA, the administrative body in charge of address registration is the mayor of the respective municipality, region or town hall, and such powers may be granted to other officials appointed by the mayor. The mayors provide these powers to the respective municipal services for CRAS with special orders. In its current version, the CRA regulates requirements for certain documents that citizens must submit in order to be able to register at a permanent address. In its original version, the legal text provided only that "*address registration is carried out by municipalities and town halls at the request of the person*", without requiring the submission of any documents. This wording was in force until 28 January 2011, when additional requirements for obtaining address registration were adopted, initially introduced by the Transitional and Final Provisions of the newly adopted Electoral Code with the argument for avoiding violations in the conduct of elections.

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<sup>14</sup> Published in SG No. 67 of July 27, 1999, last amended. and ext. with SG. No. 105 of December 11, 2020

<sup>15</sup> Art. 92 and next of the CRA

On the basis of the current wording of the *Civil Protection Act*, in order to register at a permanent address, the citizens-applicants should provide:

- Ownership document, or
- Documents for the use of the property for residential purposes, or
- "Other documents proving the ownership or use of the property".

The above three options are listed in terms of alternative, i.e., each document is an independent basis for registration.

The regulation related to the address registration of citizens is detailed in *Ordinance No RD-02-20-9 of 21 May 2012 on the functioning of the unified civil registration system* (Ordinance) of the Ministry of Regional Development and Public Works (MRDPW), which also set up the NCCPA.

The current legislation raises some problems for registration at a permanent address, which disproportionately affect Roma living in segregated neighborhoods. The first problem arises in connection with the requirement to present a document of ownership of the property, in which the person applies for registration at a permanent address. The problem is that a significant number of people from the Roma community do not have documents for the ownership of the properties they live in. The reasons are different, the main one being constructed without the required construction documents in properties for which the persons also do not have a title deed, as well as in properties of third parties or on municipal or state properties. Many people who rent a residential property are also unable to present a document to that effect (lease agreement) since the landlords either do not have a title deed; or do not wish to enter into a written rental agreement to avoid declaring rental income from real estate.

Next, the normative option for the applicant to present "other documents proving the ownership and use of the property" is imprecise, as it does not make clear what these documents could be. This option was added in 2012, when it became clear that many people could not submit ownership documents and leases for the properties they inhabited. The attempt to facilitate the procedure in favor of the applicant citizens was hindered by the lack of any specificity in practice.

A third problem arises with the regulation of the procedure for registration of persons who cannot present any of the documents specified in the CRA<sup>16</sup>. In these cases, the circumstances of the applicants are established by the Municipal Commission for Address Registration<sup>17</sup>. It is not clear from the legal provision whether the Commission should be a permanent body or set up incidentally when cases of citizens who are unable to present any document for legal residence at their address are registered. Practice shows that in most

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<sup>16</sup> The procedure is regulated with art. 92q para 8 of CRA

<sup>17</sup> The composition of the Commission includes employees from the municipal administration and from the territorial structural units of the Ministry of Interior, the General Directorate "Civil Registration and Administrative Services" in the Ministry of Regional Development and Public Works and the Social Assistance Agency.



cases such commissions are established when the need arises. The powers of the Address Registration Commissions are not exhaustively regulated in the CRA. As the study of the practical aspects of the work of the Commissions mentioned above shows, they usually adhere to the strict application of the requirements for providing documents for registration at a permanent address under the CRA. The latter makes their role completely meaningless, as in practice they duplicate the work of the main address registration authority. The commissions for address registration are not detailed at all in the bylaws<sup>18</sup>. It regulates only the functions of the so-called *Deregistration commissions*<sup>19</sup>. Due to this deficit, in practice the local administrations apply these requirements to the functions of the *Admission Registration Commissions*. Among the requirements is the check for the availability of the documents required for registration at a permanent address. Due to the application of the described analogy in establishing the absence of such documents, the administration refuses to perform address registration.

A fourth problem is the very regulation of the concept of "address" and the inconsistencies between the laws and the bylaws in this regard. According to the CRA, the address is "the unambiguous description of the place where the person lives or where he receives his correspondence<sup>20</sup>" and "must consist of the name of the district, municipality and settlement<sup>21</sup>", and **may** include the name of the localization unit (square, boulevard, street, residential complex, neighborhood, etc.)<sup>22</sup>. In this case, the use of the term "may include" means that this is not mandatory. Moreover, the CRA explicitly stipulates that when the address is outside the regulation of the settlement, instead of the data of the localization unit, the name of the locality from its land is entered<sup>23</sup>. The addresses at which address registration can be performed are determined by the mayor of the respective settlement<sup>24</sup>, as all addresses determined by the mayors form NCCPA. CRA regulates the legal definition of the term "permanent address" as "the address in the settlement that the person chooses to be entered in the population register<sup>25</sup>". The same definition is regulated in the Law on Bulgarian Personal Documents (LBPD): "Permanent address" is the address in a settlement in the territory of the Republic of Bulgaria, where the citizen is entered in the population register<sup>26</sup>". However, the bylaws introduce a restriction on the addresses that mayors may include in the NCCPA<sup>27</sup>, which stipulates that the Classifier may include addresses only when they have a residential building, dormitory, hotel, motel, holiday home or **other shelter which are habitable**. Again, a restriction has been introduced in the bylaws that address registration can be performed only at an address that is included in the Classifier<sup>28</sup>. The

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<sup>18</sup> Ordinance № RD-02-20-9 on the functioning of the unified civil registration system of the Ministry of Regional Development and Public Works

<sup>19</sup> Commissions under Art. 99b of the Civil Registration Act, detailed with Art. 140a of Ordinance № RD-02-20-9 of 21 May 2012 on the functioning of the unified civil registration system.

<sup>20</sup> Art.89, para 1 of the CRA

<sup>21</sup> Art. 89, para 2 of the CRA

<sup>22</sup> Art.89, para 2 of the CRA

<sup>23</sup> Art.89, para 4 of the CRA

<sup>24</sup> Addendum adopted by SG, No 39 of 2011, in force since 20.05.2011.

<sup>25</sup> Atr.93, para 1 of the CRA

<sup>26</sup> Par. 1, item 3 of the Additional Provisions of the LBPD.

<sup>27</sup> Art. 121, para. 4 of Ordinance № RD-02-20-9 on the functioning of the unified civil registration system

<sup>28</sup> See Art. 139, para. 3 of Ordinance № RD-02-20-9 of 21 May 2012 on the functioning of the unified civil registration system.

ordinance does not regulate the requirement for legality of the constructions subject to inclusion in the Classifier, but this is required by the respective administrations. Moreover, the mayors are obliged to delete from the Classifier the addresses where there are no buildings, or the existing ones are uninhabitable<sup>29</sup>. In cases where the person's address is not included in the national Classifier, the person's electronic card is marked "outside the NCCPA<sup>30</sup>", the latter being identified by the police as an obstacle to the issuance of an identity document.

A fifth problem arises in connection with the limit on the number of persons who can register at a permanent and/or current address at a residential address<sup>31</sup>. The maximum allowable capacity of each dwelling is determined by multiplying the number of people who can normally<sup>32</sup> live in it. However, the adoption of this provision does not consider that many people often change their address without registering at their new address and thus increase the number of people at the address to the maximum allowed, without actually living there. Relatively larger Roma families also fill the respective maximum capacity faster. In addition, it is precisely in unregulated Roma neighborhoods that several residential buildings often exist at the same administrative address. This is because they were built without construction documents and did not receive the next number of the localization unit (street) but were recorded on the last existing number. Thus, the restriction is an obstacle to registration at the permanent address of persons who actually live there.

## 2. Registration at a permanent address and issuance of an identity document - legal connection between the two procedures

The survey of the factual situation shows that in case of refusal to issue an identity document, the competent bodies of the Ministry of Interior do not indicate a legal basis when the applicant is marked "invalid" (outside NCCPA) address in the information files used by the Ministry of Interior. In practice, in these cases the Ministry refuses to accept applications for the issuance of an identity card at all, arguing that its computer software to prevent the issuance of Bulgarian identity documents with invalid addresses. There is no legal provision to justify a refusal to issue an identity card due to the deletion of the address with which the person is entered in the Population Register by the NCCPA. Legally, the current permanent address is the last address that was requested for the person concerned. This is because Bulgarian law does not know the term "invalid permanent address" at all. In the birth certificate and in personal electronic registration card of each newborn individual, the address of the parents is entered as the specified address which means that the law does not enable a situation where a person is born without a permanent address. The administration misinterprets, considering the procedure for deleting an address in the NCCPA to be identical to the procedure for deleting the address registration of the persons registered at the deleted address. The correct reading of the law is that the deletion of the address registration is an

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<sup>29</sup> See par. 10 of the Transitional and Final Provisions of the Ordinance, promulgated in SG, iss. 64 of 2015, in force since 21.08.2015.

<sup>30</sup> Art.123, para. 3 of the Ordinance

<sup>31</sup> Art.92, para 10 of the CRA

<sup>32</sup> For the meaning of the term "normally", see footnote № 10 above.

automated restoration of the previous address of the person<sup>33</sup>. Therefore, in theory, there cannot be a situation in which a person does not have a current permanent address. The conclusion is that the Bulgarian legislation does not provide as a ground for refusal to issue an identity document or the deletion of the applicant's permanent address in the NCCPA, or the deletion of the address registration at the applicant's permanent address or marking the applicant's permanent address "outside NCCPA" in the electronic personal file of a certain person. Refusals to issue an identity card without explicitly stating the legal grounds constitute illegal administrative acts<sup>34</sup>.

## VIII. Analysis and conclusions from the case law on the application of the legislative norms governing the performance of address registration

The review of relevant case law shows that the court has been addressed relatively infrequently with complaints concerning refusals to register at a permanent address or to issue an identity document. In the Ciela legal information system used for the present study, a total of 604 judicial acts on the application of the CRA are available in relation to address registrations. This number includes both first instance and cassation of court decisions, as well as decisions on appeals against penal decrees for violations of the CRA. This supports the conclusion that in the general case the persons who are victims of refusals to register at a permanent address do not have the financial resources and legal knowledge to try to protect their rights in the court. For its part, the latter supports the conclusion that judicial proceedings cannot be considered as the only possible remedy for deficiencies in legislation or illegal refusals by the responsible administrative authorities.

However, the existing case law gives grounds to draw some useful conclusions on the application of the law. In the first place the attention of the administrative courts is given to cases in which the refusals of the administration to register at a permanent address are challenged in the cases where the Municipal Commissions for Address Registration take the opinion that the lack of documents required by CRA is sufficient grounds for refusal<sup>35</sup>. Given that the reason for referring the commissions in these cases is precisely the fact that citizens do not have any document, the courts have had cases to accept that the formation of an opinion based on this circumstance leads to cyclicity and does not provide a solution to the case.

Secondly, the administrative courts have revoked the refusals of municipal administrations to make registrations at a permanent address when applications are submitted by persons whose parents have one. In these cases, the court is motivated by the legal provision stating that "the permanent and current address of the newborn child coincides with the respective addresses of his parents<sup>36</sup>." For example, with Decision № 1812

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<sup>33</sup> See §1, item 3 of the Additional Provisions of the CRA.

<sup>34</sup> See Art. 59, para. 2, item 4 of the Administrative Procedure Code of the Republic of Bulgaria.

<sup>35</sup> In this sense is Decision № 3668 of 13.03.2019 on adm. case № 2293/2019, I division of the Supreme Administrative Court

<sup>36</sup> Art.90, para 2 of the CRA

of 5 March 2019 on administrative case № 10863/2018 the Sofia City Administrative Court (SCAC) annulled the refusal to register the address on the grounds that the applicant's mother had an established and unchanged permanent address, which should have been entered as the applicant's address at birth. In the same court proceedings, the court held that the applicant could be registered at the address of a dwelling - municipal property, inhabited without legal grounds. The administrative court concluded that registration was possible as long as the person had not been removed from the dwelling and could in fact be found there.

In a comparable situation, the administrative court had the opportunity to rule on whether the police authorities should refuse to issue an identity document because the applicant's address had been deleted from the NCCPA<sup>37</sup>. According to the court's interpretation, each person receives the registration at a permanent address at birth, and this is the registration of his parents. If there is no change in the CRAS files, the address at birth should be considered the current permanent address of the person and its deletion does not give grounds for the administrative body to refuse to issue an identity document.

Thirdly, the case law has established that in case of registration procedure through an opinion of the Municipal Commission it is obligatory to check the factual situation "on the spot", instead of the administration being limited to data extracted from electronic databases of various institutions, which in many cases may be inaccurate<sup>38</sup>. The court's decision ruled that the acts of the administration should be based on the actual facts<sup>39</sup>.

Fourth, the administrative courts have had cases to rule on the question of whether, when a request is made to the local authorities for address registration, supported by a document required by the CRA, additional consent should be sought from the owner. The courts accept that this is not necessary.

An interesting example of the actions of the administrative bodies in connection with the registration at a permanent address has been identified in the municipality of Roman, where over 20 criminal decrees have been issued by the police against a village mayor for illegal registration of citizens<sup>40</sup>. The argumentation of the penal decrees is that the mayor has made address registrations under the procedure with the Address Registration Commission without presenting the required documents for registration at the permanent address. In these cases, it was necessary to appeal the penal decrees, which were revoked by the relevant district court (Mezdra), and the revocation was confirmed by the Administrative Court of Vratsa.

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<sup>37</sup> In this sense, Decision № 7307 of 16.12.2020 on administrative case № 3082/2020 of the SCAC.

<sup>38</sup> In this sense, Decision № 817/17.04.2018 on administrative case № 3247/2017 of the Administrative Court - Varna

<sup>39</sup> The same is confirmed in Decision № 15669 of 19.11.2019 on administrative case № 7071/2018, III Division. of the Supreme Administrative Court.

<sup>40</sup> The cases are considered in Decisions № 59–63 of 15.04.2016 on administrative case № 554, 575, 573, 572 and 563 of 2015 of the District Court - Mezdra; Decision № 249 of 18.07.2016 on administrative case № 303/2016 of the Administrative Court - Vratsa

## IX. Recommendations for changes in the legal framework aimed at solving the stated problems

The problems stated undoubtedly require the intervention of the legislator, to improve the existing legal framework so that it meets the identified needs. Possible proposals in the alternative include:

1. Explicit inclusion in the relevant legislation of a provision stipulating that according to the Bulgarian legislation it is not possible for a person not to have a current permanent address, assuming that the current permanent address is the last one with which the person is registered in the population registers, regardless of whether that address exists in the NCCPA.

2. Restoration of the application regime for registration at a permanent address, as it has been in force since the adoption of the CRA until the introduction of the additional requirements for submission and verification of documents. The provision could be returned to its original wording, stating "address registration is carried out by municipalities and town halls at the request of the person." In this way, consistency will be achieved with the legal definition of the term "permanent address", regulated both in the CRA and in the LBPD.

3. Adoption of a provision regulating the possibility for registration of a person who cannot present the documents required under the CRA at an official address, as such shall be determined for each municipality. Similar legislative decisions have been adopted in some legal systems in Europe.

It is advisable to consider possible solutions to the problems described in the analysis, in case the preferred option is to maintain some of the current requirements for address registration at a permanent address, regulated in the CRA. Useful improvements in this regard could be:

### 1. With regard to the documents required for registration at a permanent address:

1.1. Detailing the provision of art. 92, para. 2, item 3 of the CRA with an exemplary list of documents included in the term "other documents proving the ownership or use of the property". These can be, for example, documents for the payment of real estate taxes, invoices for utility costs, a document for opening an account for such services, etc.

1.2. Adoption of an explicit text to clarify the content of the declaration under Art. 92, para. 6 of the CRA, as in its current wording it is not clear whether declaring de facto cohabitation or declaring the consent of the owner/user for address registration of a person who is in de facto cohabitation is required. In its current wording, the text casts doubt on the deviation in the regimes of address registration of persons who are legally married and persons who are in a state of de facto cohabitation.

### 2. With regard to the regulations for inclusion of addresses in the NCCPA:

Adoption of an explicit text that does not allow a restriction on the inclusion of an address in the NCCPA, related to the study of the legality of construction. Such regulations do not in any way change the status of the respective construction into a legal one, as the

legality of the constructions is subject to a completely different branch of law<sup>41</sup>. Such a decision would also correspond to the provisions of the LBPD and CRA, which, as mentioned above, give a legal definition of the term *permanent address*, which does not include additional requirements other than that the person is entered in the relevant population register, which happens at birth.

### 3. With regard to the Address Registration Commissions:

3.1. Legislative regulation of the permanent status of the Address Registration Commission and detailing its powers, in order to provide that the Commission makes a finding on the spot regarding the factual circumstances related to the habitat of the persons, providing that the finding of the Commission is sufficient to carry out of the address registration.

3.2. Explicit acceptance of a text regulating that the consent of the owner/user should not be required, in cases where registration at a permanent address is based on a finding of actual residence of a person at a particular address by the Municipal Address Registration Commission.

3.3. Detailing the powers of the Address Registration Commission within the scope of the relevant bylaws.

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<sup>41</sup> Territorial Organization Act