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## **ADOPTION AND GENETIC IDENTITY: PROMOTING THE BEST INTEREST OF THE CHILD**

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### **Abstract**

The children have a right to live in a family unit with their parents, and in this aspect, they are provided all the rights that come out of the parenting relations. However, not all children are given the chance to grow up in a healthy and safe family, which represents a misfortune throughout history and is still evident in modern times. Acknowledging that not all children are equally fortunate, we recognize the plight of those who, through circumstances unrelated to their own actions, are excluded from family life. This paper provides fundamental data proving that through the institution of adoption, these children are provided with security, familial love, and parental care.

This paper analyzes all the facts that result in the conclusion that the adoption, as a legal institution, makes it possible that the adopted children are provided a family life that in absence of biological parents, is given to them by the adoptive parents. Parents are not only those who give birth to the child, parents are also the people that give the adoptive children family love and care, as well as help them in all the stages of their lives. The paper emphasizes that the adoption has a multidimensional importance and purposes: for the adopted children, for the parents who adopt, and for the society as well as for the biological parents that do not have means to take care of their children or for another reason abandon their children.. Knowing the genetic background is also raised as an important issue in the paper. The child's right to know their identity is emphasized in cases of adoption, artificial reproduction, when fertilization is done with donated genetic material, and in cases of children born out of wedlock. In these situations, the child's biological status does not match their legal status because the child is not genetically related to their legal

parents. Related to this, the paper examines several court cases from the European Court of Human Rights, which has frequently ruled on violations of the right to privacy and family life in the context of the child's right to know their biological origin. The paper also highlights the legal barriers and gaps in the Republic of North Macedonia that prevent adopted children from obtaining information about their genetic identity. These barriers are inconsistent with international documents ratified by the Republic of North Macedonia. Additionally, the paper emphasizes the need to remove from the Family legislation the institution of incomplete adoption, which has been shown in legal practice to be ineffective in establishing a family.

**Keywords:** *family law, adoption, adopted children, European Court of Human Rights*

## INTRODUCTION

*“The child is the beauty of God present in the world, that greatest gift to a family”* Mother Teresa

Writing about adoption is a very sensitive topic because it concerns the most vulnerable members of society, children, often categorized as those neglected by both parents and society. However, no matter their family status, children remain a compelling aspect of society, and their well-being is of paramount importance, deserving the highest priority, through family and societal support.

Adoption is a legal process aimed at safeguarding vulnerable children who, due to various factual or legal reasons, find themselves categorized as children without parental care; fulfilling the desire of couples unable to have biological children of their own; and representing a compassionate act by individuals who possess the means to provide support for children in need, thereby enabling them to experience family life.

Children have the legal right to reside within a familial setting alongside their parents, thereby enjoying the rights that arise from the parental relationship. However, not all children are fortunate enough to grow up in a healthy family environment, an unfortunate reality that has persisted throughout history. When we acknowledge the divergent experiences among children, we refer to those who, due to various circumstances, are deprived of a family life. This paper seeks to underscore the paramount importance of the child's best interests in adoption proceedings, particularly within the legislative framework of the Republic of North Macedonia (RNM). Since some empirical data related to

adoption in the Republic of North Macedonia are analyzed, the final part of the paper provides recommendations on why incomplete adoption should be removed as an option for family establishment.

Additionally, the paper reflects the importance of knowing the biological origin, which has a significant impact on an individual's personal identity. It discusses the reasons why it is important to know one's genetic background, such as for family considerations (e.g., avoiding incest), as well as for medical and psychological reasons. It emphasizes the significance of providing adopted children with information about their biological origins and their biological parents.

## **1. Adoption and its Diverse Purposes**

### **1.1 Adoption according to the Family Law of Republic of North Macedonia**

Adoption embodies a familial and social legal institution that facilitates the establishment of a parental relationship. Such relationships are established through a legal process sanctioned by the appropriate authority, defining the procedural framework for this relationship's establishment. This relationship replicates the natural family structure, giving children without parents or parental care the chance to experience family life. It also allows childless couples to achieve their dream of parenthood and offers those with children an opportunity to perform a compassionate deed.

In legislative practice and theory, depending on the relationships formed and their permanence, two types of adoption are recognized: full and incomplete adoption. Influenced by the UN Convention on the Rights of the Child (UNCRC), an increasing number of family laws only consider full adoption. However, contrary to this trend in contemporary societies, the Family Law Act of the Republic of Macedonia (FLA) still allows for both types of adoption—full (in the text below Adoption) and incomplete.

Based on this, adoption establishes a kinship between the adopter(s) and the adoptee, extending to their descendants in cases of incomplete adoption (partial adoption), or a kinship is formed between the adopter(s) and their relatives with the adoptee and their descendants (full adoption) (Article 95, para.1 of FLA). Through incomplete adoption, no kinship relations arise between the adoptee and the adopter's relatives. Consequently, the adoptee does not acquire any rights or obligations towards them, as the kinship between the adoptee and their former family remains intact. As a result, the adoptee retains certain rights and obligations towards their former family, including the inheritance rights.

In addition to adoption as an artificial way of establishing a family, another method is the birth of children through artificial reproduction techniques. For the purposes of this work, it is important to emphasize that parenthood through these methods can be achieved either with autologous fertilization (using one's

own genetic material, including embryos from marital or extramarital partners participating in assisted reproductive procedures) or through allogeneic fertilization (using donated genetic material or embryos) (see more: Article 6 and 7 of the Law on Biomedical Assisted Fertilization-LBAF).

It is important to emphasize that a child without parents or without parental care can be adopted. According to legal-family status, a child may be eligible for adoption if: their parents are deceased; they are of unknown parenthood or unknown parental residence; their parents have been deprived of parental rights or legal capacity; or if their parents have provided consent for adoption (Draškić, 2005, p. 231). In addition to adoption, children without parents and parental care are also entitled to the following forms of care in RNM: guardianship, foster and institutional care, and social financial assistance.

Based on the latest statistical data published by the State statistical office of the RNM on 16.11.2023, “for the year 2022, out of a total of 11,715 children who received services from social protection, 2,725 were children without parents and without parental care, to whom the following social services were provided: 123 were adopted; 410 children were placed in foster families; 230 children were placed in social welfare institutions; 41 children were placed in small group homes; 45 children were provided with organized living support; 13 children were placed in centers for victims of domestic violence; 28 children had the right to daily accommodation in daycare centers; 211 children were granted social financial assistance; 24 children received one-off payments (occasional); 187 children benefited from healthcare services; and 1,077 children utilized other social welfare services” (State statistical office of the RNM, 2023).

The word “Adoption” originates from the Latin word “*adoptio*”, which means “choice”. The term “choice” can be understood in the context of the procedural-legal actions of the competent institution responsible for placing the child in adoption. To establish this institution, the most suitable person(s) should be selected to become parents. According to the provisions of the Family Law Act, it is unsuitable for a person to become a parent if they: a) have had their parental rights restricted or limited, or have been convicted of a criminal offense resulting in a prison sentence exceeding six months; b) have had their legal capacity limited or restricted; c) are suspected of using their position as an adopter to harm the adopted; d) have a mental illness or impaired psychological development, or suffer from an illness that could endanger the health and life of the adopted individual; e) have a physical disability to a degree that raises reasonable doubts about their ability to care for the adopted; f) are over 45 years of age; g) are addicted to drugs, psychotropic substances, or alcohol; h) have a serious chronic illness or an incurable contagious disease; and i) if the professional team at the Center for social work holds a negative opinion regarding their suitability as parents (Article 102, FLA)

The Family Law Act and the Regulation on the Criteria and Method of Selecting Adopters Electronically provide detailed definitions of the conditions that individuals interested in adoption must meet. “The desire to have children among individuals who have chosen to become adopters must be profound. They must first confront their own infertility, then confront prejudices and obstacles of various kinds” (Institute for Social Activities, 2007, p.39). According to the Institute for Social Activities, “obtaining the status of an adoptive parent is a planned process; adopters are matched with the adoptee's age; adopters must meet certain criteria to become parents; a good adoptive parent is likely to be regarded as the genuine father or mother; adoptive parents are less likely than biological parents to view their child as possessions; families established by adoptive parents and adoptees, compared to biological families rooted in blood kinship, can more readily foster a family based on respect and individual love” (Ibid, p.41). Adopters, after planning to adopt a child, willingly embrace the challenge of parenting a child to whom they are not genetically related. They must assume parental responsibility and, above all, strive to become exemplary parents, providing all the conditions necessary for genuine growth and education.

The Family Law Act provisions do not explicitly define the best interests of children as one of the main principles. However, in the context of adoption, it is stipulated that the child's opinion is taken into account if they are aged twelve or older (Article 103, paragraph 1, FLA). The child's consent is granted when adoptive parents are selected. Therefore, the child does not choose whether or not to become someone's child; instead, their best interest is determined by the Adoption Commission at the Ministry of Labor and Social Policy and the Center of social work. The decision is made by the Commission or the child's guardian on behalf of the child (Article 104, FLA). While the law does not explicitly emphasize the possibility adopters choosing a child during the adoption, in practice, adopters often seek children with complete physical and mental health. Some individuals make selections by categorizing children based on race, ethnicity, gender, age, or religion. Only a very small number of couples, if any, would consider adopting a child with disabilities. From any perspective, to clarify the concept of choice, the child is the one who is placed within the realm of choice; they are chosen to be adopted or not. Additionally, in terms of respecting the best interests of the child as outlined in international documents, one of the important issues is knowing the truth about adoption and its genetic background. This concept is closely related to the child's right, at a certain period in their life, to reconsider their personal identity by discovering their origins. The concept of identity is interpreted from several aspects: legal, personal, psychological, and sociological, each with its specific definitions. Building on this, the right to know one's genetic origin is an important element in determining the identity of a person who has the right to receive relevant information to uncover the truth about the identity of their parents (Selmani-Bakiu; Zendeli, 2018, p.234). Apart from the importance that knowing the facts about one's genetic origin has for personal dignity, this right also extends to

other important aspects. One of these is the medical aspect, which is crucial for understanding the medical history of the entire family and essential medical information related to the parent's genetics (see more at Clark, 2012, p.615). Furthermore, understanding one's genetic origin is crucial for preventing inadvertent incestuous relationships among relatives who may be unaware of their genetic connection. This point is further elaborated in the subsequent sections of this paper.

### ***1.1.1. Adoption Trends- A Statistical Overview of Republic of North Macedonia***

For the purposes of this research, the author obtained publicly available information submitted by the Ministry of Labor and Social Policy of the RNM. Based on this information, the following empirical insights emerge: during 2020, 17 children were adopted; in 2021, the number increased to 21 adoptions; in 2022, there were 19 adoptions; and in 2023, the figure remained the same with 19 children being adopted. The Ministry of Labor and Social Policy maintains a special register for potential adopters (Rulebook, 2004) and potential adoptees (Rulebook, 2004). Currently, there are 218 people registered as potential adopters. The Ministry of Labor and Social Policy does not maintain separate records of the age and ethnicity of the adopters. There are 119 children registered for potential adoption, comprising 63 Macedonian, 15 Albanian, 6 Turkish, and 35 Roma children. The age of the children ranges from 5 months to 17 years. In terms of international adoptions, in 2023 one (1) child was adopted by a Swedish citizen who currently resides in RNM. In terms of adoption requests from single people, 12 people have been registered in the registry for potential adopters. There are also two couples in extramarital unions. Based on this empirical data, the number of single people registered as potential adopters to establish single parenthood is very small, with only 12 out of 218 people falling into this category, indicating the prevailing mindset and the limited opportunities afforded to these individuals for establishing a family.

## **1.2 The Role of Adoption in Caring for Children without Parent and without Parental Care**

In the past, adoption was primarily established in the interest of the adopters, who often adopted in order to ensure the continuity of the family name and lineage. Today adoption represents an institution through which a parental relationship is created between the adopter and the adopted, primarily to address the needs and interests of children without parents and parental care (Zendeli et al., 2020, p.285). It is assumed that the interests of the children are a priority, but in practice, the facts suggest otherwise. In several cases of child adoption, solely to fulfill the adopters' desire to become parents, we base our argument on Harry Frankfurt's Schema of Priorities (Principle of Presidency).

According to Frankfurt's scheme, the desire for a child belongs to the category of compulsive desires, as it is driven by a very strong and urgent need that remains present until fulfilled. Frankfurt emphasizes that failure to satisfy such a strong and urgent need can lead to stress, depression, and, in the case of unwanted sterility, a great tragedy in a person's life (Frankfurt, cited by Mickovic et al., 2016, p.26).

It should always be taken into account the requirement of international and national documents that a child must live with their parents and can be separated from them only when such an action is necessary for the well-being and best interests of the child (see Article 9 para. 1<sup>1</sup> of the Convention on the Rights of the Child and Article 47, para. 1 of the FLA).<sup>2</sup>

As emphasized earlier, this right can be restricted by various legal or factual obstacles. Such limitations do not entail the loss of the right to live with their parents; rather, they hinder the realization of family rights and obligations by the biological parents. Restricting the child's right to live with their parents also offers the possibility and right for that child to receive care and a family from adoptive parents. Through adoption, the child continues their life without their biological parents, though the child will gain legal parents who will care for them and be considered their parents from the moment the adoption is finalized. Therefore, adoption, as an institution, enables adopted children to experience family life, which, in the absence of biological parents, is provided by adopters. So parents are not only those who give birth to the child; parents are also individuals capable of providing the adopted child with love, care, and support throughout their life, from the moment of adoption to adulthood and beyond. Therefore, "in each case the competent authority shall pay particular attention to the importance of the adoption providing the child with a stable and harmonious home" (Article 4 para.2, European Convention on the Adoption of Children, 2008).

On the other hand, the institution of adoption fulfills the biological need for children for adoptive parents. "To adopt a child means to have previously confronted sterility or some external circumstance that prompts adoption, such as a disaster. This represents the first challenge. The second challenge involves the waiting period for adoption, which can span several months or even years" (Nikolić, 2005, p.196). Adoption, as a unique legal-family form, aims to safeguard children without parents or parental care while also providing

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<sup>1</sup> States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

<sup>2</sup> One of the fundamental rights of minors is the right to live with their parents

adopters with the opportunity to have children. Therefore, it "combines two interests, two human goods, two goals that are complementary. Legally, it fulfills two rights: the right of an individual to become a parent and establish a family, and, on the other hand, the right of a child to safety and education within a family" (Alinčić, Hrabar, Jakovac-Lozić, Korać, 2006, p. 318).

Article 20 of the UNCRC outlines the legal obligation of states to provide alternative care for children without parents or parental care: "1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State; 2. States Parties shall in accordance with their national laws ensure alternative care for such a child; 3. Such care could include, inter alia, foster placement, *kafalah* of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background (Article 20, UNCRC).

Given the nurturing environment childless couples can offer, adoption unquestionably stands as the most fitting legal safeguard for children deprived of the opportunity to reside with their biological family.

Although adoption is the most suitable legal method for providing a child with a family, it has been minimally practiced in Albanian society within our country. A prevalent phenomenon in Albanian society in RNM is the informal adoption of children by close family members or as it is locally known as "adopted in spirit" (in Albanian *birshpirt*), who register the child as their own and conceal the truth about the child's origins and biological parents. Unfortunately, such cases are numerous, often stemming from a lack of interest in adopting children whose parents are unknown or who belong to different ethnic or religious backgrounds. In most instances, children are taken and given away shortly after birth to facilitate their acceptance of care from non-biological parents, while their biological parents are kept secret. Discovering the truth—that they were not born to the parents they lived with—negatively impacts their lives, often altering their behavior and leaving them questioning the actions of their biological parents. In very rare cases, these children accept the situation of being "adopted in spirit" calmly.

### **1.3 Balancing Interests- Prioritizing the Well-being of Children and Adoptive Parents**

Through adoption, the goals and needs of the child, society, adopters, and biological parents who do not have the material conditions to care for the child or who, for reasons known to them, abandon the child are met. "The purpose of the adoption is to realize its social and humane function and to be primarily in the interest of the child who is adopted, but the interests of the adopters should not be overlooked. Also, through adoption, an attempt is made to maintain a balance of interests between the adopted child, the adopters, and the biological parents" (Siljanoska-Kostadinoska, 2005, p.67).

Respecting the interests of the adopted child is a requirement outlined in international documents, including Article 21 of the UNCRC; Article 1, para. 1 of The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption; Article 4, para.2 of the European Convention on Adoption of Children; Articles 3, 9, 18, 20, 21, 37, 40 of the Declaration of Human Rights, as well as within the national legislation. Throughout the adoption process, all conditions must be met by the potential adopters, as well as by the Adoption Commission and the Centers for Social Work, to ensure that by placing the child for adoption, the adopters will provide a life and well-being that offer a safer and healthier childhood.

Through adoption, the interests of the adopters are fulfilled, including their need to have children, to experience parenthood, and eventually, in old age, to have someone to take care of them, provide moral support, assist them with tasks such as attending medical appointments. "If the child's biological parents are alive and known but lack the financial means to care for their child, their interest lies in ensuring the child's well-being and development through adoption. In such cases, they may consent to the adoption of their child, particularly single mothers who are unable to provide even basic material necessities for themselves, let alone for their child. While adoption primarily prioritizes the interests of the child, fulfilling these interests also aligns with the broader social goal of ensuring the child's care during a crucial period requiring parental care, love, and well-being within a harmonious family environment" (Cavdar, 1998, p. 203-204)

Under international law, the best interests of the child must be the paramount consideration in cases of adoption. Aside from the best interests principle, other general principles of the UNCRC also guide and inform its implementation in the context of adoption: non-discrimination, the right to life, survival and development, and respect for children's views (European Union Agency, 2022, p.128). Of particular relevance is General Comment No. 14 of the UN Committee on the Rights of the Child, "on the right of the child to have his or her best interests taken as a primary consideration". Similarly, one of the objectives of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption is "to establish safeguards to ensure that

intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognized in international law” (Ibidem, p.128).

#### **1.4 Understanding the Humanitarian Goals of Adoption**

A healthy family provides the most suitable environment for the protection and well-being of a child. According to the UNCRC, “for the full and harmonious development of their personality, a child should grow up in a family environment, in an atmosphere of happiness, love and understanding” (Preamble of the UNCRC). Therefore, “it must be taken into consideration that children acquire fundamental human values within the family, where they learn how to live, what to value, what attitudes to adopt towards success and failure, and how to accept and express their feelings” (Siljanoska-Kostadinovska, 2005, p.5).

The state, within its strategies, should prioritize the main pillar of society, the family, ensuring and guaranteeing that parents have the opportunity to provide material care and parental love to their children. However, not every child has the opportunity to grow up under the care of biological parents. The Constitution of the Republic of Macedonia envisages the state's obligation to protect children (Article 42, para.1), especially those without parents or parental care (Article 40, para. 4).

The issue of realizing the humanitarian purpose of adoption largely revolves around persons who already have biological children but choose to perform a humane act by adopting abandoned or orphaned children, provided they are financially capable. Such cases are quite rare in our country, as the primary purpose of adoption is to fulfill the desire for parenthood among couples who do not have children. Hence, it is rare for couples with biological children to seek to provide a family for another child whose parents are unknown. From this perspective, providing for a family without any vested interest would indeed represent the embodiment of a humane action for a child who bears no responsibility for the circumstances in which they find themselves. Humanity is particularly evident when children with health problems or any physical or mental disabilities are adopted, although there are no registered cases of such action in our country.

#### **1.5 Single Parent Adoption- Balancing the Interests of the Child and the Single Parent**

Another issue that we would like to address in this paper, which is a current trend not only in our country but also in other countries, is the establishment of families by single individuals. This has been updated in RNM with LBAF, where, according to the provisions of this law, “biomedically assisted

fertilization methods are allowed to utilize adult women who are unmarried and do not live in an extramarital union, provided that the previous treatment was unsuccessful or the treatment with other methods was forlorn and who in accordance with their age and general health condition are capable of parenting” (Article 9, para.3, LBAF). The right to establish single-parent families is guaranteed to women through the Convention on the Elimination of all forms of Discrimination Against Women (see Article 16). But this right is not granted to men, and in this regard, the law exhibits gender discrimination concerning single parenthood. Many women in RNM, as well as in neighboring countries, exercise this right. Additionally, the FLA allows for the adoption of children by single individuals. However, the criteria that adopters must meet are detailed in the Regulation on the Criteria and Method of Selecting Adopters Electronically. Among other factors, this regulation assigns 13 points for the marital status of potential adopters, with an additional 13 points if they have been in a marital union for more than 3 years, 10 points if they have been in a marital union for up to 3 years, 4 points for extramarital union and 1 point for single individuals (Article 25).

It is evident that the positive legislation of the RNM (as well as the legal practice of adoption) still gives priority to the traditional concept of the family by emphasizing marriage and thus avoiding extramarital union and single persons who through adoption but also through methods of artificial reproductive technology (ART) have the right to establish a family. We want to emphasize that these people also have the right to establish a family, even family concepts accepted in contemporary society, but which unfortunately are still unpopular and unacceptable. In the society of the RNM, many stereotypes prevail a concerning the establishment of families by single persons, and in particular by single men, who are denied this right even by the LBAF.

## **2. Understanding the Importance of Genetic Identity for Adopted Children**

Children are often the most beloved being of every family, regardless of the marital status of the parents, whether the children are born out of wedlock, adopted, or conceived with the help of donors. Every child has the right to live in a family and to receive care from both parents, always prioritizing their best interest. However, not all children grow up with both parents; some are raised by a single parent, while others may never know the identity of their biological parents. As previously mentioned, parental relationships can be established in three ways: biologically, legally (through adoption), and through ART methods. In contemporary family law, the concept of parental care is given precedence over biological connection as the legal basis for establishing parenthood. However, this concept of parenting is established based on the best interest of the child, whose interest lies in growing up and living in a stable and healthy family environment, regardless of genetic relation to the parents.

However, issues arise when these children desire and feel the need to uncover the truth about their genetic origins. The right to the recognition of genetic origin is underscored within the right to personal identity and as such should be inviolable. This right is not questioned in situations where a child is born within a marital union, as the mother and father are typically known from birth, except in cases where the biological and legal parenthood within the marital union do not align, thereby necessitating procedures for proving or disputing paternity/maternity. However, the quest for genetic truth may be initiated by adopted children, illegitimate children, as well as children born through ART involving donated genetic material. In these scenarios, the child's biological status differs from their legal status, as they are not genetically related to the parents who care for them. The child's right to know their genetic origin extends to understanding their biological parents and the right to establish and maintain family relations with them. Additionally, the need to comprehend one's genetic origin entails access to information concerning medical history, including potential genetic and hereditary diseases, as well as preventing incestuous relationships among blood relatives.

In RNM, the practice of withholding the truth from adopted children and those embraced as "children of the heart" remains prevalent, a tradition expected to persist for children conceived with donated genetic material. Within our familial circles, adopting a child from within the family, known as a "child in spirit" (*birshpirt*) has long been a favored method of establishing parenthood for couples unable to conceive naturally. The preservation of family honor and stability in parental relationships often prompts legal parents to conceal the truth from children who are not genetically related to them. This practice of secrecy is passionately guarded within families in RNM. Experience demonstrates that revealing the truth to the child inevitably causes emotional turmoil and strains the parent-child relationship. The preservation of familial secrets regarding genetic lineage is further facilitated by provisions in the FLA.

The dynamics of social change in the context of globalization have also influenced the redefinition of institutions within family law. Despite shifts in social and family structures, traditional family concepts are still preserved within the family law framework. In this regard, Article 75 of the FLA stipulates that adopted children and those conceived through ART have the right to initiate procedures for proving or disputing paternity/maternity. The text of the law explicitly safeguards the anonymity of biological parents and genetic donors (a right also guaranteed by the LBAF). According to the FLA, upon the completion of adoption and registration in the Register of Births, the adopters are legally recognized as the parents of the child, with the place of birth marked as agreed upon by the adopters (Article 7, FLA). Therefore, from a legal standpoint, adopters are considered the parents of the adopted child from the moment of their birth. In addition, as the data regarding established adoptions are classified as official secrets (Article 123-a, FLA), the child is

deprived of the right to be informed of the identity of their biological parents. Nevertheless, it should be noted that denying the right to know one's biological origin contradicts Article 7, paragraph 1 of the UNCRC. Furthermore, the acknowledgment of genetic identity, within the context of respecting private and family life, is also ensured by Article 8 of the European Convention on Human Rights (ECHR). These conventions are also ratified by the RNM. The right to seek genetic truth opens up another debatable situation, namely the conflict between the interests of the child and the anonymity rights of the donor (see more at Recommendation no.2156, 2019). The principle regarding the right to know one's genetic origin clashes with the donor's right to remain anonymous in cases of allogeneic fertilization. Consequently, in comparative law, the issue of prioritizing one right over the other, particularly in scenarios where biological parents who have relinquished a child for adoption wish to remain anonymous, remains unresolved. In most cases, the desire to (not) assume parental responsibility takes precedence over the truth about genetic ancestry.

This aspect is particularly evident in situations involving the protection of anonymity during birth, establishing and contesting extramarital paternity, and various methods of artificial reproduction, as well as adoption. Therefore, court procedures ordering the proof of genetic parenthood through DNA analysis would, on one hand, infringe upon the preservation of privacy and anonymity (see more the case *Mikulić v. Croatia*), while, on the other hand, they would help the child understand the truth about their genetic origin. As explained above, in RNM, adopted children are legally prohibited from discovering the truth about their biological family. Usually, curiosity about the truth arises during teenage years, curiosity which may be shared with relatives or friends. In such situations, closed groups on social networks serve as technological avenues to uncover the truth, groups such as Facebook groups titled "Biological Parents and Children," "Adopted Children," and "In Search of Biological Parents, Child, Brother, Sister." However, these methods of seeking the truth often come with many misunderstandings and much misinformation.

In the jurisprudence of the European Court of Human Rights, there are numerous cases regarding the right of the child to know their origin. In nearly all of these cases, this Court upholds the position that Article 8 of the ECHR also guarantees the right to personal identity. Details pertaining to identity and an individual's interest in obtaining information necessary to uncover the truth about critical aspects of family identity, such as the identity of parents (see the case *Odièvre v. France*), play a significant role in personality development. Birth and the circumstances surrounding it are crucial elements of a child's private life. Information about personal aspects from childhood and the past can serve as important sources of information regarding the history of one's private life (see the case *Gaskin v. United Kingdom*). Therefore, the inability of a child to access relevant personal information constitutes a violation of the right to personal identity recognition guaranteed by Article 8 of the ECHR.

In RNM, we still do not have judicial procedures regarding the examination of genetic identity. However, considering the legal contradictions, the non-implementation of ratified conventions, and the insufficient recognition of international law by the judiciary, we may find ourselves before the European Court of Human Rights in the near future. This is because the children of our country are also entitled to the protection of their right to private and family life, as well as the right to psychological stability concerning their identity.

Regardless of the price of life, no child should face discrimination. The right to genetic identity should be firmly established as a concept in both the FLA and the LBAF. This should always prioritize the highest interest of children conceived with donated genetic material, in relation to both biological parents and donors. Recognizing genetic identity should in no way affect legal or biological parenthood. Legal and biological parenthood differ only in terms of genetic “stamp”; however, every aspect of parental love, rights, and obligations should remain the same in both cases, as the care and well-being of a child are the top priorities for parents.

Facing the truth can be challenging, yet it holds greater worth than embracing a comforting falsehood.

## CONCLUSION

The paper elaborates the importance and specific purposes of adoption, an institution within family law ultimately designed to safeguard the well-being of the child through those who assume parental roles. It also underscored adoption's purpose as perceived from the adult's perspective, aiming to address their absence of children and fulfill their desires for parenthood. Based on the detailed analysis of the provisions of the FLA that regulate adoption, the challenges encountered in legal practice concerning the truth about adoption, and an analysis of the alignment of the FLA with the UNCRC, two primary issues deserving priority should be distinguished:

First, the FLA, through its provisions, does not allow for the right to prove or dispute paternity/maternity in cases where the parental relationship is established through adoption. This means that these children are denied the right to know their biological parents. From a perspective of rights protection, the FLA upholds the right to anonymity of biological parents and the fact of adoption. Our law does not acknowledge the adopted child's right to receive information about their biological parents, as guaranteed by Article 7, paragraph 1 of the UNCRC. This legal provision also contradicts Article 22, paragraph 3 of the European Convention on the Adoption of Children, which ensures the child's right to obtain information about their origin. The right to know biological origin is a crucial component in establishing personal identity. Understanding the facts surrounding biological origin is important, but equally significant is gaining access to family medical history. Additionally,

recognizing genetic lineage plays a vital role in preventing incestuous relationships among blood relatives (as illustrated by the recent case of the marriage between a brother and sister adopted in Veles). If the RNM wants to align their domestic legislation with ratified international agreements, it is imperative to incorporate legal amendments that uphold the principle of the child's best interests.

The second point pertains to the FLA, which outlines two types of adoption: full adoption, where family relationships mirror those established by birth, and incomplete adoption, which establishes relationships akin to those between parents and children rather than other family members, explained in detail in the preceding section of the text.

In the practice of our country, cases of establishing incomplete adoption are rare, with the majority being full adoptions. Incomplete adoption runs contrary to the purpose of the institution of adoption because it does not emulate the natural process, as is the case with full adoption. For the proper and healthy development of the child, it is essential that the parental relationship established through adoption be permanent and unbreakable. Since the "legal kinship" created through incomplete adoption is not inherently permanent and can be dissolved, it inherently introduces uncertainty into the parental relationship, which can have negative effects on the child's personality development. Therefore, it is considered that incomplete adoption does not align with the principle of the best interest of the child. Given that we are among the few jurisdictions that allow this type of adoption, it would be appropriate, for the aforementioned reasons, to eliminate incomplete adoption as a possibility for establishing parental relationships, and to recognize only full adoption, which faithfully mirrors parenthood.

Analyzing the purposes of adoption from various perspectives, it is important to prioritize the child's best interests and place emphasis on them. The needs of children should always take precedence when it comes to providing a family environment and ensuring that they are cared for by individuals who will assume the role of parents.

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