

THE NAME – IDENTIFICATION ELEMENT OF A NATURAL PERSON

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Abstract: *Identifying people by name is as old as the emergence of social life. So, since ancient times, there has been a need for any person to have a name, a need determined by a certain social requirement, namely, the need to identify people within society. At national level, since the 19th century, there have been normative acts in Romanian legislation that expressly stipulated that any person must have a double name, composed of a first name and a surname, and, at the same time, imposes that in the civil state documents, persons be presented by first and last name – according to the Organic Regulation and the Civil Code from 1864 during the reign of Alexandru Ioan Cuza. Also, at international level, there have been, over time, legislative provisions that established the importance of the name, as an element of identification of persons. In conclusion, the name individualizes the person both in society and in the family, bringing together the social, family and individual interests of the person.*

Key words: *surname, first name, identification, person, origins*

1. Introduction

The use of names in human society is getting lost in the mists of history. In order to make a clear distinction between the members of a community, people had the ingenuity of using a name by which they addressed an individual or, in his absence, referred to him. The name of a person represents, in fact, one or more words, indicating some entity, often without specifying or signifying individual attributes.

In the past, among primitive populations, the choosing, changing or keeping of the name were determined by people's belief in the power of the name. In one conception, the power of the name resides in the name itself. According to this belief, the name was identified with the person, with their very life. For example, the ancient Egyptians considered that the name, the soul and the *alter ego* are elements of the individual that do not die along with the body. That being the case, it was considered that the name can replace the person, and the presence of the name implies the presence of the person. On this fabulous land, it was believed that whoever knows a person's name

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gains power over him and can dispose of him as he pleases. That is why the name had to be kept secret and was usually known only by the parents; in public, the person had a different name. The name had a great importance in magic, because, pronounced in a certain way by the sorcerer, it became a powerful evil force directed against the bearer, to whom it could even cause death. For this reason, the art of pronouncing the name in different ways had to be perfectly possessed by the magician. In this mysterious universe, any important change in the individual's life had to be reflected in the name. It is said that, in fact, this is the origin of changing the names. Some tragic events in a person's life were attributed to the name and therefore it had to be changed to a better one.

Finally, we recall the belief according to which the existence of the person after death depends on the preservation of his name. It seems that this is *the origin of the tradition of giving the child the name (first name) of one ancestor*; this tradition also exists in peoples who did not proliferate reincarnation.

2. Genesis of the name

In the formation and historical determination of the name, there were several **onomatological systems**, as follows:

In ancient Greece, the system was very simple, meaning that people had a *unique name*, such as SELON, DEMOSTHENES, PERICLES, PLATO, ARISTOTLE, DIOGENE, etc.; according to D. Lupulescu, A.M. Lupulescu in *Identification of the Natural Person*, 2002, p. 59, the same applies with Jews and Egyptians. The ancient Greeks believed that the name has the power to influence destiny and used the analysis of the first letter of the first name as a method of prediction.

Onomancy (also known as *onomomancy*) is a divinatory art based on name analysis. The name derives from ancient Greek, where *onoma* means *name*, and *manteia*, prophecy. This discipline was intensively practiced in ancient times with the aim of deciphering man's destiny and sometimes to determine it. The first and most ardent supporters of onomancy (onomomancy) were the followers of Pythagoras.

From the Greeks, the practice was later taken over by the Romans, who even had a saying - "*Nomen omen*" - which in free translation would mean "*The name attracts fate*". They were so convinced of the fact that the power of the name could influence the course of things, that they extended the applications of onomancy to cities. The ancient geographer Pomponius Mela noted in the work "*De chorographia*" that the Roman authorities changed the name of a newly conquered Illyrian city, to make it more favorable to Rome (it is the current Albanian port of Durrës).

Among all the peoples of the world, the Romans had the most developed and advanced system of names. It seems that the tradition of having a first and last name derives from the *Etruscans*, the ancient inhabitants of the Italian peninsula. The Romans, however, added a third name.

In the historical period immediately following the construction of the fortress, the Romans only had a first name, which was actually a personal name, according to T.O. Bompă (*First names for Romanians*, 2005, p.16). Later, hereditary names and an *accompanying name* were added to the name. So the Romans had the following forms of names, according to D. Lupulescu in *Name and domicile of the natural person*, 1982:

- *nomen* or *gentile nomen*, which was the common element for all members of the same clan (this was the most important). A clan had a common ancestor, whose name it inherited. The Gints, numbering 50, represented the original group, which together with Romulus and Remus laid the foundations of the Eternal City;

- *praenomen* represented the second element, which preceded the first and with the help of which the members of the same clan were identified with each other;

- the third element was the *cognomen*, which, loosely translated, means *nickname*. For example, the name Publius Cornelius Tacitus (historian) decomposed: *Publius* is a *praenomen*, *Cornelius* is the name of the clan (the name of the clan was *Cornelia*, derived from "horn, with horns"; in antiquity, the horn of a ram or bull was the symbol of abundance), and *Tacitus* was a *cognomen*, that is, a nickname. Or, the name of the famous Roman orator and erudite Marcus Tullius Cicero means, in order: *Marcus* is the first name, *Tullius* shows that he was part of the *Tulia* clan (the clan name always ended with *-ius* for boys and *-ia* for girls), and *Cicero* is the cognomen.

According to T.O. Bompa (2005, p. 46) other leading personalities of Rome each had a *cognomen*: *Caesar*, for the great general Caius Iulius; *Flaccus*, for Quintus Horatius; *Naso* for the poet we adopted, Publius Ovidius; *Brutus*, for the statesman Marcus Iunius and *Maximus*, for another statesman, Quintus Fabius.

-Although not very often, *some Romans also received a fourth name: agnomen*, as in the case of Publius Cornelius Scipio Africanus. The respective agnomen was given to this general for his special services to Rome, because he defeated Carthage, a very strong city built by the ancient Phoenicians (originating from today's Lebanon) in North Africa (Tunisia). Hence the agnomen "Africanus". Although the personal names, i.e. the first names, were at the beginning of great variety, later each clan had specific preferences, such as: *Numerius* for the *Fabia* clan, *Appius* and *Decimus* for the *Claudia* clan, *Mamercus* for the *Emilia* clan, etc.

Some first names were given to newborns either depending on a certain moment of the day when a child was born, or in the order in which they were born. Thus, first names like *Manius* or *Mania* were given to children born in the morning (*mane* = morning); for those born in the middle of the day, when the sun was strongest and brightest, the preferred first name was *Lucius* or *Lucia* (*lux*, *-cis* = light). The first names specifying the order of birth in a family were the following: *Primus*, *Prima*, for the first born; *Secundus*, *Secunda*, for the second; *Tertius*, *Terta*, for the third, etc.

The first name was given to Roman children on the ninth day after birth, a day called "purification day" or "*dies lustralis*", something similar to our baptism. But the registration in the community files of that person was done only at the age of maturity, when boys wore the "virile toga", or man's toga, a traditional long shirt, according to T.O. Bompa (2005, p. 48).

Regarding the manner in which the Dacians chose their name, it seems that the archaic tradition of using the expression "son of..." as in "*Decebalus per Scorilo*" - Decebalus, son of Scorilo was followed. However, certain Dacian surnames and names of Dacian localities were found in the "*Tablet of Pentinger*", a map referring to Dacia of the 3rd-4th centuries AD.

In the Latin language, in which the inscription is written, PER means nothing but: THROUGH. PER me, PER te, PER se (ipsum) = by me, by you, by yourself (without foreign help) such as: "PER tre populos Gallia" (Julius Caesar) "To take possession of Gallia by (with the help of) three nations". Consequently, DECEBALUS PER SCORILLO reads simply, logically and indisputably: DECEBAL BY SCORILLO".

And, finally, Romulus Lal states: *"Even if we were to accept - Per absurdum - that the Daicoviciu translation would be the correct one, which is not the case, as I have shown, a single example would be too little to draw a conclusion on the procedures for assigning names to Dacians. Because none of the other names of local kings and rulers that were handed down to us by the historians of the time - Herodotus, Strabo, Dio Cassius, Eutropius, etc. – are not accompanied by his son: Robobostes, Oroles, Burebista, Dromichete, Cotios, Cason, Duras-Diurpaneus, Comosicus, Ziraxes, Diges the brother of Decebalus, etc. We think that the Dacians acquired their name - uninominalis - just like the Romanians until the 17th-18th century, according to the profession they practiced, according to different particular signs, according to the way of being, or according to the deeds committed especially in wars, according to merits or defects. A good example is Bicilius, the treacherous Dacian who showed the invading Romans the route of the water pipe that supplied the besieged. And, from which, we inherited the adjective ... bicisnic(us). The process his son was specific to Greeks: Agathocles, the son of Antiphilos; Hector, the son of goddess Thetis; Socrates, the son of Sophronistic; Pericles, the son of Xanthippos; Alcibiades, the son of Clinical etc. If the Dacians borrowed, or not, the Greek procedure, we won't ever know.»*

After the occupation of Dacia by Romans, many Dacians borrowed the Roman tradition of choosing names, especially in the case of mixed families. Same thing happened with the descendants of the combination of Dacians and Romans, the term used being that of "Dacoromani". In this way, we can make a clear distinction between the new people born from mixed couples and the *proto-Romans, from the second millennium*. The Roman tradition became the Daco-Romans' tradition. The Christian Religion of Roman origin, that represents today 's Catholic rite origin, was the Daco-Romans' religion until in the 11th century, when in the Dacoromania, through the Bulgarian church, the Orthodoxy of Greek origin was introduced, from Constantinople according to T.O. Bompă (2005, p. 48).

The evolution of the Romanian women's names had a different course than the male ones. First, the girls only had a first name, such as Livia. Later, with the growth of the Roman population, the tradition of adding the father's or husband's name to the first name was introduced. So the girls could be called: Livia f. Meteli, or Livia Corneli. In the first case, it is shown that Livia was the daughter (f. from *filia*) of Metelus, and in the second case that Livia was the wife of Cornelius, according to T.O. Bompă (2005, p. 48). After the fall of the Roman Empire and with the expansion of Christianity, this system was abandoned, adopting the names of the saints, but as they were few in number, the need was felt to return to the patronymic name system, preceded by a first name. As a rule, the first name was chosen from the names of the saints, while the name was made up according to the circumstances. Thus, some people took as their name their place of

origin, others a nickname, a profession, names of animals, birds etc., according to D. Lupulescu, A.M. Lupulescu (2002, p. 12).

In Gaul, with its submission, there was a switch to the Roman system, but when it was invaded by the Franks, the unique name system was revived, with the difference that men once Christianized took their unique name from the calendar of the Christian church. In the twelfth century, the tendency of the double name reappears and the second name consists of a nickname. One of these two elements needed to become hereditary, in order to return to the double name system in Roman law, and in the 13th century the *heredity of names really begins*, according to V.V. Popa (2006, p. 392). It is also interesting to note how the name was born in France. *Le surnom, le sobriquet*, i.e. the nickname that made up the second name, was derived, for some, from their profession, for example: *Charron* (spinner), *Cordier* (ropemaker), *Tisserand* (weaver); to others from their physical attributes, such as: *Lefort* (strong), *Lenain* (dwarf). There were some who chose their name after the place of origin, calling themselves *Le Normand*, *Picard*, *Breton* or from the situation of their residence: *Dupuy*, *Dupont* or *Grandmaison*. There are also some names that were simply the fruit of fantasy, but some turned out to be aesthetically uninspired, such as: *Le Lievre* (rabbit), *Le Boeuf* (ox, cow) or *Mouton* (sheep, ram). Nobles had, by their baptismal name, added the name of seniority, according to V.V. Popa (2006, p. 393), for example: *Jacques de Bourbois*, *Jean d'Armagnac*.

With us, Romanians, at the beginning there was *the system of unique and non-transmissible name*, and people called each other simply: Ion, Petru or Gheorghe.

Throughout time the individualization of the people who wore the same name was increasingly difficult, so they started to use the formulas Ion the son of Gheorghe, Petru the son of Stan, and in documents, this was expressed as: Ion *sin* (Slav) Gheorghe, which meant the same thing. Then the nickname started to be added. Thus it came to indicate dependence by adding the adjective: *escu, iu, eanu*. Some believe that the ending *escu* is of Slavic origin, being identical to that of *evici*. That is how the names appeared: Ionescu, Ioaniu, Iliescu or from Marin, Marinescu or Marineanu. These names appear especially with the development of culture through schools and churches, according to V.V. Popa (2006, p. 392). A serious situation occurred because there were some foreigners who carried on a trade in one corner of the country, went bankrupt, then moved to another corner of the country and romanized their name, changing it completely, there being no relative formality when changing the name. Thus, Rosenfeld changed to Rosseti, Rosenzweig to Roznoveanu and Braunstein to Brăteanu, according to N. Titulescu (2004, p. 131-133). Both in society and in the case of legal relations in which natural persons participate, the name must be considered as a whole, as a unit, that is, in the totality of its constituent elements. Only in this unity can the name serve to identify the natural person in society.

3. Legislative provisions in the field

In our country, after The Organic Regulation, which stated that every person must have a double name (compound from a first name and a name), and after provisions of

the Civil Code (Cuza – 1864), which required that, in civil status documents, persons should be shown through last name and first name, ***the first normative act that regulates in a unitary whole problems regarding the name of a person is the law on the name, no. 18/ March 1895***, which stipulated:

– no one is allowed to bear another patronymic name than that under which they are registered in the civil status documents;

– the inhabitants of Romania, villagers, who have no patronymic name will be able to form one, with their father's baptismal name to which one of the endings that are in the tradition of the country, such as "*escu*" or "*eanu*", is added in such a way as to differentiate the first name from the last name.

This law stated that every person must have a last name. If he didn't have one, he was required to make a statement at the local City Hall, in which it was shown that he understood to wear his father's baptismal name, to which, according to the tradition, one of the endings *escu* or *eanu* was added, according to P. Peţu, E. Velicu, V. Mardare (2006, p. 87). For example, if the father had his baptismal name *Dumitru* (derives from *de* = the second and *mater* = mother; *Demeter*, the goddess of vegetation and fertility of the earth), the son declared and had the name of Dumitrescu.

Or if the father's name was Ştefan (which derives from the Greek *Stephanos* = crown), the son had the name of Ştefănescu and from Alexandru (in Greek *Aleksandros* = "the one who defends people ", from *alexa* = to defend and *andros* = man), to Alexandrescu, etc. The name acquired in the manner shown was passed on the edge of the birth certificate of the person in question;

- the married woman takes her husband's patronymic name and loses it through divorce;
- the administrative name change was approved by the Council of Ministers and operated with full right also on the wife and minor children.
- Law no. 18/1895 was repealed with the appearance of Law no. 72/April 1936, which provided:
- the legitimate or legitimized child, through the parents' marriage, takes the father's surname;
- the recognized but illegitimate child takes the mother's last name;
- the adoptee adds the adopter's surname to his/her name, being able to put this name right before his/her name, if they so wish;
- the married woman bears her husband's name, but can add her own surname to it;
- the administrative change of surname is approved by royal decree and has effects on the wife and minor children;
- The Ministry of Justice approves the reacquisition of alienated or lost old Romanian names.

This law was repealed by Law no. 646/August 1945, which preserves the previous rules regarding the acquisition of the family name through the effect of the law, and the administrative name change is approved by the Minister of Justice, having effects on the wife and minor children.

By Decree no. 54/February 1949 one is given the right to administratively change not only the surname but also the first name, even if until that time the first name could not

be changed, its attribution being strictly linked to the baptism ritual. Decree no. 273/December 1950 provided that the administrative name change is approved by the MAI through the General Directorate of the Militia and does not affect the surname of the wife and minor children. Later, other regulations appeared in this field.

At the international level, we mention the UN Convention on the Rights of the Child adopted by the UN General Assembly (ratified by Law no. 18/1990) where, in art. 7, it is stipulated that "the child is registered immediately after his birth and has the right to a name from this date".

4. Casuistry

As a topical issue, I would like to exemplify the divergent legal trend between the national legislation and the legislation of other countries, namely in the present case Italy.

Thus, in accordance with the provisions of art. 414 paragraph (1) in conjunction with art. 449 of Law 287/2009 on the Civil Code of Romania, republished, with subsequent amendments and additions: *"The child born or conceived during the marriage has the mother's husband as its father. The child of the marriage takes the common surname of his parents. If the parents do not have a common name, the child takes the name of one of them or their combined names. In this case, the child's name is determined by the consent of the parents and is declared, once the child is born, at the civil status service. In the absence of the consent of the parents, the guardianship court decides and immediately communicates the final decision to the civil status service where the birth was registered."*

Contrary to these provisions, according to Italian legislation, the child is registered based on the parents' declaration, regardless of the mother's civil status (married, divorced).

Considering these existing legislative inconsistencies at the level of two European states regarding the registration of the child's birth, I submit to your attention a procedure for transcribing the birth certificate issued by the Italian authorities in the Romanian civil status registers.

The example below represents just one of the cases we regularly face at the level of civil status services, which register an increasing trend, given that more and more children, with parents who are Romanian citizens, are born in other states.

5. The D.A.D. case

On 06.05.2020, the child with the last name D. and the first name A.D. was born in Turin-Italy. He had a father with the last name D. and first name C.F., and a mother with the last name P. and first name A.C. Later, on 01.09.2021, the mother of the minor presents herself to the competent Romanian authorities, namely the Civil Status Service, in order to request the transcription of the birth certificate issued by the Italian authorities regarding the D.A.D. minor.

Checking the civil status of the mother, it was found that the provisions of art. 414 para. (1) in conjunction with art. 449 of Law 287/2009 on the Civil Code, meaning: the mother was married on 18.08.2006 in the municipality of Bucharest, sector 6. On 28.02.2020 the divorce was pronounced by the competent court, the sentence remaining final and irrevocable on 15.04.2020. Thus, according to the aforementioned, the child was conceived during the marriage, with the father of the mother's husband, respectively C.C.F. In the civil status register of the competent authorities in Romania, the birth certificate of the minor D.A.D. was transcribed with the last name P., belonging to the mother and the first name A.D., (the mother being called P.A.C.), and C.C.F., the ex-husband of the mother, being registered as the father. Further, according to the provisions of the Romanian Civil Code, the mother was instructed to file in court the actions of: denial of paternity, establishment of filiation with the said D.C.F. and approval of bearing the name. The purpose of these actions was that the birth certificate transcribed by the Romanian authorities was consistent with the birth certificate issued by the Italian authorities.

Considering these legislative inconsistencies in the field, according to the D.A.D. case, I believe that it would be necessary, at the European level, to consolidate the legal provisions in the matter, with the aim of reducing both the discomfort of the applicant and the duration of clarification of the minor's social status.

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