

Domicile Versus Residence - Comparative Study According to the Legislation of Romania and European States

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Abstract

The article comparatively analyzes the concepts of domicile and residence in the legislation of Romania and other European states, highlighting the legal and administrative differences. The basic definitions and the legislative framework in Romania are presented, including the recent changes brought by O.G. no. 9/2024, which updates O.U.G. no. 97/2005. These changes simplify the administrative procedures for establishing residence and introduce a digital platform for registration, reducing the required documents and making obtaining a floating visa more flexible. The article compares Romanian legislation with that of other European states, such as Germany, France and Italy, analyzing the directives and common regulations of the European Union. The article also provides a detailed analysis of the legal rights and obligations associated with domicile and residence, highlighting the essential differences between these concepts in the administrative and legal context. The impact of recent legislative changes, including the simplification of bureaucracy through digitization and the reduction of processing time for obtaining temporary residence, is discussed in detail, providing a practical view of the effects on citizens. The recommendations focus on adapting to the new regulations and on the efficient management of formalities, considering future legislative changes at national and European level. The conclusions highlight the main ideas and provide recommendations for citizens, while also proposing future legislative perspectives.

Keywords: domicile, residence, legislation, European Union.

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1. Introduction

The concept of domicile and residence represent two fundamental notions in the legislative and administrative framework, having direct implications on the rights and obligations of citizens. In Romania, these concepts are regulated over time by various normative acts, and the recent legislative amendments brought by the Government Ordinance (O.G.) no. 9/2024, which updates the Government Emergency

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Ordinance (O.U.G.) no. 97/2005², generated significant changes regarding the establishment of residence and the administration of these procedures. Simplifying the bureaucracy, introducing a digital platform for registration and reducing the required documentation are important steps in making the process of obtaining temporary residence more flexible.

At the same time, other European states, such as Germany, France and Italy, have different approaches to these concepts, in accordance with European Union regulations and directives.³ The comparative analysis of the legislation in Romania and in these states provides a clearer perspective on how the rights and obligations related to domicile and residence are perceived and administered at the European level.

This paper aims to explore the legal and administrative differences between domicile and residence, both in the context of Romanian legislation and in relation to other European legislative systems, providing a detailed analysis of the impact of recent changes on citizens and the administration.

2. Basic definitions and concepts

In the legal and administrative framework, the concepts of domicile and residence have essential meanings, defining the relationship of citizens with the state authorities and determining the framework for the exercise of civil rights and obligations. Although these terms are often used colloquially, in law they have specific meanings that influence administrative procedures and the rights of individuals, especially in the context of cross-border and free movement within the European Union.⁴

In Romanian legislation, domicile is defined as the main and stable place where a person carries out his life and main activity. According to the Romanian Civil Code, the domicile has a permanent character and is the address at which the person is officially registered in the civil status documents. The domicile influences the individual's relationship with the authorities, being the place where the citizen is called to fulfill most of his administrative obligations, such as paying taxes or exercising the right to vote.

In essence, domicile indicates a stable place of residence, which must be communicated to the competent authorities. This is the place considered legal by the state to conduct legal, administrative or fiscal proceedings.

Unlike domicile, residence is the place where a person lives temporarily,

² Ordinance no. 9 of January 25, 2024, to amend the government's emergency ordinance no. 97/2005 regarding the record, domicile, residence and identity documents of Romanian citizens, published in the Official Gazette no. 69 of January 25, 2024.

³ Dimitry Kochenov, Martijn van den Brink, *Legal Residence and Physical Presence: The Law and Practice of Naturalization in EU Jurisdictions* (August 14, 2023). Working Paper No. 165-2023, COMPAS, Centre on Migration, Policy, and Society, University of Oxford, Available at SSRN: <https://ssrn.com/abstract=4540588> or <http://dx.doi.org/10.2139/ssrn.4540588>.

⁴ For a comparative view and some specific details see Surak, Kristin. 2020. "Who Wants to Buy a Visa? Comparing the Uptake of Residence by Investment Programs in the European Union." *Journal of Contemporary European Studies* 30 (1): 151–69. doi:10.1080/14782804.20.20.1839742.

without being considered stable. Residence can be changed more easily than domicile and can be registered in cases such as study, temporary work or other situations involving travel. Residence is regulated by O.U.G. no. 97/2005 and, following the amendments brought by O.G. no. 9/2024, its registration procedure was simplified, introducing the possibility of digital registration and reducing the necessary documentation.

Thus, residence is a dynamic concept, reflecting the current place where a person lives for a given period, without permanently changing the official home address.

The main difference between domicile and residence lies in the stability and duration of residence. Domicile is characterized by long-term stability and implies a permanent attachment to a specific place, being the place that defines a person's official address. In contrast, residence is associated with a temporary and flexible stay that does not imply a permanent commitment to the place.⁵

From a legal point of view, domicile is the place that determines the jurisprudence applicable to a person in certain legal aspects, such as taxes, public services and other administrative obligations. Residence, on the other hand, typically serves as a temporary location that can only influence certain administrative aspects, such as access to local services or registration at a secondary address.

Domicile and residence have direct implications on the rights and obligations of citizens. Depending on the place of residence, a person may be subject to local regulations regarding taxes, access to public services or other administrative responsibilities. Residence, on the other hand, can influence access to services such as healthcare or education in the area where a person temporarily works.

The recent changes brought to the legislation in Romania, especially through O.G. no. 9/2024, reflects a trend to simplify administrative procedures and digitize processes, with the aim of facilitating the registration and updating of data on the domicile and residence of citizens.

3. The legislative framework in Romania

The legislation regulating domicile and residence in Romania has evolved significantly in recent decades, especially in the context of European integration and modern trends of administrative simplification. The current legislative framework includes a series of normative acts that establish the definitions, procedures and responsibilities of citizens regarding the declaration and updating of domicile and residence. Recently, these norms were updated by O.G. no. 9/2024, which introduced important reforms aimed at reducing bureaucracy and facilitating the electronic registration of residence.

Civil and by O.U.G. no. 97/2005 regarding the records, domicile, residence and

⁵ Adriana Mihaela Soaita, „The meaning of home in Romania: views from urban owner–occupiers”, *Journal of Housing and the Built Environment* 30, 69–85, 2015. DOI: <https://doi.org/10.1007/s10901-014-9396-3>.

identity documents of Romanian citizens. This normative act clearly defines domicile as the place where a person has his main and stable home, while residence is the place where the person lives temporarily, for a certain period.

The Civil Code imposes the obligation of citizens to declare their domicile and, if applicable, to obtain a floating visa in the event that they wish to establish their temporary residence in another place. Also, domicile is the central element for determining the territorial jurisdiction of courts and administrative authorities in various legal proceedings.

One of the most important legislative changes in recent years regarding domicile and residence in Romania was brought by O.G. no. 9/2024, which updates O.U.G. no. 97/2005. This ordinance introduced a number of measures that simplify administrative procedures, making them more accessible and efficient for citizens.

Domicile and residence influence many legal aspects in Romania, from the jurisdiction of the courts to access to social or educational services. Domicile is considered the official address where a person can be contacted by the authorities and where important legal documents can be communicated to him. Also, residence plays an essential role in exercising the right to vote, determining the polling station to which citizens are assigned.

On the other hand, temporary residence, regulated by the same legislation, allows people to access services and benefit from local rights in the locality where they live for a certain period. Residency does not replace domicile, but it offers flexibility to those who cannot change their permanent domicile but need to live temporarily in another city or town.

The obligations of citizens to declare and update their domicile and residence are clearly provided for in Romanian legislation. Failure to declare a change of domicile or residence may attract administrative sanctions, and citizens are obliged to comply with the deadlines set for registering these changes. Citizens must also be aware of the legal implications of changing their domicile or residence, especially regarding the relationship with state institutions, such as the National Tax Administration Agency (ANAF) or the courts.

The new regulations introduced by O.G. no. 9/2024 come to the aid of citizens by simplifying these procedures and by promoting digitalization, but the responsibility to comply with the legislation remains a fundamental one for all citizens.

The Romanian legislation on domicile and residence is in harmony with the directives and regulations of the European Union, especially regarding the free movement of people. Romania applies the same general principles regarding domicile and residence as the other EU member states, ensuring that Romanian citizens and those from other member states benefit from the same rights regarding residence registration and access to public services.⁶

The European Union promotes common standards that ensure the recognition

⁶ Directive 2004/38/EC of the European Parliament and of the Council of April 29, 2004 on the right of Union citizens and their family members to move and live freely on the territory of the member states amending Regulation (EEC) no. 1612/68 and repealing Directives 64/221/CEE, 68/360/CEE, 72/194/CEE, 73/148/CEE, 75/34/CEE, 75/35/CEE, 90/364/CEE, 90/365/CEE and 93/96/CEE (JO L 158, 30.4.2004).

of citizens' rights in all member states, facilitating their mobility and protection. In this context, Romania has implemented a series of measures to comply with these norms, adapting national legislation to European requirements and to the needs of citizens who move to other member states for work, studies or other reasons.

The legislative framework in Romania regarding domicile and residence has evolved significantly to adapt to the modern requirements of mobility and administrative simplification. O.G. no. 9/2024 introduced important reforms that improve citizens' access to services and reduce bureaucracy, while the legislation remains aligned with European regulations. This evolution contributes to a better management of the relationship between citizens and authorities, ensuring the protection of rights and the simplification of administrative procedures.

4. The legislative framework in the European states

Legislation regarding domicile and residence varies significantly between European states, although they all operate within a common framework defined by European Union directives, which promote the mobility of citizens and the standardization of certain administrative practices. However, national differences remain notable, being driven by different legal traditions, distinct administrative structures and local needs.

Germany. In Germany, domicile (*Wohnsitz*) and temporary residence (*Nebenwohnung*) are regulated by the Federal Registration Act (*Bundesmeldegesetz - BMG*)⁷. This law requires citizens to register both their domicile and their temporary residence with the local authorities (*Einwohnermeldeamt*) within two weeks of moving. The main domicile is defined as the place where a person mainly lives and establishes economic and social relations, while a temporary residence may be used for professional or study purposes.

Germany has a rigorous system of citizen registration, which plays an essential role in access to public services, but also in the context of tax rights. If a person owns more than one residence, they must specify which one is their primary residence, this decision having important tax and legal implications.

France. In France, the concept of domicile (domicile) is regulated by the Civil Code, being defined as the place where a person has his main residence and the center of his economic and family interests. French law makes a clear distinction between domicile and residence (*résidence*), the residence being the place where a person lives for a determined period, without having a permanent character.⁸

According to French law, citizens are required to declare their domicile, but the procedure is not as strict as in Germany. In France, a person may not be registered with the local authorities as a temporary resident, as this is more laxly regulated. In addition, domicile plays an essential role in determining the territorial jurisdiction of the courts

⁷ Federal Act on Registration of 3 May 2013 (Federal Law Gazette I p. 1084), as last amended by Article 11 of the Act of 18 July 2017 (Federal Law Gazette I p. 2745).

⁸ Article 102, Civil Code, amended by law no. 2014-366 of March 24, 2014 - art. 46, version in force since March 27, 2014.

and in determining tax obligations.

Recently, administrative reforms have been introduced in France that facilitate internal moves and simplify changes of domicile, including by digitizing the processes for notification of change of domicile.

Italy. In Italy, domicile and residence are governed by the Italian Civil Code and the legislation on the population register (*Anagrafe*). Domicile (*domicilio*) is the place where a person has his permanent residence and where he receives official correspondence, while residence refers to the place where the person actually lives and can access local public services.

According to Italian law, all citizens are required to register with the town hall of the locality where they establish their residence, and failure to declare a change of residence may attract administrative sanctions. Registering with the Registry Office is important for access to healthcare, education and other social services, but also for determining local fiscal powers⁹.

A specific aspect of Italian law is the possibility of domicile in one locality and residence in another, this flexibility being particularly useful for citizens who work in a different region than the one in which they permanently reside.

Although there are differences between the national systems governing domicile and residence, the European Union has imposed certain common standards aimed at ensuring the free movement of people and equal access to services in all member states. Directive 2004/38/EC on the right of citizens of the Union and their family members to move and settle freely within the territory of the Member States requires Member States to allow EU citizens to settle in their territory and access services on an equal basis with nationals.

At the same time, national legislation must comply with European regulations on the protection of personal data in the context of the registration and management of information about domicile and residence. Also, the national reforms are influenced by the European trends of digitization of the public administration, many European states following the example of other countries in the implementation of electronic home and residence registration systems.

The legislative framework on domicile and residence in European states varies, but there is a common effort to harmonize procedures and simplify administrative formalities through digitization. Germany, France and Italy offer examples of good practice in the management of these concepts, each having a specific system of registration and administration, adapted to national needs and complying with European Union directives. The diversity of approaches underlines the complexity of regulating these issues in Europe and the need for continuous reforms to meet the modern demands of citizens mobility.¹⁰

⁹ Enrico Gargiulo, *Introduction*. In: *Invisible Borders. Palgrave Politics of Identity and Citizenship Series*, Ed. Palgrave Macmillan, Cham, 2021, p. 1-11, DOI: https://doi.org/10.1007/978-3-030-53836-1_1.

¹⁰ Moin Uddin, Nur Ezan Rahmat, Maruf Billah, Md. Ruhul Amin, și Md. Riaduzzaman, "Doctrine of Domicile in Conflict of Laws: An Appraisal for Determining Private Law," *Pakistan Journal of Life and Social Sciences* 22, no. 2 (2024): 15510–15523, <https://doi.org/10.57239/PJLSS-2024-22.2.001125>.

5. Procedures for establishing domicile and residence

Establishing domicile and residence involves a set of administrative and legal procedures that vary from state to state. Generally, these processes involve registering citizens with local authorities, providing supporting documents and meeting certain legal criteria. This chapter examines the specific procedures for establishing domicile and residence, both in Romania and in other European states, analyzing regulatory differences and how digitization and simplification of bureaucracy have impacted these processes.

In Romania, the establishment of domicile and residence is regulated by O.G. no. 9/2024, which updates O.U.G. no. 97/2005 on population records and identity documents. Domicile is the place where a person has his permanent home, and residence is the place where he lives temporarily, for a period longer than 15 days, but without the intention of settling down permanently.

In order to establish their domicile, Romanian citizens must complete several procedures. The interested person submits a request to establish domicile at the community public service of population records in the locality where he wishes to establish his domicile. The following documents are required: identity card, proof of ownership or the right to use the home (lease contract, heir certificate, etc.), and, if applicable, the consent of the homeowner.

For citizens who temporarily live at an address other than their home address, it is necessary to obtain a floating visa, which has a limited validity and can be renewed. With the implementation of the new regulations through O.G. no. 9/2024, the domicile and residence registration process has been digitized, allowing citizens to submit their applications online and obtain the necessary documents through government electronic platforms.

Establishing temporary residence (floating visa) involves a procedure similar to that of establishing domicile, but it is intended for those who do not intend to settle permanently at a specific address.

The person must submit an application to the public population record service in the locality where he wishes to establish his residence. As in the case of the domicile, documents certifying the right to use the temporary home and the consent of the owner are required. Residence is granted for a fixed period, usually one year, with the possibility of extension if the circumstances warrant it (for example, in the case of students or temporary workers).

Establishing domicile and residence involves specific procedures that vary from one country to another, but there is a general trend towards simplification and digitization of these processes. Correct and timely registration of domicile or residence is essential for citizens' access to public services, for compliance with fiscal obligations and for the exercise of administrative rights. Adapting these procedures to new technological and social realities is an important step in effective population management in modern Europe.

6. Legal and administrative implications

Establishing domicile and residence is not just an administrative formality, but has deep legal and administrative implications for citizens and authorities. These concepts influence essential aspects, such as access to social rights, fiscal obligations, the territorial competence of the authorities, as well as the interaction of citizens with state institutions. This chapter analyzes the legal and administrative implications of establishing domicile and residence in Romania and other European states, highlighting the impact of these procedures on the rights and responsibilities of citizens.

Domicile and residence have direct implications on the application of laws and the determination of the territorial jurisdiction of the authorities, including the courts. From a legal point of view, the correct establishment of the domicile is essential, for various reasons.

A person's domicile influences the competent jurisdiction in the case of civil or criminal proceedings¹¹. For example, disputes related to property, inheritance or other civil rights are settled by the courts that have jurisdiction over the domicile of the person involved. Domicile may affect the application of certain legal rules, such as fiscal ones, related to social protection or civil rights. The applicable law is generally that of the place where the citizen is domiciled, and this has a direct impact on how rights and obligations are interpreted and applied.

In Romania, citizens can exercise their right to vote in local elections only in the locality where they have established domicile. Correct residence registration is crucial for participation in elections and access to other civil rights.

Domicile can be a determining factor in the protection of minors, persons with disabilities and other vulnerable categories, since the establishment of the place of residence determines the competence of the authorities in charge of their protection.

From an administrative point of view, domicile and residence influence many aspects of citizens interaction with the state and other institutions. Health, education, social assistance and other public services are, as a rule, organized according to territorial criteria. Establishing domicile or residence in a certain locality allows citizens access to these services.

In many states, tax obligations are domiciled, which means that citizens pay taxes and duties in the locality where they have established their domicile. This aspect is particularly important for citizens who own property in several locations or who have temporary residence in a different locality than the one in which they have their domicile¹².

Residency can also influence citizens' access to local resources, such as subsidies, social assistance or access to community programs. For example, in certain regions, subsidies for heating or other social assistance are granted only to those residing in that locality.

¹¹ Arnell P., „The Case for Nationality Based Jurisdiction”, *International and Comparative Law Quarterly*, 2001, 50(4):955-962. DOI:10.1093/iclq/50.4.955.

¹² Ricardo García Antón, „Restoring the EU citizenship for tax purposes”, *Annals Belgrade Law Review*, 2019, 67(4), 147–165. DOI: <https://doi.org/10.5937/AnalPFB1904147G>.

Identity documents, passports and other official documents are issued by local authorities according to the domicile or declared residence. Any change of domicile or residence must be reported to the relevant authorities to update these documents and ensure legal compliance.

7. Special cases and exceptions

The establishment of domicile and residence, although well regulated by national and European legislation, also includes a number of special cases and exceptions that require distinct treatment. These exceptions can be determined by specific social, professional or geographical situations, but also by particular legislative requirements for certain categories of people. In this chapter, we will analyze the main exceptions and special situations related to the establishment of domicile and residence, addressing both the Romanian and the European context.

A special case is represented by homeless people or those who do not have a stable home. In Romania, as well as in other European states, these people face difficulties in establishing their domicile or residence due to the lack of a permanent living space. In order to respond to this problem, the legislation of some countries has provided for special measures.

In some states, the authorities allow the registration of a fictitious residence for the homeless. This allows them access to social rights, health services and other benefits, even if they do not have a stable home. People living temporarily in shelter centers can use the address of the center to establish residence, thus having the opportunity to exercise their legal rights, such as access to social assistance and public services¹³.

Foreign nationals and dual nationals often face special rules regarding establishing domicile and residence in Romania or other European states.

According to European law, EU citizens have the right to establish temporary residence in any member state, provided that certain criteria are met, such as proof of a job or sufficient financial resources. Establishing residence for foreign nationals may involve simplified procedures, but it also entails specific fiscal and administrative obligations.

For non-EU citizens, establishing residence is more complex and may require obtaining visas or residence permits¹⁴. In Romania, they must meet a series of additional requirements, such as proof of a job or the reason for their stay (studies, business, family reunification).

Students who move for studies outside the locality or in another country are a distinct category, with special regulations regarding the establishment of residence. In many countries, including Romania, students have the opportunity to establish

¹³ Pasqualini, M., Bazzani, G., „Residence registration to cope with homelessness: evidence from a qualitative research study in Milan”, *Genus* 77, 37 (2021). DOI: <https://doi.org/10.1186/s41118-021-00147-1>.

¹⁴ Council Directive 2003/109/EC of 25 November 2003 on the status of third-country nationals who are long-term residents.

temporary residence in the locality where they study. Although this does not involve a change of permanent residence, it gives them access to local public services and social rights during their studies. In some cases, students may choose not to change their formal residence, depending on the administrative conditions of universities or international exchange programs such as Erasmus+.

Another special category is that of migrant workers, who move to another country for work, but do not change their permanent residence. EU citizens who move to another member state to work benefit from the right to establish temporary residence, having access to social services and social protection equivalent to that of local citizens. Non-EU workers are subject to more rigorous administrative procedures involving obtaining work and temporary residence permits. These are usually linked to the employment contract and can be renewed during the employment period.

People with disabilities or other special needs may benefit from exceptions regarding the establishment of domicile and residence, given the need to ensure their access to medical and social services. In the case of persons with disabilities, the establishment of domicile can be organized in special centers or assistance institutions, and these addresses are recognized for official registration.

In Romania, the legislation provides protection measures for these vulnerable categories. To facilitate access to essential services, in some cases, temporary residence may be established in several locations, such as hospitals, recovery centers or relatives' residences.

Civil servants and diplomats who work outside their country of origin represent a category with special exceptions regarding the establishment of domicile and residence. Civil servants working outside the country may have a service domicile, which is different from their permanent domicile. This regulation allows them to retain their legal rights in their country of origin, but also to benefit from facilities in the host state. Diplomats and consular staff benefit from specific residence regulations and have the right to maintain their domicile in their country of origin, even if they live temporarily in another state¹⁵.

The special cases and exceptions related to the establishment of domicile and residence reflect the diversity and complexity of legal and administrative interactions of citizens in relation to the authorities. Depending on the specifics of each category of person, national and European legislation offers adapted solutions to ensure the protection of rights and compliance with legal obligations. Studying these cases provides a deeper understanding of the flexibility and challenges involved in the procedures for establishing domicile and residence in a constantly changing social and legal context.

8. Conclusion

The article highlighted the importance of clarifying these essential concepts in

¹⁵ Frey, Linda, and Marsha Frey. 1998. "International Officials and the Standard of Diplomatic Privilege." *Diplomacy & Statecraft* 9 (3): 1–17. doi:10.1080/09592299808406093.

administrative and civil law, through a comparative analysis between the legislation of Romania and other European states. The study demonstrated that, although there are differences between the various legislative systems, in essence, the purpose of the regulation of domicile and residence is the same: to protect citizens' rights and ensure a clear framework for the exercise of administrative obligations.

In Romania, the changes brought by O.G. no. 9/2024 had a significant impact in simplifying bureaucratic processes, and the introduction of digitization is an important step towards alignment with European norms and practices. In comparison, legislation in states such as Germany, France and Italy offer different perspectives on establishing domicile and residence, but all reflect an effort to balance individual interests and administrative requirements.

The analysis of comparative law showed that there is a convergence at the European level regarding the harmonization of procedures, but the states maintain certain national specificities that respond to their administrative and legal context. In addition, the identification of special cases and exceptions provided a clear picture of the flexibility needed to protect vulnerable groups and respond to particular situations.

In conclusion, the study underlines the need for dynamic and adaptable legislation that responds to current realities. As the European Union continues to promote cross-border integration and cooperation, it is essential that member states align their regulations on domicile and residence, thereby providing citizens with greater predictability and protection in administrative processes.

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