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DOI: 10.2478/seeur-2025-0047

GENETIC IDENTITY VS. LEGAL BARRIERS: A COMPARATIVE ANALYSIS OF THE RIGHT TO KNOW ONE'S GENETIC ORIGIN IN THE REPUBLIC OF NORTH MACEDONIA AND THE REPUBLIC OF ALBANIA

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ABSTRACT

The right to know one's genetic origins is a fundamental aspect of personal identity, and as such, it should be upheld as an inviolable right. This right is generally undisputed when a child is born to married parents, as both the mother and father are presumed to be known from birth. However, exceptions arise when biological and legal parenthood do not align, leading to situations where legal processes may be initiated to establish or challenge maternity and paternity.

In the Republic of Albania, this concept has recently gained legal and scholarly attention, particularly in discussions surrounding the protection of the rights of children and adopted individuals. Albanian legislation, drawing from international human rights conventions, has recognized the right to know one's biological origins as a vital element in preserving the emotional and biological bond between parents and children in cases of adoption, but not for children born through methods of assisted reproduction. This right, however, is not regulated in the same form within the legal framework of the Republic of North Macedonia.

This paper aims to provide a comparative legal analysis of the right to know one's genetic origin in both countries, as well as to examine the solutions offered by other states and the European Court of Human Rights through its jurisprudence, focusing on the legal barriers that hinder the realization of this right. Special attention is given to issues related to genetic identity, adoption, and medically assisted reproduction, examining how inconsistencies in legislation impact the recognition of this right.

The study offers a clearer overview of the existing legal frameworks in Republic of North Macedonia and Albania, the practical and ethical challenges arising from the lack of regulation, and presents concrete recommendations aimed at ensuring greater alignment with the best interests of the child and international human rights standards.

Keywords: genetic origin, personal identity, child's rights, legal barriers.

INTRODUCTION

The right to know one's genetic origin is something that most of us know for a fact, taking our parents for granted, but for those who do not, it is an interest that has only recently been legally recognized as an individual right. "The right of a child to know their origins has been widely recognized and respected through constitutional guarantees and national laws since the late 1980s, starting with the United Kingdom with the issue of adopted children. The right to know one's origins protects the interest of every individual to identify themselves as they come from, thus considering it as something essential and vital to create a human right in a broader dimension and as a complex concept, which has not been widely addressed before" (Samanta, 2007). The right to know one's parents should be understood in relation to the right to preserve one's identity, article 8 (1) of the UN Convention on the Rights of the Child (UNCRC) specifies that "States Parties undertake to respect the right of the child to preserve his/her identity, including nationality, name, family relations as recognized by law", also in article 8 (2) the Convention specifies that "when a child is unlawfully deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection with a view to re-establishing his or her identity".

This paper employs a doctrinal legal research methodology, relying on a systematic examination of primary and secondary legal sources. The analysis is centered on national legislation (e.g., Family Law Act, Law on Biomedical Assisted Fertilization), international human rights instruments (e.g., UNCRC, ECHR), and interpretative jurisprudence from the European Court of Human Rights (ECtHR). The comparative method is applied to assess how the Republic of North Macedonia (RNM) and the Republic of Albania address the right to know one's genetic origin within their legal systems. By analyzing statutory texts, judicial decisions, and legal doctrine, the paper seeks to identify normative gaps, contradictions, and opportunities for harmonization. Selected ECtHR case law is used as illustrative case studies to highlight practical implications of national legal provisions.

The concept of recognizing one's origin is multifaceted and holds different meanings for different individuals. As such, the right to know one's genetic origin can be understood as an umbrella term encompassing three main dimensions: the medical aspect, which involves understanding one's full family history and obtaining medical genetic information about the donor; the identity aspect, which refers to the right to access personal information; and the relational aspect, which pertains to the right to know the full identity of the donor to potentially establish a relationship. The right to know one's origin is also viewed from both empirical and conceptual perspectives. The empirical perspective suggests that lacking such knowledge can hinder or harm individuals conceived via donors, arguing that understanding one's origin is crucial for both physical and psychosocial well-being. Consequently, denying access to this information can be detrimental. The conceptual perspective, on the other hand, asserts that individuals have the inherent right to know their genetic origins, regardless of whether such information is available. Providing access to genetic origin information does not guarantee that donor-conceived individuals will receive it, unless they are aware of the circumstances

surrounding their conception. A significant concern arises in jurisdictions that are considering or have already implemented policies to prohibit the anonymity of gamete donors.

A child's right to know their genetic origin is fundamentally tied to the identification of their biological parents, the formation of familial relationships, and access to crucial medical history—including genetic or hereditary conditions—serving also as a safeguard against the risk of incestuous relationships. Building upon existing regional scholarship—such as Mero's comparative analysis of genetic rights in North Macedonia and Kosovo (Selmani-Bakiu, Elezi, 2020), and her more recent work on reproductive rights and freedom of choice in the context of assisted reproduction (Mero, 2024)—this paper explores how this right is treated within the legal frameworks of the RNM and the Republic of Albania. As further emphasized by Ignovska several provisions of the Family Law Act (FLA) of the RNM—particularly Articles 62, 71, and 75—"restrict access to court proceedings for children born through assisted reproduction or in cases where the origin of the child is unknown. These legal limitations prevent children from initiating or participating in parental proceedings, thereby undermining their right to judicial protection of personal identity" (Ignovska, 2021). Ignovska argues that "such provisions are incompatible with international legal standards, including Article 6 (*right to a fair trial*), Article 8 (*right to private and family life*), and Article 14 (*non-discrimination*) of the European Convention on Human Rights (ECHR), as well as Article 13 (*right to an effective remedy*) of the UN Convention on the Rights of the Child (UNCRC). This structural gap excludes children of "unknown origin" from any legal remedy to access information on their genetic identity, revealing a significant misalignment between national legislation and the principles of child-centered justice under international human rights law" (*Ibidem*). While Albanian legislation shows alignment with UNCRC, the RNM still reflects a notable lack of harmonization between its FLA and international standards recognizing this right of children. In RNM, "the practice of concealing the truth from adopted children or those taken in as "spiritual children" (in Albanian *bir në shpirt*, a traditional informal adoption practice) remains prevalent, and this tradition is expected to extend to children conceived with donated genetic material. In our cultural context, for couples unable to become parents naturally, informal adoption within the family, taking in a child from relatives as a "spiritual child", has been one of the most favored ways to establish parenthood" (Mero, 2024). This form of establishing parenthood was also present in parts of Albania governed by the Kanun of Lekë Dukagjini (Gjeçovi, 1993) and the Kanun of Skënderbeu (Frano Illia, 1993), though with some modifications. Specifically, in Albania, a boy taken in as *bir në shpirt* ("spiritual son") would be an orphan adopted by a married couple lacking a son of their own. Under this arrangement, that boy became their heir, because, according to the Kanun, daughters did not have inheritance rights and could not inherit if they were the only child in the family (i.e., had no brothers). Meanwhile, *bijë në shpirt* ("spiritual daughter") typically referred to an orphan girl taken in by a household to be raised and eventually married off as though she were their own daughter. It is thought that this institution derives from a similar Roman Law concept called *adrogatio*, which involved adopting an adult.

"The desire to preserve family dignity and maintain stability in parental relationships often leads legal parents to hide the truth from the child, who is not genetically related to them. This method of concealing the truth is often guarded with great secrecy by families" (Mero, 2024). Experience shows that when a child eventually learns the truth, it often causes emotional turmoil, as well as disruptions in their relationship with the parents.

"The right to know one's genetic origin is emphasized as an integral part of the right to personal identity and, as such, should be considered as an inviolable right. This right is not questioned in situations where the child is born within a marital union, as both the mother and father are known from the moment of birth, except in cases where, even within marriage, biological parenthood does not align with legal parenthood. In such cases, procedures for the

establishment or contestation of maternity or paternity become relevant. However, the pursuit of genetic truth may be initiated by children born out of wedlock, adopted children, or children born through assisted reproductive technology (ART) using donated genetic material or donated embryos. In these situations, the child's biological status does not match their legal status, as the child is not genetically related to the parents who care for them" (Vardit, 2017).

LEGAL CONTRADICTIONS AND THE INCOMPLETE RECOGNITION OF THE CHILD'S RIGHT TO GENETIC IDENTITY IN RNM

The principle of respecting a child's right to know their genetic origin, as guaranteed by international instruments (such as Article 7(1) and Article 8 of the UNCRC, as well as Article 8 of the European Convention on Human Rights), reveals significant legal contradictions in the national legislation of North Macedonia concerning this right. Under the Family Law Act (FLA), once full adoption is finalized, the adoptive parents are officially recorded as the child's parents in the Register of Births, and the child's place of birth is registered according to the adoptive parents' wishes. Adoptive parents are treated as the child's legal parents from the moment of birth. However, as adoption records are classified as official secrets (Article 123-a), the child is denied access to any details concerning their biological parents.

From a rights protection standpoint, the FLA emphasizes the anonymity of biological parents and the confidentiality of adoption, effectively prioritizing parental rights over the child's right to know their origin. As a result, the law fails to provide the adopted child with access to information about their biological parents, in direct conflict with Article 7(1) of the UNCRC. Additionally, this provision contradicts Article 22 (3) of the European Convention on the Adoption of Children, which guarantees "the child's right to information about their origin." Similarly, Article 75 of the FLA prohibits the establishment or contestation of maternity or paternity in cases where the parental relationship is formed through adoption or assisted reproductive technology (ART).

"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). "Thus, the principle regarding the right to know 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" (Mero, 2024).

Regarding children born through assisted reproduction using donated gametes or embryos (allogeneic fertilization), the issue of genetic identity is addressed in a limited manner by the Law on Biomedical Assisted Fertilization (LBAF). The provisions related to the child's right to access information about the genetic donor recognize the right to inspect the State Register for Biomedical Assisted Fertilization.

According to the LBAF, "a child born via fertilization using donated gametes or embryos, upon reaching the age of 18 and being capable of judgment, may request access to information about the donor's health status from the State Register, but only for well-grounded medical reasons and with prior approval from the State Commission. The authorized official maintaining the register is obliged, upon verification of the request and confirmation of the child's identity, to allow access solely to the health-related data of the donors, without revealing any of their personal information. "

Exceptionally, “the authorized official may also allow the legal representative of the child born through donated gametes or embryos to inspect the health data of the donors, again without disclosing personal identities, and only when: 1) the request is based on well-founded medical grounds; 2) it is in the child’s best interest, and prior approval is obtained from the State Commission.”

Also, by exception, “the child’s doctor may request access to the State Register data regarding the child and the donors, under the same conditions, and only for medical reasons and in the child’s best interest. The court may also access this data, when necessary, for legal proceedings. All authorized individuals are obliged to treat the data on the child and the donors of gametes or embryos as classified information” (article 57, LBAF).

Additional legal contradictions exist between the FLA and the Law on Amendments to the Law on Biomedical Assisted Fertilization, particularly regarding maternal information in cases where the child is born through a surrogate (gestational carrier). According to article 12-v (5) of the LABF, “information about the surrogate mother and the method of conception and birth may be disclosed to the child after reaching the age of five” Notably, although the LABF is considered relatively liberal regarding access to such information, it does not correspond with the FLA, which remains outdated (enacted in 1992) the law continues to uphold the Roman legal maxim *"Mater semper certa est"* which conflicts with surrogacy arrangements. In the case of surrogacy, the woman who gives birth to the child is not legally recognized as the mother. Instead, “the woman who initiated the surrogacy procedure (together with her spouse) is registered as the child’s mother in the Register of Births (article 12-v (6), LABF)”. From all the above, it becomes clear that the positive legislation of RNM is contradictory and lacks harmonization concerning the recognition of the child’s right to know their genetic origin. It can therefore be concluded that this right is neither fully regulated nor recognized as an absolute right of the child.

Given that truth ultimately surfaces, it is essential that this matter be addressed through specific amendments to the FLA, which would affirm and protect the child’s personal identity, in compliance with international standards.

ALBANIAN LEGISLATION ON THE RIGHT TO RECOGNITION OF ORIGIN AND LEGAL RESTRICTIONS

The best interests of the child, as outlined in Article 3 of the UNCRC, are occasionally considered, though they are often secondary to other criteria in decision-making. Reproductive medicine is frequently viewed as a symbol of progress and autonomy, particularly in terms of the right to procreate. From this standpoint, the true parents of a child born through ART are considered to be the individuals who consented to the conception and birth process. In the Republic of Albania, the right of an individual to know their origin presents a complex issue, intertwined with adoption, assisted reproduction, and personal data protection. To date, Albanian legislation lacks a clear and comprehensive framework that adequately addresses this right. In Albania, the aspect of recognition of origin is also defined in the Law on Adoption, which in article 37 (1) stipulates that the "adoptive parents and the adoptee, who has reached the age of majority, may request from the Committee information on the origin of the adoptee and his/her history", and in article 37 (2) specified that “this information may be limited or refused in special cases, when there are reasons that serious consequences result from it” (article 37). In the case of adoption, the law provides that “after the finalization of the process, the child loses any legal relationship with the biological parents and acquires the rights and obligations of a biological child towards the adoptive parents”, in this way parenthood is based not on genetic ties but on a legal decision that aims to ensure the well-being of the child, but the law does not fully allow the right to recognize the origin, denying it only in cases where serious consequences could result. While in the case of medically assisted reproduction, the

Family Code (FC) does not treat it as an issue but the Law on Reproductive Health (LRH), which places emphasis on the legal and emotional connection that naturally forms between a child and their parents, avoiding any claim for paternity or motherhood by the donors of genetic material. Based on this, we can say that the article 37 in the Law of Adoption presents a liberal approach on the right of the individual to recognize his/her origin by synchronizing it with international standards and developed policies, seeing it as one of the core rights belonging to each person, but at the same time, the second paragraph leaves room for interpretation by raising questions about the criteria that determine serious consequences, and the lack of a clear definition for this concept creates space for subjective interpretations, leading to unjustified restrictions on the right to recognize identity.

The FC also deals on having the right to be aware of their genetic background, especially in the context of adoption and the parent-child relationship, in article 262, specifying that the "minor, biological parents and adopters have the right to trust in the adoption documentation process, as an expression of respect for private life and when the age and level of maturity allow, the child has the right to be informed about their personal history and where possible, to obtain their biological parents. This right is deeply connected to the protection of children's rights and the principle of acting in the best interests of the child, however, it does not provide an in-depth treatment of this right except for some principles that indirectly affect it, addressing the issue of knowing the biological origin through some general provisions". However, this article seeks to find an equilibrium between maintaining privacy and allowing individuals the right to know their origin, so the parties involved have the right to trust and that the information in the documents be treated confidentially, preserving the privacy of each person and that this data is not published or misused, but we think that the access to the phrase "if possible" implies that access to the data of biological parents is not an absolute right, in the case where the information may be unavailable for legal or ethical reasons.

Regarding ART, the Republic of Albania regulates them with the special law- LRH, which aims at in vitro fertilization and artificial insemination for those individuals who have difficulties in natural reproduction, but the law failed to address the ability to ascertain the source of the donated genetic material or embryos used in these reproductive rights, which the law does not offer the opportunity for individuals born from these methods to have the ability to obtain data about the donors of the genetic material, ensuring that their anonymity is preserved and their identity remains undisclosed, allowing the anonymity of the donor and not creating the possibility of obtaining information about his identity. The issue of knowing the genetic line is a controversial topic regarding the Republic of Albania, in which traditions, norms and the development of laws are adapting to international human rights standards, especially as the country has progressed in promoting the welfare of children, the issue of origin still remains unclear. At the legal level, Albania has signed and ratified international instruments such as the ECHR and the UNCRC.

THE RIGHT TO KNOW ONE'S GENETIC ORIGIN: A COMPARATIVE STUDY

The introduction of assisted reproductive technologies (ART) involving third parties appeared difficult to align with the principle of biological truth, which is supposed to determine paternity, maternity or DNA based. "The ability of children conceived by donors to obtain information about their genetic origin initially depends on their awareness of the nature of the conception. Referring to the child's right to life and autonomy, the arguments in favor of mandatory disclosure assume that disclosure is in the best interests of the child, but this disclosure requires the child to distinguish between the social and biological aspects of parenthood" (Clarck, 2012). Policy document on the reform of the Family Law specifies in principle 14 that "States shall take measures concerning procedures for the determination and

contestation of parentage and shall allow the use of information resulting from these techniques" (The WP on Parentage Issues, 2010). In this case, "it is necessary to take into account the practice of the ECtHR, according to which the fact that a child has a legal father based on the rule "*pater est quem nuptiae demonstrant*", with the consequence that the biological father is prevented from recognizing his child or vice versa" (*Ibidem*). The legal regulation of the issue of recognition of genetic ancestry varies significantly between countries depending on legal, ethical, and social factors. With the development of new technologies of artificial reproduction such as in vitro fertilization, surrogacy, egg and sperm donation, have created complicated situations on the determination of the legal paternity of a child where some countries have clearer legislation while others still face legal gaps. Analyzing the comparative aspect, we see three models of legal approach: the strict regulatory model, the liberal model, and the balanced one.

- 1) "France and Germany support a strict regulatory model that places strong restrictions on the recognition of genetic ancestry, based on the recognition of legal parents mainly through biological or marital ties. In France, the law allows in vitro fertilization and egg and sperm donation for heterosexual couples, linking paternity and motherhood to biological parents, and any reproductive procedure must be carried out in accordance with ethical and medical norms" (Giovannini, 2002).

"Several other countries also implement strict anonymity regulations for sperm and egg donations. Republic of Moldova, Bulgaria, Cyprus and Other Eastern European Countries such as Ukraine have strict anonymity regulations that govern sperm and egg donation. These nations follow a traditional model where donor anonymity is preserved throughout the entire process of assisted reproduction. In these countries, donors are not required to disclose their identities and children born through such donations are typically not granted availability of such data, this is for the purpose of defending the family structure" (World Population Review, 2025, see also ESHRE survey, 2021). "Estonia, Latvia, Lithuania and Poland the strict anonymity of egg and sperm donation is also observed, though there may be slight variations in their implementation of these laws. These nations support anonymous sperm and egg donation for heterosexual couples undergoing fertility treatments, but donors remain anonymous with no legal ties to the child, reflecting a strict focus on legal parent -child relationship" (*Ibidem*). "In Italy and Spain, they have maintained strict anonymity for donors who are not obligated to reveal their identities and children born through artificial reproduction technology (ART) are not granted the right to access the information" (Odendaal & McDougall, 2023). In Central Asia such as Kazakhstan the regulation for sperm and egg donation are also strict, where the donor's identity is anonymous. States such as Albania, Montenegro, RNM, Slovenia also uphold the principle of strict anonymity. These countries do not recognize or do not provide in their legislation the child's ability to obtain details about the person who supplied the material, this means that children born through ART with sperm or egg donors do not have legal authority to pursue details about their genomic background. In these legal systems, parent-child relationships are based primarily on biological ties or legally recognized parental-marital ties without taking into account the child's opportunity to know his or her lineage "In Slovakia and Slovenia, both countries follow the strict anonymity model, ensuring that the identities of donors are concealed" (Hammarberg, MWH, Tinney & Psychol, 2006). Anonymity in these countries helps alleviate concerns of personal privacy and social stigma, creating a safe environment for individuals navigating fertility treatments. In the Republic of Albania, a child's legal claim born through artificial reproduction methods to know their biological origin is a complicated and controversial issue. The FC does not address this issue, leaving a legal gap for the recognition of origin. The LRH also does not address it and does not offer the opportunity for individuals born through artificial reproduction to have access to personal data knowing the

ancestral, while maintaining anonymity. The RNM is also among the countries where children born through donated genetic material do not have the right to access or recognition of their genetic origin.

"Countries that maintain strict anonymity for embryos, such as Albania, Armenia, Belgium, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Montenegro, Poland, Moldova, Spain, Ukraine and North Macedonia implement strict anonymity for embryos in reproductive procedures. This means that the identities and genetic information of embryos are kept confidential, ensuring privacy for individuals undergoing fertility treatments"(Clahaz-Jorge et al. 2024). The aim is to protect the privacy and dignity of those involved in assisted reproduction and by maintaining anonymity, these countries seek to balance scientific progress with individual rights.

- 2) The US and the UK follow a more flexible approach based on the free choice of the individual, in the US since the laws vary from one country to another, they have a tolerance by fully recognizing the issue of recognition of genetic ancestry, allowing them knowing the details regarding the identity of the donors once they turn 18 (Uniform Parentage Act, 2001). "In Europe, several countries have established policies that allow anonymity for recipients of sperm donations, ensuring privacy in reproductive processes. Austria, Croatia, Finland, France, Ireland, Luxembourg, Malta, Norway, Portugal, Sweden, Switzerland and the Netherlands are among the nations that have implemented systems where anonymity for the recipient is preserved. While the anonymity of recipients is protected, these nations ensure that the donor's identity may be accessible under certain circumstances, particularly for the children born from donations when they reach" (Brunet, 2018).
- 3) And finally, the balanced model, mainly in the Nordic countries, Sweden, Norway follows a more intermediate approach but by establishing clear rules on the recognition of biological origin. "Sweden allows egg and sperm donation but anonymity is not allowed, so the child has the right to know the identity of the donor when he grows up and furthermore, Swedish laws recognize paternity and motherhood based more on parental care than on biological care, but protect the rights of children to have access to information about their genetic origin" (Daniels, 1994). Denmark has a more open market where "individuals can choose between anonymous and identifiable donors, making it possible for the law to ensure that donor data is stored so that the child has the opportunity to claim his or her biological identity in the future" (Wiecki, 2025).

Many of the authors who support "preserving the anonymity of donors" believe that "the child's right to know their origin too easily assumes that this knowledge may bring the child more harm than benefit and that it conflicts with the donor's right to privacy and the right to reproduction. The field of psychology notes that it is beneficial for children to grow up feeling like they are part of a family and also appeals to the importance of parental autonomy when making decisions that affect the well-being of their children and questions the existence of a right to know one's origin based on the right to health" (Amoros, 2015). From a legal perspective, a child's right to be aware of their familial origins is also related to the right to health, as information on genetic history and biological inheritance is essential for the diagnosis and prevention of inherited diseases, as well as for the prevention of unintentional incestuous relationships between genetically related individuals. However, from a comparative aspect, this right is not recognized as an absolute right of the child, as many legal systems, including those of RNM and Albania, still impose restrictions or balance it against the rights to privacy and anonymity of the biological parents or donors.

GENETIC HERITAGE AND THE RIGHT TO KNOW ONE'S ORIGINS IN LIGHT OF THE EUROPEAN COURT OF HUMAN RIGHTS

Protection of family rights is carried out not only at the national level but also internationally. Under the ECHR, a system has been established to safeguard the rights guaranteed by the Convention, thereby allowing individuals themselves to seek legal protection directly before an international court. "This represents one of the Convention's most significant features, as it enables individuals rather than just States to become a procedural party before an international tribunal, a possibility once reserved exclusively for States" (Zendeli, et al. 2020). The right to family life is guaranteed by article 8 of the ECHR, which states that everyone has the right to respect for his or her private and family life, home, and correspondence.

The right to know one's origins stands at the intersection of personal identity, family life, and state-imposed legal frameworks. Although rooted in the wider ambit of the right to respect for private and family life (article 8), this particular interest has steadily gained prominence in ECtHR case law. The Court's jurisprudence underscores the profound personal and psychological significance attached to clarifying one's biological lineage and legal parentage, while also recognizing that parental privacy or state policies can create substantial legal barriers.

These cases illustrate how the Court has interpreted article 8 of the ECHR (which protects private and family life) in situations where individuals seek information about their biological parentage.

1. **Mikulić v. Croatia (2002)**

In the case *Mikulić v. Croatia*, the Court addressed a paternity claim on behalf of a child born out of wedlock (ECtHR, 2002). At the time, Croatian law did not require the alleged father to undergo DNA testing, leaving the applicant in prolonged uncertainty about her personal identity. The ECtHR concluded that Croatia had violated the applicant's right to respect for private life (Article 8 ECHR) by failing to provide an effective means of determining paternity. The Court emphasized that the "best interests of the child" must take precedence and that state authorities are obligated to balance the rights of the alleged father with the child's fundamental right to legal recognition of their identity ([HUDOC, 2002](#)).

2. **Odièvre v. France (2003)**

In *Odièvre v. France*, the applicant, who had been abandoned at birth under France's system of anonymous childbirth (*accouchement sous X*), sought to obtain identifying information about her biological mother (ECtHR, 2003). The French legal system allowed mothers to request confidentiality, which created significant obstacles for the applicant in discovering her origins. The Grand Chamber ruled that there was no violation of Article 8, emphasizing that France had provided the applicant with access to non-identifying information about her birth family. However, the Court highlighted that domestic law should strive to balance the mother's legitimate interest in confidentiality with the child's right to know their personal origins ([HUDOC, 2003](#)).

3. **Jäggi v. Switzerland (2006)**

In the *Jäggi v. Switzerland* case, an adult sought permission to conduct DNA testing on the remains of a deceased man to establish paternity (ECtHR, 2006). Swiss courts had rejected the request, citing the deceased's family's right to privacy. The ECtHR ruled that the refusal to permit exhumation in these circumstances violated the applicant's right to respect for private life under Article 8. The Court reasoned that the individual's right to know their biological origins outweighed the minimal intrusion of

DNA testing on the remains, especially since there were no significant objections from the deceased's relatives ([HUDOC, 2006](#)).

4. **Godelli v. Italy (2012)**

The *Godelli v. Italy* case involved an applicant who, after being abandoned as a newborn, was completely denied access to information about her birth mother (ECtHR, 2012). Italian law allowed mothers to remain anonymous but lacked a procedure for later waiving confidentiality or balancing the rights of the mother and the child. The ECtHR ruled that this system violated Article 8, highlighting that it failed to strike a fair balance. The applicant had no means to seek non-identifying information or request the mother's consent for disclosure, thereby unduly limiting her right to know her personal identity ([HUDOC, 2012](#)).

5. **Scalzo v. Italy (2022)**

In *Scalzo v. Italy*, the applicant was unable to establish paternity due to domestic law, which prohibited her from initiating a paternity claim until the putative father's existing paternity was conclusively disestablished—an extensive process that lasted over a decade (ECtHR, 2022). The Court found a violation of Article 8, reasoning that the prolonged uncertainty regarding the applicant's personal identity was a disproportionate infringement on her rights. The decision reaffirms the State's positive obligation to ensure the timely resolution of paternity disputes ([HUDOC, 2022](#)).

Across these cases, the ECtHR has consistently recognized that a person's quest for information about biological parentage implicates "private life" under article 8 ECHR. Whether framed as a child's right to know the identity of a putative father (*Mikulić*), an adopted adult's effort to uncover paternal or maternal information (*Jäggi*, *Godelli*), a child's quest to balance confidentiality interests with personal identity (*Odièvre*), or a procedural gap preventing timely paternity claims (*Scalzo*), the Court emphasizes balancing a child or adult's fundamental interest in genetic identity against parental privacy or other legal limitations. The Court stresses the importance of establishing fair procedures that give due weight to the individual's interest in knowing her or his genetic origins. These precedents underscore the tension between protecting parental privacy and preserving a child's right to identity, an issue at the core of how states must navigate "genetic identity vs. legal barriers."

In assessing whether a situation constitutes "family life", the ECtHR examines the particular facts of each case, guided by the fundamental principle of determining whether close personal ties exist between two or more individuals. "Because the Court considers the circumstances on a case-by-case basis, it is not possible to provide an exhaustive list of all the scenarios in which it finds that "family life" exists. Nevertheless, the major changes in family structures in recent decades particularly regarding the foundation of family life through artificial reproduction methods have led to developments in the Court's case law. Consequently, one may broadly conclude that an ever-growing number of relationships now benefit from the protection set out in article 8 (1) of the ECHR" (Zendeli, Selmani-Bakui, Mickovic, Ristov, 2020).

CONCLUSION AND RECOMMENDATIONS

"The rapid advancement of reproductive technologies places humanity at a critical crossroads, prompting us to revisit the traditional understanding of what constitutes a "family" and "parenthood." Is there still a stable and universal model for these concepts? Modern ART has broadened the scope of family formation, allowing individuals and couples regardless of biological limitations to have genetically related children. This evolution has contributed to redefining legal, social, and emotional dimensions of family life." (Selmani-Bakui, Zendeli, 2018).

As this paper has emphasized, adopted children and those born through ART may, over time, develop a desire or even a need to understand their biological origins. The rise of accessible DNA testing technologies has further facilitated the pursuit of genetic truth, often raising legal and ethical dilemmas when personal identity is obscured by law or custom. The necessity of legal regulation in this area arises from several key considerations: 1) the imperative of equal treatment between children born naturally and those born through alternative reproductive methods, especially in terms of establishing or contesting maternity or paternity; 2) medical grounds, such as understanding family health history to identify genetic or hereditary diseases; and 3) the prevention of unintentional incestuous relationships. For these reasons, the authors argue that a child's fundamental right to access information about their origins must be recognized as an absolute and inviolable right. This right is intrinsically linked to the protection of personal identity and the fulfillment of the child's welfare, even within the framework of family autonomy.

At the same time, the right to be informed about one's genetic origins should not automatically be equated with the right to establish a parental relationship. As previously emphasized by Mero, responsible parenting in contemporary legal contexts goes beyond biological ties and includes the recognition of children's rights and their emotional and identity needs. In this context, acknowledging the child's right to genetic origin should be seen as an integral component of shared parental responsibility—whether in adoption, surrogacy, or medically assisted reproduction (Selmani-Bakiu, 2016). Access to this information can be regulated independently of legal parenthood. Any development of personal or family relationships between a child and a biological parent or genetic donor—whether in the context of adoption or assisted reproduction—should be based on mutual consent and pursued only when it serves the joint interests of all parties involved. Accordingly, the child's right to maintain contact and personal relations must be viewed horizontally, extending to biological parents (in cases of adoption) and donors (in cases of ART), when this is in the best interest of the child.

This study places a particular focus on the legislation of the RNM, which has formally accepted ART and adoption as valid foundations for establishing parenthood. While this marks progress, a deeper legal analysis reveals that the current framework is fragmented and not harmonized with international human rights standards. Macedonian law continues to prioritize the interests and privacy of the parents, especially those unable to conceive over the rights of children to understand their biological background.

In contrast, the Republic of Albania, while possessing a broader legal framework for the protection of individual rights, still faces notable gaps and ambiguities in its regulation of genetic origin—particularly for individuals born through ART. Although Albanian legislation aligns more closely with international standards in recognizing the right to know one's biological origin in cases of adoption, it lacks specific provisions in the LRH and the FC that would ensure legal clarity and provide accessible mechanisms for obtaining information related to one's origin. Furthermore, in 2024, the Republic of Albania drafted the draft-law "On sexual and Reproductive Health", which aims to guarantee reproductive rights. This draft-law emphasizes that the donation of genetic material is anonymous, and the donor's identity data remains confidential. Although this step forward represents an attempt to regulate assisted reproduction issues, the law has not yet been implemented, leaving unclear areas regarding the right of individuals to know their biological origin. It is imperative that Albania takes further steps to 1) Legally recognize the right of individuals born through ART to know their genetic origin; 2) Promote non-discrimination and transparency in origin disclosure; 3) Strengthen procedural safeguards and privacy protections; and 4) Ensure full compliance with international human rights obligations.

In both countries, the marginalization of children born through adoption or ART remains a concern. Often treated as passive subjects, these children are not granted equal access to their identity rights. This unequal treatment reflects a broader legal and social stigma that can only be addressed through comprehensive legislative reform.

To move forward, the authors recommend the following:

- Amend the FLA in RNM to include explicit provisions guaranteeing the child's right to know their genetic origin and secure their personal identity;
- Harmonize the LBAF with the FLA, eliminating inconsistencies and expanding legal recognition of diverse forms of parenthood;
- Align domestic laws in both countries with the jurisprudence of the ECtHR and with the principles enshrined in the UNCRC;
- Promote a shift in perspective that views the child as an active rights-holder, not just a beneficiary of adult decisions;
- Engage in public education and advocacy to overcome secrecy, stigma, and outdated perceptions surrounding assisted reproduction and adoption.

As both RNM and Albania aspire toward European integration, their legal systems must reflect and implement European family law standards, particularly those that uphold the best interests of the child. Only through such alignment can national legislation provide a framework that respects the child's right to identity, ensures legal equality, and fosters a just and inclusive society.

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