

# **IMPLICATIONS OF RESIDENCE OF HOMELESS PEOPLE FOR HOUSING RIGHTS: CHALLENGES AND PERSPECTIVES**

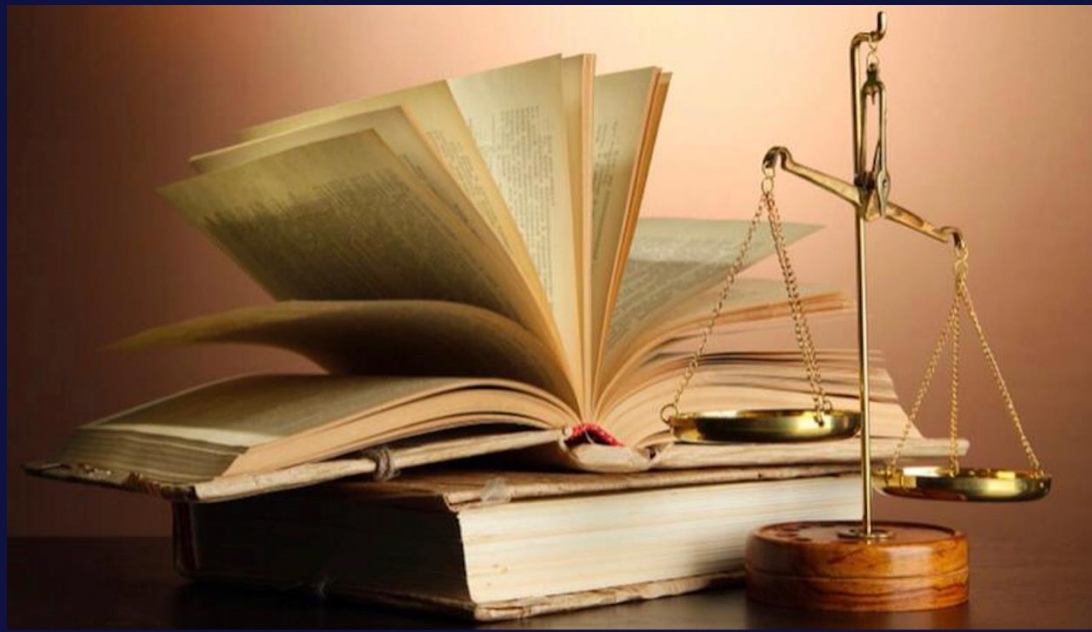
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a cura dell'Avvocato Stefano TURI



**Art. 43 of the Civil Code** the notion of *residence* coincides with the place of *habitual residence*;

**Law n. 1228/1954** *The resident population registry must be kept in each municipality: also the positions relating to homeless people who have established their domicile;*



**DPR (Decree of the President of the Republic) n. 223/1989** The person who does not have a fixed address is considered to be resident in the municipality of his domicile, and in absence of this, in the municipality of birth.

**Circular by ISTAT n. 297/1992.** If the homeless person doesn't have an address or a real domicile in the municipality, **the registry office must established a fictitious street, territorially not-existent but equivalent in legal value.**





**The resident status** is important because it is a prolegomena to access to a set of rights, especially those constitutionally guaranteed:

**“Right to Work” - Art. 4 of the Constitution;**

**“Right to Health” - Art. 32 of the Constitution;**

**“Right to Vote” - Art. 48 of the Constitution;**

**“Right to Social Services” - Art. 38 of the Constitution;**

**“Right to Defense” - Art. 24 of the Constitution;**

## **Redidence means**

- Access to the public buildings and social housing;
- Have the possibility to sign a legally valid contract, for: work, rent a house, open a current account;
- Have the possibility to receive the notification by mail;
- Have the possibility to be covered in hospital and be defended by a lawyer.



The **PURPOSE** of registering with the registry office (Law n. 1228/1954) is:

- In the interest of the homeless person, to promote the connection with the territory;
- In the interest of the State, the registration of all the population permanently present in the territory.

The jurisprudence has therefore **identified two fundamental elements of the concept of residence**:

- **An objective element**, that is, **the physical place where a person is**;
- **A subjective element**, that is, **the will of the subject to reside in that place**.

The result of this is the concept of “Fictitious residence”.







From the Italian regulatory context, which has been complicated by multiple ministerial decrees, not least the former “Security Decree”, and the fact that, to date, there isn’t a “Residence Law”, with time, local territories have developed heterogeneous practices, more or less distant from aforementioned sources of law in order to ensure the services offered by the registry office.

Let’s take into consideration two examples to understand and analyse how local territories have reacted:

**Turin** (practice closest to the law);

**Milan** (innovative practice and more distant from the normative).

## Turin's experience

The Municipality of Turin allows the homeless person to submit a request directly at the Registry Office to obtain a fictitious street.

To date, the Ministry of Internal Affairs has not prepared an official form that takes into account the particular cases of homeless, but the procedure is as follows.

The registry form, duly completed in its entirety and with the necessary documentations attached, must be signed by the applicant and presented in one of the following ways:

- At the counter, together with an ID card of the applicant ;
- Electronically (email or fax), together with a copy of the ID card of the applicant;
- By post, together with a copy of the ID card of the applicant;







**Within 2 days** of receiving the aforementioned declaration by the applicant, the Registry Officer will assess whether it is complete and admissable, and if so, he/she will proceed with the registration and the start of the preliminary phase; if not, he/she will send a notice of inadmissibility to the interested part, indicating the missing elements.

**The registration process has a duration of 45 days from the date when the declaration has been submitted.**

In the event that, reasons that prevent the acceptance of the registration request should arise during the preliminary phase, the Registry Officer will send the interested party a notice of rejection, inviting him/her to produce documents and/or necessary information to avoid the negative conclusion of the registration process.

# MILAN'S EXPERIENCE



The Municipality of Milan recognises that any homeless person who submits a request and has the right to, can be registered at the Registry Office according to the procedures established by law, experimenting with a city model as uniform as possible and extended to the territories within the City's municipality.

Special multidisciplinary helpdesks have also been created to support and guide during the registration process. This is aimed at:

- Homeless people (of any age, nationality, ethnic background, religion etc);
- People who document, through a report by a Third Sector Entity in charge of the individual path of the beneficiary of the service, the existence of an ongoing relationship with the territory in terms of interests, relationships and affections;
- People who express the will and intention to remain in the Municipality of Mil





**Problem:** why is it necessary for a homeless person to go through a «mediation» of social service to obtain the registered residence? **The law doesn't provide for it but it is also true that it doesn't expressly prohibit it.**

**Opportunity?** Mediating the request for the registered residence through helpdesks manned by educational staff, allows, through bureaucratic practice, social problems to emerge and to guide citizens to services.



# Conclusion

In these pandemic times, we have to ask ourselves some questions:

- How to “Stay at home” if I don’t have a home?
- How can I protect my health If I don’t have a home?
- Is the Fictitious residence the best than we can do, for the homeless?
- Are dormitories really the best structure in this time?

So, like Socrates said “*I know I don’t know*”, I think the way to walk is the **Housing First approach**: a home and the possibility to have a real residence in it.

THANKS

