

IN THE EUROPEAN COURT OF HUMAN RIGHTS

*X versus Russia*  
(Application no. 60796/16)

**WRITTEN COMMENTS**

submitted jointly by

Transgender Europe  
Transgender Legal Defence Project  
Human Rights Centre “Memorial”

ILGA Europe

4. August 2017

## **Introduction**

1. These written comments are submitted jointly by Transgender Europe, Transgender Legal Defence Project, Human Rights Centre “Memorial” and ILGA Europe.
2. The present case involves a transgender woman who asked for her first name to be changed from the name assigned at birth to a name of her choice, which reflected her gender identity. She also requested her patronymic name to be removed. The Russian authorities turned down her request, by referring to linguistic rules as well as on the basis of the alleged disagreement that would ensue between the new name and the remaining gender marker in her identification documents.
3. This submission is structured as follows.
  - (1) Russian law and practice on name changes in comparison with other countries
  - (2) Procedure and practice of legal gender recognition in Russia
  - (3) Distinct character of names when compared to other identity markers
  - (4) European courts’ practice on names.

### **I Russian law and practice on name change in comparison with other countries**

#### ***Russian law on name change***

4. The Russian Federation has liberal laws on change of name. There are no substantial requirements for a change of name under Russian law. The right to change one’s name is provided in Article 19 of the Civil Code of the Russian Federation<sup>1</sup>. The procedure of the name change is established in Chapter VII of the Federal Law “On Acts of Civil Status”<sup>2</sup> and allows individuals to change their last name and/or first name and/or patronymic name.
5. According to the law, the procedure should be quick, accessible and transparent: in order to change one’s legal name, one should apply to a civil registry office and provide an exhaustive number of documents (such as birth certificate, national passport, marriage certificate – where applicable, birth certificates of under aged children, etc.). The application should normally be examined by authorities within a month. Russian legislation does not contain either lists of allowed reasons for changing one’s name or any restrictions regarding choosing a last name or a first name or a patronymic name. In particular, the law does not require names to accord with legal gender.

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<sup>1</sup> Civil Code of the Russian Federation (part one) No. 51-FZ of 30 November 1994.

<sup>2</sup> Federal Law of the Russian Federation No. 143-FZ of 15 November 1997 “On Acts of Civil Status”.

6. The Russian legislative provisions on name change do not explicitly provide an opportunity to ask for removal of one's patronymic name from one's documents. However, patronymic names are not always required under Russian law. For example, the laws allow children to be given names that do not contain patronymics if this is provided by a law of a constituent entity of the Russian Federation or by a national custom.<sup>3</sup> Therefore, the Russian legal system acknowledges that some citizens may not have a patronymic name. Equally, foreigners who permanently reside in Russia or people who acquire Russian citizenship other than by birth are not required to have a patronymic name. All legislative provisions requiring indication of one's legal name in any document state that a patronymic name should be indicated only if a person has one.<sup>4</sup>

7. According to the statistics provided by the Ministry of Justice of the Russian Federation, almost 75,000 people have changed their names in 2011, 80,507 people in 2012, and 85,857 people in 2013.<sup>5</sup>

8. The trend in other Contracting Parties is to allow anyone to change their name with no, or very minimal, pre-conditions. As the Court noted in *Stjerna v. Finland*<sup>6</sup>:

*“Under the legislation on names in the twelve Member States of the International Commission on Civil Status, all members of the Council of Europe, the possibility of a person to change his or her name is subject to certain conditions. In Belgium, Portugal and Turkey, any reason may be involved in support of a request for a change of name. In France, Germany, Luxembourg and Switzerland the reasons must be convincing ones. In some countries specific reasons are required: for instance that the current name gives rise to pronunciation difficulties (Austria) or causes legal or social difficulties (Austria and Greece) or is contrary to decency (the Netherlands and Spain), or is ridiculous (Austria, Italy and the Netherlands) or is otherwise contrary to the dignity of the person concerned (Spain) (see the International Commission’s Guide pratique internationale de l’état civil, Paris).*

*Name changes are noted in population records, at the request of the interested person (Belgium and France) or of a public authority (France), or are done so automatically (the other ten members of the International Commission).”*

### ***Importance of name change for transgender people***

9. Transgender people in Russia who are unable to obtain documents reflecting their gender identity face considerable inconvenience in their daily lives. According to a study conducted by the LGBT Organization “Coming Out” in Russia, in 2011–2012, 43% of respondents who identified themselves as transgender experienced discrimination due to the

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<sup>3</sup> Article 58 of the Family Code of the Russian Federation No. 223-FZ of 29 December 1995 and Article 18 of the Federal Law “On Acts of Civil Status”.

<sup>4</sup> See, among many others, Article 39.12 of the Land Code of the Russian Federation No. 136-Fz of 25 October 2001; Article 123.1 of the Housing Code of the Russian Federation No. 188-FZ of 29 December 2004; Article 13 of the Federal Law of the Russian Federation No. 99-FZ of 4 May 2011 “On Licensing of Certain Types of Activity”; Article 4.1 of the Federal Law of the Russian Federation No. 209-Fz of 24 July 2007 “On the Development of Small and Medium-Sized Business in the Russian Federation”.

<sup>5</sup> See: Куликов В. *Зачем меняют имена.* // Российская газета. 04.03.2014. №6322 (50). Available at: <https://rg.ru/2014/03/04/imena.html> (accessed 2 August 2017).

<sup>6</sup> *Stjerna v. Finland*, no. 18131/91, 25 November 1994, § 29.

mismatch between their gender identity and their legal name and legal gender marker.<sup>7</sup> Further, monitoring research conducted by the Transgender Legal Defence Project (“TLDP”) in 2015-2016 found that 50% of respondents faced discrimination in employment, 31% in postal services, 24% in bank services, and 17% in public transportation services due to the inconsistency of their identity documents and their presentation and appearance.<sup>8</sup>

10. Therefore, transgender people, in Russia as in other countries, often seek to make use of available name change procedures as the legal gender recognition (“LGR”) procedures are inaccessible to them. For a transgender person, changing their name is not only an important step in social transitioning, as it allows a them to identify themselves and be called by a name of their choice that corresponds to their gender identity, but it also helps to alleviate the possible discordance between the gender expression and name and, thereby, to minimise the level of day-to-day discomfort (e.g. questioning the authenticity of the ID-documents) they face.<sup>9</sup>

11. Some countries recognise the immediate social importance of a name change for a transgender person and therefore make name change procedures available separately from legal gender recognition procedures. For instance, since 1980 the German Transsexual Law has offered the possibility to change one’s name (§§1-7) independently of and with less intrusive requirements (sterility, gender confirming treatment, single status) than the change of one’s gender marker (§§8-12) to enable the person to publicly live according to their gender identity early-on.<sup>10</sup> Also, procedures in Ireland and the United Kingdom recognise that an applicant changes their name by Deed Poll independently from an application for a Gender Recognition Certificate.<sup>11</sup>

### *Practice of name change in Russia*

12. There is no requirement under Russian law for a person’s legal name to correspond with their legal gender. In some cases, the Civil Registry Office and the Courts have granted a change of name to transgender people who had not yet obtained legal gender recognition. For instance, on 30 September 2016, the Industrial District Court of Perm granted the claim of a transgender woman, who sought to change her first name to a name perceived as female, and her last name with grammatical male ending and male patronymic to gender neutral ones. The court ruled that, when a person wishes to change their legal name, Russian legislation does not contain any

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<sup>7</sup> See: Семенова С. et al. (2014). *Гендерная идентичность в эпицентре дискриминации: жизнь транс\* людей в России*. Санкт-Петербург. Р. 34. Available at: [http://issuu.com/coming\\_out\\_spb/docs/transgender](http://issuu.com/coming_out_spb/docs/transgender) (accessed on 31 July 2017).

<sup>8</sup> See Проект правовой помощи трансгендерным людям. (2016). *Нарушения прав трансгендерных людей в России: результаты исследования*. Санкт-Петербург. Available at: [http://pravo-trans.eu/files/violation\\_of\\_the\\_rights\\_of\\_transgender\\_people\\_in\\_Russia.pdf](http://pravo-trans.eu/files/violation_of_the_rights_of_transgender_people_in_Russia.pdf) (accessed on 31 July 2017).

<sup>9</sup> For example, 33 of 600 consultations provided by the TLDP to its beneficiaries in 2016 were related to the issue of name change without legal gender marker change.

<sup>10</sup> See Deutscher Bundestag, *Entwurf eines Gesetzes über die Änderung der Vornamen und die Feststellung der Geschlechtszugehörigkeit in besonderen Fällen (Transsexuellengesetz — TSG)*, Drucksache 8/ 2947 from 06 June 1979, p. 12 para 2.5

<sup>11</sup> See the Guidance for Ireland at <http://www.welfare.ie/en/Pages/GRC1.aspx> and for the United Kingdom at <https://formfinder.hmctsformfinder.justice.gov.uk/t451-eng.pdf>, at p12.

specific requirements.<sup>12</sup>

13. However, this practice is not consistent across Russia and in cases such as the Applicant's, the Civil Registry Office supported by the Courts, have refused to permit the change of name without a corresponding change of legal gender marker.

14. This requirement, which is being imposed without legislation, constitutes an additional step in the name change procedure, applicable only to transgender people. This cannot be justified by the aims of "*preserving the norms of the language and preventing a violation of the rights of others*" (as cited in the Russian Court's judgment), particularly where the submitted name is a widely used first name and in circumstances where no infringements of other people's rights have been identified.

15. Imposing a transgender person an extra requirement for name change may be motivated by biases towards this population group and is discriminatory in circumstances where access to the procedure for legal gender recognition is substantially limited, as further described below under II chapter. If the name change procedure is more difficult for a transgender person, entails more requirements, or is in any other way limited compared to the procedure applicable to a person whose gender identity is in accordance with their gender assigned at birth ("cisgender"), it must be considered a discrimination on grounds of gender identity. In the situation of a name change the comparable individuals to establish a discrimination are a transgender person willing to change their name and the cisgender person wishing to change their name. If the treatment of the two individuals by the authorities is different, leading to an actual disadvantage of one of them, with the sole reason being the gender identity, there has been a discrimination on ground of gender discrimination.

## **II Procedure and practice of legal gender recognition in Russia**

16. There is also considerable disparity in Russia between the procedure for legal gender recognition described in law and the steps that transgender people must take to achieve it in practice. Although Russian law does not explicitly require a diagnosis of "transsexualism" for legal gender recognition, the interveners do not know of any cases where a person has accessed legal gender recognition without this diagnosis.

### ***Legal requirement for a medical certificate confirming "sex change"***

17. Article 70 of the Russian Federal Law "On Acts of Civil Status" requires a person seeking to change their gender marker to provide the Civil Registry Office with:

*"a certificate confirming sex change issued by a medical organization in the form and under procedure established by the federal executive body that exercises functions for the development and implementation of public policy and legal regulation in the field of health service."*<sup>13</sup>

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<sup>12</sup> The judgment without the applicant's personal details is available at: [https://industry--perm.sudrf.ru/modules.php?name=sud\\_delo&srv\\_num=1&name\\_op=doc&number=179041778&delo\\_id=1540005&new=0&text\\_number=1&case\\_id=167755991](https://industry--perm.sudrf.ru/modules.php?name=sud_delo&srv_num=1&name_op=doc&number=179041778&delo_id=1540005&new=0&text_number=1&case_id=167755991) (accessed on 31 July 2017).

<sup>13</sup> Federal Law of the Russian Federation No. 143-FZ of 15 November 1997 "On Acts of Civil Status".

18. This is the only official evidential requirement for a legal change of gender marker. However, no such certificate exists and there is no common definition or understanding what “sex change” («изменение пола») entails. The Ministry of Health was charged with developing and approving a form of certificate in 1998<sup>14</sup> but, to date, no such document has been approved.

19. In the absence of a standard form of certificate, transgender people wishing to change their legal gender marker have no option but to submit, together with their applications, a non-standard form certificate, produced by their healthcare professionals. In no less than 22 of the 83 regions of Russia,<sup>15</sup> the Civil Registry Office refuses to recognise such certificates. Therefore, gender recognition applications are often dismissed on the sole ground that the medical certificate provided with them does not meet the “established form” required by the legislation. In these regions transgender people can change their legal gender marker only through court proceedings, which may also require further steps as set out below.

### ***Requirement of diagnosis of “transsexualism”***

20. TLDP reports that transgender persons wishing to change their legal gender marker are required to obtain a diagnosis of “transsexualism”.<sup>16</sup> However, due either to the lack of medical specialists in their region or to the degrading procedure of psychiatric evaluation that some practise, many transgender people face difficulties in receiving this diagnosis.<sup>17</sup>

### ***Requirement of gender reassignment surgery***

21. In addition, the Civil Registry Offices of 12 of the 83 regions<sup>18</sup> request a medical certificate confirming that the applicant underwent gender reassignment surgery before granting legal gender recognition. The same approach is often applied by Russian courts.<sup>19</sup> In some cases, the Russian courts have however dismissed the applications of transgender people who have

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<sup>14</sup> Government Decree of 6 July 1998 No. 709 “On Measures for Implementation of the Federal Law “On Acts of Civil Status”.

<sup>15</sup> According to data collected by TLDP since 2012, a court judgment is the only ground for legal gender marker change in Moscow, St. Petersburg, Moscow Region, Leningrad Region, Novosibirsk Region, Khabarovsk Krai, Rostov Region, Krasnodar Krai, Yaroslavl Region, Ivanovo Region, Omsk Region, Chelyabinsk Region, Ulyanovsk Region, Ryazan Region, Chukotka Autonomous Region, Samara Region, Republic of Bashkortostan, Kostroma Region, Kaluga Region, Voronezh Region, Krasnoyarsk Krai, and Penza Region.

<sup>16</sup> An F64.0 diagnosis, according to the 10th revision of the International Statistical Classification of Diseases and Related Health Problems.

<sup>17</sup> Between December 2016 and January 2017, the TLDP conducted a research into the interactions between transgender people and medical specialists over the past five years. 25% of respondents who had sought psychiatric assistance in the past five years reported that the services provided were substandard or that they were denied help entirely.

<sup>18</sup> According to the data collected by TLDP since 2011 these are Perm Region, Sverdlovsk Region, Tver Region, Kemerovo Region, Orenburg Region, Irkutsk Region, Republic of Karelia, Komi Republic, Magadan Region, Oryol Region, Kamchatka Region, and Tyumen Region.

<sup>19</sup> See, for example: judgment of the Zheleznodorozhnyy District Court of Krasnoyarsk of 9 April 2015, case No. 2-2290/2015 and appeal judgment of the Krasnoyarskiy Regional Court of 21 December 2015, case No. 33-6733/2015; judgment of the Zamoskvoretzkiy District Court of Moscow of 14 July 2015, case No. 2-5101/2015; judgment of the Golovinskiy District Court of Moscow of 29 November 2016, case No. 2-0667/2016; judgment of the Chkalovskiy District Court of Yekaterinburg of 25 March 2016, case No. 2-1276/2016 and appeal judgment of the Sverdlovsk Regional Court of 28 June 2016, case No. 33-10958/2016; judgment of the Artemovskiy City Court of the Sverdlovsk Region of 10 August 2016, case No. 2-1265/2016 and appeal judgment of the Sverdlovsk Regional Court of 15 November 2016, case No. 33-19050/2016.

undergone gender reassignment surgeries on the grounds that the surgeries performed are insufficient to support a change of legal gender marker.<sup>20</sup>

22. This practice is entirely arbitrary, not required by Russian legislation and at odds with *AP, Garçon and Nicot v France*<sup>21</sup>, where the Court found that medical interventions which lead with a high probability to sterility and are mandatory requirements in legal gender recognition are not compatible with Article 8 of the Convention. Further, gender reassignment surgery is not covered by Russian state health insurance. This presents an insuperable obstacle to legal gender recognition to the many transgender people for whom the private procedure is prohibitively expensive.

23. These difficulties in changing legal gender marker in Russia significantly exacerbate the situation for transgender individuals. As legal gender recognition is not accessible in practice general procedures for name change appear as a more viable option to at least change one aspect of the officially held gendered information.

### **III Distinct character of names when compared to other gender markers in the context of legal gender recognition**

24. Names, unlike other gender markers, such as gendered codes in ID numbers, play an important role in a person's identity and every day private life. The ability to be recognised by one's self-determined (gendered) name is fundamental to the sense of oneself as a woman, man or other gender identity, and is necessary to prevent transgender people from having to reveal intimate personal details about their gender identity in everyday situations prompting identity verification. For many transgender people the legal recognition of their name of choice is more important than a change of gender marker in order to not to be outed in everyday situations. Hence, for the social reality of many transgender people, access to name change procedures is vital, regardless of whether the applicant wants to also change other gender marker or undergo any medical treatments, be they requirements of the legal gender recognition procedure or not. The "free choice of first name" has long been a common demand of transgender people across Europe. 94% of the 120 delegates of the first European Transgender Council in 2005 supported the demand, "Each person should have the right to change their first names to names of any gender, in self-responsibility, regardless of their sex, gender or gender role," making it the second most pressing issue.<sup>22</sup> This call extends to gender-identifying patronymics and surnames.

25. In contrast to other legal gender recognition cases previously heard by this Court that dealt with change of name and gender markers, public interest factors are of less importance in a case pertaining only to the change of name of a person. The public interest factors that the Court has traditionally taken into account in the State's balancing exercise (safeguarding the principle of inalienability of civil status, guaranteeing the reliability and coherence of civil status, ensuring legal certainty) do not outweigh the personal interest in such a case: given that

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<sup>20</sup> In 2013-2016, TLDP came across in its work of 5 cases in which Russian courts dismissed applications for legal gender change of transgender persons who had undergone sex reassignment surgeries.

<sup>21</sup> *A.P., Garçon and Nicot v France*, nos. 79885/12 and 2 others, 6 April 2017.

<sup>22</sup> Fels, Eva, *Common Goals of the First European TransGender Council. A Summary Review*, Nov. 2005, accessible at: [http://www.tgeu.net/PubAr/Documents/Co01/Vo\\_SumUp.pdf](http://www.tgeu.net/PubAr/Documents/Co01/Vo_SumUp.pdf).

there is no change in other gender markers (i.e. F/M markers or gendered personal code), a mere name change will not affect reliability of civil status or legal certainty in any way, nor give rise to claims to gendered rights and duties (e.g. pension age, military draft, marriage etc.). Also, other public interests, such as preservations of linguistic norms or grammatical conformity, are not at stake where a very commonly used name is concerned, and the only genuine issue is conformity with the individual's legal gender marker.

26. Given that both the name and gender identity are essential aspects of a person's private life, the State should have only a narrow margin of appreciation in applying any restrictions to its name change procedures that disproportionately affect transgender people in a way that creates discordance between their social reality and gender identity and the law. Especially in the context of a country where legal gender recognition is not regulated, is difficult to access, or entails a number of medical preconditions (such as gender reassignment surgery), the name change procedure should be accessible without excessive conditions or requirements.

#### IV European courts' practice on names

27. Both this Court and the Court of Justice of the European Union ("CJEU") have recognised that a person's name is a fundamental part of their identity. The Court in *Daróczy v Hungary*<sup>23</sup> held that names have "*a crucial role in a person's identification*" and, in particular, "*are central elements of self-identification and self-definition*". Similarly, the CJEU in *Bogendorff von Wolffersdorff*<sup>24</sup> held that "*a person's forename and surname are a constituent element of his identity and of his private life*".

28. In this respect, the Court has distinguished the particular role of names in identification. In the judgment in *Stjerna*<sup>25</sup> the Court stated:

*"Despite the increased use of personal identity numbers in Finland and other Contracting States, names retain a crucial role in the identification of people."*

29. For these reasons, both this Court and the CJEU have recognised that names fall within the scope of the protection conferred by Article 8 of the European Convention on Human Rights ("ECHR"). In *Pretty v. the United Kingdom*<sup>26</sup> the Court said:

*"Elements such as, for example, gender identification, name and sexual orientation fall within the personal sphere protected by Article 8"*.

The CJEU stated in *Bogendorff von Wolffersdorff*<sup>27</sup>:

*"[...] the protection of [names] is enshrined in Article 7 of the Charter of Fundamental Rights of the European Union (the "Charter") and in Article 8 of the European Convention for the Protection of Human Rights and Fundamental*

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<sup>23</sup> *Daróczy v. Hungary*, no. 44378/05, §§ 26 and 32, ECHR 2008.

<sup>24</sup> Judgement of 2. June 2016, *Bogendorff von Wolffersdorff*, Case C-438/14, § 35.

<sup>25</sup> *Stjerna v. Finland*, no. 18131/91, 25 November 1994, § 39.

<sup>26</sup> *Pretty v. the United Kingdom*, no. 2346/02, § 61, ECHR 2002-III.

<sup>27</sup> Judgement of 2. June 2016, *Bogendorff von Wolffersdorff*, Case C-438/14, § 35.

*Freedoms, signed in Rome on 4 November 1950 ('the ECHR'). Even though Article 7 of the Charter does not refer to it expressly, a person's forename and surname, as a means of personal identification and a link to a family, none the less concern his private and family life".*

30. The Court accepted in *Stjerna* that the imposition, in breach of Article 8 ECHR, of legal restrictions on the possibility of changing one's name may, in certain circumstances, be justified in the public interest. This is a balancing exercise. The Court's approach, as expressed in *Daróczy*<sup>28</sup>, has been to determine, first,

*"that the restriction on the applicant's right was prescribed by law and pursued a legitimate aim"*

and then to

*"focus on the question of necessity and proportionality. In weighing up the different interests at stake, consideration should be given, on the one hand, to the applicant's right to bear a name, and on the other and the public interest in regulating the choice of names".*

31. Similarly, the Court has acknowledged that gender identity belongs to "one of the most intimate areas of a person's private life",<sup>29</sup> is a free-standing "right",<sup>30</sup> a "fundamental aspect of the right to respect for private life"<sup>31</sup>, and is "one of the most basic essentials of self-determination".<sup>32</sup> In *Hämäläinen v. Finland*<sup>33</sup>, the Court held that the State's margin of appreciation will depend, in part, upon:

*"the importance of the interest at stake and whether "fundamental values" or "essential aspects" of private life are in issue [...] or the impact on an applicant of a discordance between the social reality and the law, the coherence of the administrative and legal practices within the domestic system being regarded as an important factor in the assessment carried out under Article 8 [...]"* (emphasis added).

In particular, the Court stated that:

*"Where a particularly important facet of an individual's existence or identity is at stake, the margin allowed to the State will be restricted".*

32. Therefore, it is clear that restrictions on name change should be analysed very critically, and even more so where they are seeking to prevent conformation with an individual's gender identity.

33. The Interveners submit that, given the very personal nature of an individual's name, and its role in self-identification as described above, the State's margin of appreciation in

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<sup>28</sup> *Daróczy v. Hungary*, no. 44378/05, §§ 28, ECHR 2008.

<sup>29</sup> *Van Kück v. Germany*, no. 35968/97, §56, ECHR 2003-VII.

<sup>30</sup> *Idem*, §75.

<sup>31</sup> *Idem*, §75.

<sup>32</sup> *Y.Y. v Turkey*, no. 14793/08, §102, 10 March 2015 (extracts).

<sup>33</sup> *Hämäläinen v Finland*, no. 37359/09, §§ 66-67, ECHR 2014-IV.

change of name cases should be narrow, particularly where the reason for a person's proposed change of name is to live publicly according to their gender identity.

34. In *B. v France*<sup>34</sup>, a transgender woman complained that the French authorities had refused to amend the civil-status register to allow her to change her first name to a name perceived as a female one. Under French law, the procedure for change of first name was subject to judicial permission and the demonstration of a “*legitimate interest*” capable of justifying it. At the time of the Court's judgment, there was no settled case law in France that regarded being transgender as giving rise to such an interest. As a consequence, the applicant was denied her request to obtain a new first name that better reflected her gender identity. In circumstances where many French official documents revealed the discrepancy between the legal gender and the perceived gender/gender expression of a transgender person, the Court held that there had been a violation of Article 8: the refusal to amend the civil status register had placed the applicant “*in a daily situation which, taken as a whole, was not compatible with the respect due to her private life*”.

#### ***Case law of the Court of Justice of European Union***

35. The CJEU has been sceptical of public policy justifications for restricting change of name, and of arguments based on linguistic non-conformity, in particular where the claimed justifications, when scrutinised, are not applied consistently. For instance, in *Garcia Avello v. Belgium*<sup>35</sup>, the children of a Spanish mother and Belgian father, who were born in Belgium, were given their father's two surnames, according to Belgian custom. The couple later sought to change their children's surnames to the first surname of both their father and mother, according to Spanish custom. The Belgian authorities refused their request on basis that Belgian law very rarely allowed changes to surname. However, the couple successfully argued that the name change would have been allowed if their children, or any older siblings, had been born in Spain. The CJEU held that rules on surnames were subject to national law, but must comply with EU law if a cross-border issue arose. Given the existence of exceptions to the Belgian rules, the State could not justify refusing to change the children's surnames on account of national linguistic customs.

36. Similarly, in *Grunkin, Paul and others*<sup>36</sup>, a German couple had a son in Denmark and gave him a double-barrelled surname. The German authorities refused to recognise his surname as double-barrelling was not permitted under German law. The CJEU held that this amounted to discrimination under Article 18 of the Treaty on European Union (free movement of persons) and that none of the State's justifications sufficed (for example, that a person's name was to be determined based on their nationality, that siblings should have the same surname, or that double-barrelled names are too long), particularly as Germany allows double-barrelled surnames where one of the parents is not German.

37. The present case does not touch upon preserving of linguistic norms, as the applicant's chosen name would be a perfectly acceptable for a Russian woman.

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<sup>34</sup> *B. v France*, no. 13343/87, 25 March 1992, § 63, Series A no. 232-C.

<sup>35</sup> Judgement of 2. October 2003, *Garcia Avello v. Belgium*, Case C-148/02.

<sup>36</sup> Judgement of 14. October 2008, *Grunkin, Paul and others*, Case C-353/06.