



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Communicated on 23 February 2017

THIRD SECTION

Application no. 60796/16
X
against Russia
lodged on 13 October 2016

STATEMENT OF FACTS

1. The applicant is a Russian national who was born in 1976 and lives in St Petersburg. The President decided that the applicant's identity should not be disclosed to the public (Rule 47 § 4). She is represented before the Court by Ms K.A. Kirichenko, a lawyer practising in St Petersburg.

2. The applicant is a transgender woman (male-to-female transgender person). At birth **she** was genetically male and her gender was registered as "male". However, she currently identifies herself as female.

3. The facts of the case, as submitted by the applicant, may be summarised as follows.

4. At the material time the applicant had **neither been officially diagnosed with transsexualism, nor had she undergone any medical gender-transition procedure**. However, for many years she had referred to herself as "Anna" and used feminine inflective morphemes in her speech. She wore women's clothes and make-up, and had a feminine hairstyle. **Her relatives and colleagues** addressed her as "Anna".

5. On an unspecified date the applicant applied to the Frunzenskiy district civil acts registration office in St Petersburg (*отдел ЗАГС Фрунзенского района г. Санкт-Петербурга*) to **change her name** in the records by replacing her previous male name with "Anna" and **removing her patronymic**. She intentionally **did not ask for her gender** to be changed.

6. On 3 February 2015 the applicant's request was denied with reference to the **grammatical rules of the Russian language**. The registration office explained that any change of name must be consistent with the rules on family names, names and patronymics, and be in conformity with a person's gender.

7. The applicant appealed to a court. She argued that (1) she encountered daily problems having a female appearance but male identification papers, including the refusal by postal employees to serve court summonses on her; (2) a change of name, unlike a change of gender, did not require any

medical certificates; (3) in any event, she could not obtain a medical certificate of gender transition, because the **relevant medical panel in her city had been dissolved**; (4) the **legislation in force did not provide lists of male and female names**; and (5) she had a legitimate interest in removing her patronymic, which in any event was not mandatory under the applicable rules.

8. On 16 July 2015 the Frunzenskiy District Court of St Petersburg (*Фрунзенский районный суд г. Санкт-Петербурга*) dismissed the applicant's claims. The District Court considered that since it was common knowledge that "Anna" was a female name, the applicant had to provide medical documents certifying that she had undergone gender transition in order for her name to be changed. In its reasoning the court referred to the **public interests of the State** and **the rights of others**. The court did not make a ruling on the applicant's claim concerning the removal of a patronymic. The applicant appealed.

9. On 26 November 2015 the St Petersburg City Court (*Санкт-Петербургский городской суд*) rejected the applicant's appeal. The relevant parts of the judgment read as follows:

"... [According to the legislation in force] Russian is the official language of the Russian Federation ... **In the practice of the Russian language, the use of words and expressions that fail to comply with the rules of the modern Russian literary language is not permitted** ...

Living in Russia and enjoying rights and freedoms, the plaintiff may not ignore the rules of the Russian language, [a language] which serves as an intermediary in these relations and which ensures the possibility of mutual understanding between people.

The existence of three genders for nouns (masculine, feminine, and neuter) in the Russian language is one of its basic norms ...

[The plaintiff does not challenge the fact that on his birth certificate his gender is entered as 'male']

[The change of name] would lead to a contradiction between the birth certificate [of the plaintiff] as male and feminine forms of the family name and patronymic.

The court finds that the [trial court's] judgment was right in concluding that **the use of a name has an impact on the rights of others and the public interests**, which have to be considered along with a change of name being an individual's private affair ...

[The plaintiff's reference to Article 8 of the Convention is immaterial, because] while in the present case the choice of name is indeed a private affair, **the existing interference is in accordance with the law and predetermined by the socially significant aims of preserving the norms of the language and preventing a violation of the rights of others ..."**

10. The applicant lodged subsequent cassation appeals, which were dismissed as inadmissible by single judges of the St Petersburg Regional Court and the Supreme Court of the Russian Federation on 17 March and 9 June 2016, respectively.

COMPLAINTS

11. The applicant complains under Article 8 of the Convention of a violation of her right to respect for her private life on account of the authorities' refusal to change her name without a change of gender.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicant's right to respect for her private life, within the meaning of Article 8 § 1 of the Convention?

2. If so, was that interference in accordance with the law? What was the legal basis for the refusal to change the applicant's name without proof that her gender had changed? What were the applicable legal rules for giving and changing names in public records? Did the Russian legislation in force provide lists of male and female names? Was the use of the patronymic mandatory in public records and identification papers?

3. Was the refusal to change the applicant's name without proof that she had changed gender necessary in terms of Article 8 § 2? What was the legitimate aim pursued by the authorities? Was the measure proportionate to the aim pursued?