Court of Justice of the European Union
PRESS RELEASE No 56/16
Luxembourg, 2 June 2016

Press and Information

Judgment in Case C-438/14
Nabiel Peter Bogendorff von Wolffersdorff v Standesamt der Stadt Karlsruhe, Zentraler Juristischer Dienst der Stadt Karlsruhe

A name containing several tokens of nobility and freely chosen by a German in another Member State of which he also holds the nationality does not necessarily have to be recognised in Germany

Recognition may be refused if that is appropriate and necessary to ensure the equality before the law of all German citizens

Mr Nabiel Peter Bogendorff von Wolffersdorff,[1] born in Germany in 1963,[2] acquired, during a period of residence in Great Britain between 2001 and 2005,[3] in addition to his German nationality, British nationality and had his forenames and surname changed [4] to 'Peter Mark Emanuel Graf von Wolffersdorff Freiherr von Bogendorff,[5] 'Graf' and 'Freiherr' meaning in German 'Count' and 'Baron' respectively. On his return to Germany, he requested the Register office of the city of Karlsruhe (Germany) to register that change and enter in the register his new forenames and surname acquired under English law. Since that office refused to grant his request, Mr Bogendorff von Wolffersdorff brought an action before the Amtsgericht Karlsruhe (District Court, Karlsruhe), which asks the Court of Justice whether EU law precludes such a refusal of recognition.

By today's judgment, the Court finds that **the refusal**, by the authorities of a Member State, to recognise the forenames and surname of a national of that Member State, as determined and registered in another Member State of which he also holds the nationality, **constitutes a restriction on the freedoms conferred under Article 21 TFEU on all citizens of the EU**.

Thus, in the present case, Mr Bogendorff von Wolffersdorff risks having, because of the divergence between his names, to dispel doubts as to his identity. While in the German register of personal status and on his German identity documents he is called 'Nabiel Peter Bogendorff von Wolffersdorff', his British passport and driving licence identify him as 'Peter Mark Emanuel Graf von Wolffersdorff Freiherr von Bogendorff'. In addition, Mr Bogendorff von Wolffersdorff runs the risk of encountering difficulties in proving his family links with his minor daughter, whose surname and forenames, which appear in both her British and German passports,[6] are Larissa Xenia Gräfin von Wolffersdorff Freiin von Bogendorff.

Nonetheless, given that the Weimar Constitution of 1919 abolished the privileges and titles of nobility and prohibited the creation of titles giving the appearance of noble origins in order thus to ensure the equality before the law of all German citizens, the Court finds that **such a restriction could be justified** by public policy considerations.

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[1] 'Nabiel Peter' are the forenames; 'Bogendorff von Wolffersdorff' is the surname.
[2] At birth, he was given the forename 'Nabiel' and the surname 'Bagadi'. Following administrative change of name proceedings he bore the forenames and surname of Nabiel Peter Bogendorff. Subsequently, by the effect of an adoption, he was given the forenames and surname Nabiel Peter Bogendorff von Wolffersdorff.
[3] During that period of residence, he exercised the profession of insolvency adviser in London.
[4] That change was effected by a deed poll registered at the Supreme Court of England and Wales (UK) and published in The London Gazette.
[5] 'Peter Mark Emanuel' are the forenames; 'Graf von Wolffersdorff Freiherr von Bogendorff' is the surname.
[6] Mr Bogendorff von Wolffersdorff's daughter was born in Germany in 2006 and also holds both nationalities. In 2011, the Oberlandesgericht Dresden (Higher Regional Court, Dresden) ordered the Register office of the city of Chemnitz to enter in the register of personal status the name on the birth certificate issued by the British Consular authorities in Düsseldorf.

In that regard, the Court notes that titles of nobility which existed before the Weimar Republic, although abolished[7] as such, have been retained as elements of names, so that there are still German citizens whose name includes elements corresponding to former titles. However, it would run counter to the intention of the German legislature for German nationals, using the law of another Member State, to adopt afresh abolished titles of nobility. Systematic recognition of changes of name such as that at issue in this case could lead to that result.

The Court's answer to the Amtsgericht Karlsruhe is therefore that **the authorities of a Member State are not bound to recognise the name** of a citizen of that Member State when he also holds the nationality of another Member State in which he has acquired a name which he has chosen freely and which contains a number of tokens of nobility, which are not accepted by the law of the first Member State, **provided** that it is established, which it is for the Amtsgericht to ascertain, **that a refusal** of recognition **is**, in that context, justified on public policy grounds, in that it is **appropriate and necessary to ensure compliance with the principle that all citizens of that Member State are equal** before the law.[8]

When weighing up the various legitimate interests, the Amtsgericht must take into account the fact (i) that Mr Bogendorff von Wolffersdorff exercised his right of freedom of movement and holds double German and British nationality, (ii) that the elements of the name acquired in the United Kingdom which allegedly undermine public policy do not formally constitute titles of nobility either in Germany or in the UK and (iii) that the Oberlandesgericht Dresden did not take the view that the entry of Mr Bogendorff von Wolffersdorff's daughter's name was contrary to public policy.

Equally, the Amtsgericht must also take into account the fact (i) that the change of name under consideration rests on a purely personal choice by Mr Bogendorff von Wolffersdorff, (ii) that the difference in name which follows therefrom cannot be attributed either to the circumstances of his birth,[9] to adoption,[10] or to acquisition of British nationality and (iii) that the name chosen in the UK includes elements which, without formally constituting titles of nobility in Germany or the UK, give the impression of noble origins.

The Court also points out that, in any event, public policy and the principle of equality before the law of German nationals cannot justify the refusal to recognise the change of **forenames** of Mr Bogendorff von Wolffersdorff.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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[7] The provision in question is, by virtue of the Basic Law of the Federal Republic of Germany of 1949, still in force and, in the hierarchy of norms, is an ordinary federal law.

[8] However, according to the Court, neither the principles of immutability and continuity of names, the mere fact that the change of name was made at Mr Bogendorff von Wolffersdorff's own initiative, nor the objective of avoiding disproportionately long names or names which are too complex can justify the refusal of recognition.

[9] C-353/06; Grunkin and Paul see Press Release No 71/08.

[10] C-208/09 Sayn-Wittgenstein; see Press Release No 125/10. However, that case concerned the Austrian legal order which, unlike the German legal order, contains a strict prohibition on maintaining titles of nobility.