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Judgment of the Court in Case C-4/23 | [Mirin] ¹

The refusal of a Member State to recognise the change of first name and gender lawfully acquired in another Member State is contrary to the rights of EU citizens

A Romanian citizen was registered at birth in Romania as female on his birth certificate.

After moving in 2008 to the United Kingdom, he acquired British nationality and retained Romanian nationality. He was residing in that country when, in 2017, he changed his first name and title from female to male and obtained, in 2020, legal recognition of his male gender identity.

In May 2021, on the basis of two documents obtained in the United Kingdom certifying those changes, that citizen requested that the Romanian administrative authorities record in his birth certificate entries relating to his change of first name, sex and personal identification number so as to reflect the male sex. In addition, he asked that a new birth certificate be issued to him including those new particulars.

However, the Romanian authorities refused those requests and invited him to initiate new proceedings for a change of gender identity before the Romanian courts. Relying on his right to move and reside freely in the territory of the European Union, the citizen concerned applied to a court in Bucharest for an order to bring his birth certificate into line with his new first name and gender identity, as definitively recognised by the United Kingdom.

That court asks the Court of Justice whether the national legislation on which the refusal decision of the Romanian authorities is based complies with EU law and whether Brexit ² has any effect on the dispute.

The Court replies that **legislation of a Member State that refuses to recognise and enter in the birth certificate of a national a change of first name and identity lawfully acquired in another Member State**, in this case the United Kingdom, **is contrary to EU law. This also applies where the request for recognition of that change was made after the withdrawal of the United Kingdom from the European Union.**

First, the Court notes that the change of first name and the change of gender identity underlying the dispute were obtained before Brexit and during the subsequent transition period, respectively. Those changes must therefore be regarded as having been acquired in an EU Member State. The fact that the United Kingdom is no longer an EU Member State does not affect the application of EU law in that case.

Next, the Court explains that **the refusal of a Member State to recognise a change of gender identity lawfully acquired in another Member State hinders the exercise of the right to free movement and residence.** Gender, like a first name, is a fundamental element of personal identity. A divergence between identities resulting from such a refusal of recognition creates difficulties for a person in proving his or her identity in daily life as well as serious professional, administrative and private inconvenience.

Finally, the Court holds that that refusal of recognition and **the fact of obliging the party concerned to initiate new proceedings for a change of gender identity in the Member State of origin**, which expose him to a **risk of**

those proceedings may lead to an **outcome that is different** from the outcome before the authorities of the Member State which lawfully granted that change of first name and gender identity, **are not justified**. In that context, it also notes that it follows from the case-law of the European Court of Human Rights that States are required to provide for a clear and foreseeable procedure for legal recognition of gender identity which allows for a change of sex.

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 EU law or the validity of an EU 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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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

² The procedure for a change of gender identity was initiated in the United Kingdom before that State's withdrawal from the European Union but was completed after that withdrawal, during the transition period.