



Inability of a transgender person with a female appearance to change her male forename prior to surgery: violation of the right to private life

In today's **Chamber** judgment¹ in the case of [S.V. v. Italy](#) (application no. 55216/08) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

The case concerned the Italian authorities' refusal to authorise a transgender person with a female appearance to change her male forename, on the grounds that no final judicial ruling had been given confirming gender reassignment.

In May 2001 the Rome District Court authorised S.V. to undergo gender reassignment surgery. However, under the legislation in force at the time, she was unable to change her forename until the court confirmed that the surgery had been performed and gave a final ruling on her gender identity, which it did on 10 October 2003.

The Court observed at the outset that this issue came entirely within the scope of the right to respect for private life. It went on to find that S.V.'s inability to obtain a change of forename over a period of two and a half years, on the grounds that the gender transition process had not been completed by means of gender reassignment surgery, amounted to a failure by the State to comply with its positive obligation to secure the applicant's right to respect for her private life.

In the Court's view, the rigid nature of the judicial procedure for recognising the gender identity of transgender persons, as in force at the time, had left S.V. – whose physical appearance and social identity had long been female – for an unreasonable period of time in an anomalous position apt to engender feelings of vulnerability, humiliation and anxiety. Lastly, the Court observed that the legislation had been amended in 2011, with the result that a second court ruling was no longer required and amendment of the civil-status records could now be ordered by the judge in the decision authorising the gender reassignment surgery.

Principal facts

The applicant, S.V., is an Italian national who was born in 1965 and lives in Ostia Lido (Italy).

At birth, S.V. was entered in the civil-status registers as male and was given the forename L. However, the applicant identified as female and lived in society as a woman under the forename S. Furthermore, her work colleagues had called her S. since 1999, and in the photograph on her identity card issued in 2000 her appearance was that of a woman. In 1999 S.V. began treatment with feminising hormones as part of the gender transition process. In 2001 the Rome District Court authorised the applicant to undergo gender reassignment surgery.

In 2001, while awaiting the operation, S.V. applied to the prefect of Rome for a change of forename, stating that in view of her physical appearance, the fact that her identity papers contained a male

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

forename was a permanent source of humiliation and embarrassment. The prefect refused the request on the grounds that, in the absence of a final judicial ruling confirming the gender reassignment (Law no. 164 of 1982), the applicant's forename could not be changed. As a result, S.V. had to wait until the court confirmed that the surgery, carried out on 3 February 2003, had been performed and it gave a final ruling on her gender identity. Following the District Court judgment of 10 October 2003 the Savona municipal authorities changed the indication of S.V.'s gender and her forename.

Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private and family life) and Article 14 (prohibition of discrimination), S.V. complained about the prefect's refusal of her request to change her forename on the grounds that she had not yet undergone gender reassignment surgery and that no final judicial decision had been given in that regard.

The application was lodged with the European Court of Human Rights on 13 November 2008.

Judgment was given by a Chamber of seven judges, composed as follows:

Linos-Alexandre **Sicilianos** (Greece), *President*,
Kristina **Pardalos** (San Marino),
Guido **Raimondi** (Italy),
Aleš **Pejchal** (the Czech Republic),
Ksenija **Turković** (Croatia),
Armen **Harutyunyan** (Armenia),
Pauliine **Koskelo** (Finland),

and also Abel **Campos**, *Section Registrar*.

Decision of the Court

[Article 8 \(right to respect for private and family life\)](#)

The Court observed that the case concerned the inability of a transgender person to obtain a change of forename before completing the gender transition process by means of gender reassignment surgery. This issue came entirely within the scope of the right to respect for private life, and the "private life" aspect of Article 8 of the Convention was applicable.

The Court went on to note that, on 10 May 2001, the Rome District Court had authorised S.V.'s surgery. However, S.V. had been unable to change her forename until the court confirmed that the surgery had been performed and gave a final ruling on her gender identity, which it did on 10 October 2003.

The Court did not call into question the choice made by the Italian legislature to entrust decisions on changes to the civil-status register concerning transgender persons to the judicial rather than the administrative authority. Moreover, it fully accepted that the principle of the inalienability of civil status, the consistency and reliability of civil-status records and, more broadly, the need for legal certainty, were in the public interest and justified putting in place stringent procedures aimed, in particular, at verifying the underlying motivation for requests to change legal identity.

However, it noted that the refusal of S.V.'s request had been based on purely formal arguments that took no account of the applicant's specific situation. Hence, the authorities had not taken into consideration the fact that S.V. had been undergoing a gender transition process for a number of years and that her physical appearance and social identity had long been female. In those circumstances the Court failed to see what reasons in the public interest could have justified a delay

of over two and a half years in bringing the forename on S.V.'s official documents into line with the reality of her social situation, which had been acknowledged by the Rome District Court in its judgment of 10 May 2001. Thus, the rigid nature of the judicial procedure for recognising the gender identity of transgender persons, as in force at the time, had left S.V. for an unreasonable period of time in an anomalous position apt to engender feelings of vulnerability, humiliation and anxiety. In that regard the Court referred to Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, in which the Committee of Ministers had urged States to make possible the change of name and gender in official documents in a quick, transparent and accessible way.

Consequently, the Court considered that S.V.'s inability to obtain a change of forename over a period of two and a half years, on the grounds that the gender transition process had not been completed by gender reassignment surgery, amounted in the circumstances of the case to a failure on the part of the respondent State to comply with its positive obligation to secure the applicant's right to respect for her private life. **There had therefore been a violation of Article 8 of the Convention.**

Lastly, the Court observed that Legislative Decree no. 150 of 2011 had amended section 3 of Law no. 164 of 1982. As a result, a second court ruling was no longer required in proceedings to confirm the gender reassignment of persons who had undergone surgery, and the amendment of the civil-status records could now be ordered by the judge in the decision authorising the surgery.

Article 41 (just satisfaction)

The Court held that the finding of a violation constituted in itself sufficient just satisfaction for the non-pecuniary damage sustained by S.V. It further held that Italy was to pay the applicant 2,500 euros (EUR) in respect of costs and expenses.

The judgment is available only in French.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

Inci Ertekin (tel: + 33 3 90 21 55 30)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Patrick Lannin (tel: + 33 3 90 21 44 18)

Somi Nikol (tel: + 33 3 90 21 64 25)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.