



Refusal to alter full birth certificate following gender reassignment was not a violation

In today's **Chamber** judgment¹ in the case of [Y v. Poland](#) (application no. 74131/14) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights, and

no violation of Article 14 (prohibition of discrimination).

The case concerned applications by Y, a transgender man, to have reference to his gender assigned at birth removed from his birth certificate, or to have a new birth certificate issued.

The Court found in particular that the applicant had been unable to demonstrate that he had suffered any disadvantage as a result of the decisions of the domestic authorities. They had balanced the interests at stake, acting within their discretion, when refusing to alter the full birth certificate.

Principal facts

The applicant, Y, is a Polish national who was born in 1969 and lives in the Île-de-France region.

Y underwent gender reassignment from female to male. In 1992 he obtained a court order in Poland to amend his birth certificate to reflect this change. His daughter's birth certificate in France indicates him as the father.

In 2008 he applied to the Polish authorities to have the mention of the 1992 court decision removed from the birth certificate. Following decisions by three administrative authorities, the Opole Regional Administrative Court dismissed his application. That decision was upheld by the Supreme Administrative Court following a cassation appeal.

In 2011 Y applied for a new birth certificate via the courts. He was unsuccessful at three levels of jurisdiction, with the Supreme Court holding, following his cassation appeal, that it was not possible to issue a new birth certificate following gender reassignment, and thus the changes would have to be indicated as an annotation to the original birth certificate.

Complaints, procedure and composition of the Court

Relying on Articles 8 (right to respect for private and family life) and 14 (prohibition of discrimination), the applicant complained that his birth certificate included reference to his gender at birth, and that he was discriminated against *vis-à-vis* adopted children, who were issued new birth certificates.

The application was lodged with the European Court of Human Rights on 18 November 2014.

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.

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

Marko **Bošnjak** (Slovenia), *President*,
Péter **Paczolay** (Hungary),
Krzysztof **Wojtyczek** (Poland),
Erik **Wennerström** (Sweden),
Raffaele **Sabato** (Italy),
Lorraine **Schembri Orland** (Malta),
Davor **Derenčinović** (Croatia),

and also Liv **Tigerstedt**, *Deputy Section Registrar*.

Decision of the Court

Article 8

The Court noted some salient facts, in particular that the applicant lived as a man and was married, that his short-form birth certificate and identity documents indicated his reassigned gender only, and that the long-form birth certificate was not accessible to the public and was required only in rare circumstances. The Court was mindful of the historical importance of original birth certificates, and the need to guarantee the reliability of civil records.

Overall, the applicant had not demonstrated any negative consequences as a result of the refusals by the Polish authorities.

The Court ruled that the Polish authorities had acted within their broad discretion (“margin of appreciation”), striking a balance between the relevant interests in the current case, finding no violation of Article 8.

Article 14

The Court judged that the situation of the applicant and that of adopted children were insufficiently similar to make the argument that he had suffered discrimination. There had been no violation of the applicant’s rights under this Article.

The judgment is available only in English.

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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.