CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FORMER SECOND SECTION

CASE OF BULGAKOV v. UKRAINE

(Application no. 59894/00)

JUDGMENT

STRASBOURG

11 September 2007

FINAL

31/03/2008

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Bulgakov v. Ukraine,

The European Court of Human Rights (Former Second Section), sitting as a Chamber composed of:

Mr J.-P. COSTA, P*resident*,
Mr A.B. BAKA,
Mr I. CABRAL BARRETO,
Mr K. JUNGWIERT,
Mr V. BUTKEVYCH,
Mrs A. MULARONI,
Ms D. JOČIENĖ, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 22 March 2005 and 3 July 2007,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 59894/00) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Ukrainian national, Mr Dmitriy Bulgakov ("the applicant"), on 21 July 2000.

2. The Ukrainian Government ("the Government") were represented by their Agents, Mrs V. Lutkovska and Mr Y. Zaytsev, of the Ministry of Justice of Ukraine.

3. The applicant alleged, in particular, an unjustified interference with his private life, in violation of Articles 8 and 14 of the Convention, in respect of the "Ukrainianisation" of his Russian first name in official documents.

4. The application was allocated to the Second Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. By a decision of 22 March 2005 the Court declared the application partly admissible.

6. On 1 April 2006 the Court changed the composition of its Sections (Rule 25 § 1), but this case remained with the Chamber constituted within the former Second Section.

7. The applicant and the Government each filed observations on the merits (Rule 59 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

8. The applicant was born in 1974 and lives in the city of Simferopol, the Autonomous Republic of Crimea (Ukraine).

9. The facts of the case, as submitted by the parties, may be summarised as follows.

10. The full name of the applicant, a Ukrainian citizen of Russian origin, is, in Cyrillic, "*Дмитрий Владимирович Булгаков*" (*Dmitriy Vladimirovich Bulgakov*). *Dmitriy* is the first, or given, name; *Bulgakov* is the surname, while *Vladimirovich* is the "patronymic" (*otchestvo* in Russian, *po-bat'kovi* in Ukrainian) - in other words, a second given name, derived from the father's given name and the appropriate gender suffix.

11. The applicant was born on the territory of former Soviet Belorussia. His birth certificate was issued in the Russian language. On 21 September 1990, by then living on the territory of former Soviet Ukraine, the applicant received his first Soviet passport (паспорт гражданина СССР), issued in Russian and Ukrainian. According to the applicant, in the Ukrainian version, his name and patronymic were transliterated from Russian as "Дмітрій Владіміровіч" *(Dmitriy Vladimirovich)*. According to the Government, the applicant's name and patronymic could not appear in the Ukrainian version other than in its Ukrainian form – "Дмитро Володимирович" (*Dmytro Volodymyrovych*), since the rules at that time knew no exceptions. (However, neither party could submit any document to prove their assertions, because no archives or copies of that passport exist any longer).

12. In 1993 the applicant lost his passport and, given a lack of new Ukrainian passport forms, he was issued with a special temporary identity certificate drafted in Russian.

13. In December 1997 the applicant applied for and received a Ukrainian citizen's internal passport (*паспорт громадянина України*) from the Directorate General of the Ukrainian Ministry of the Interior in the Crimea (*Головне управління Міністерства внутрішніх справ в АР Крим*, "the Directorate"). Page 2 of this document is drawn up in Ukrainian, and the applicant's given name and patronymic appear in their Ukrainian form "*Дмитро Володимирович*" (*Dmytro Volodymyrovych*). However, on page 3 of the passport, which is in Russian, his whole name is written in its original Russian form.

A. The proceedings concerning the applicant's external passport

14. In June 1998 the applicant applied to the Directorate for a Ukrainian citizen's passport for travel abroad (*паспорт громадянина України для виїзду за кордон*; an "external passport"). It appears from the case file that, when submitting his application, the applicant was obliged to complete and sign a form on which he gave his given name as *Dmytro*. This "Ukrainianised" form of his given name ("*ДМИТРО / DMYTRO*") appears on the first page of the passport, which is in Ukrainian and English; there is no mention of the patronymic. The applicant challenged this "Ukrainianisation" by means of an internal appeal, submitted to the management of the Directorate's local branch, which dismissed it.

15. In July 1998 the applicant appealed to the Kievskiy District Court, Simferopol. He submitted that there had been a violation of his right to the integrity of his given name, and asked the court to order the authorities to issue him with a new passport and to pay him 1,700 hryvnas for non-pecuniary damage.

16. After adversarial proceedings, the court dismissed the appeal in a judgment of 16 August 1999. The judgment noted that the disputed spelling complied with the relevant regulations, which stated that all entries on the first page of an external passport were to be in Ukrainian and English. The court also noted that all of the principal entries in such a passport were to follow the model of the corresponding entries in the internal passport issued to the same person. On the first page of his internal passport, the applicant's given name had been entered as *Dmytro*; accordingly, this spelling was also to be used in the external passport. In addition, the court pointed out that the applicant himself had written his given name as *Dmytro* on the passport application form; consequently, his objections were unfounded.

17. The applicant appealed to the Crimea Supreme Court. He vehemently denied that he had used the form *Dmytro* on the application form. In his opinion, this was a manifestly erroneous finding by the court of first instance, since he had, without question, indicated that his given name was *Dmitriy* and not *Dmytro*.

18. In a judgment of 2 February 2000, the Crimea Supreme Court dismissed the appeal and upheld the findings of the court of first instance.

19. The applicant subsequently made several applications to the prosecution service and the President of the Crimea Supreme Court for supervisory review of the final decision, all of which were dismissed.

B. The proceedings concerning the applicant's internal passport

20. In April 2000 the applicant submitted an internal appeal to the head of the Directorate's local branch. He challenged the fact that his given name and patronymic had been translated into Ukrainian; in particular, he alleged

that, even on the Ukrainian page of the passport, these ought to have appeared in their original form merely transliterated into the Ukrainian alphabet, not replaced by their Ukrainian equivalents. Consequently, according to the applicant, his name ought to have been written on page 2 of the passport as "*Дмітрій Владіміровіч*" (*Dmitriy Vladimirovich*), since the Cyrillic grapheme '*И*' reads as [*i*] in Russian but as [*y*][1] in Ukrainian. The appeal was dismissed.

21. In June 2000 the applicant lodged an application with the Kievskiy District Court of First Instance, Simferopol, for an order requiring the authorities to issue him with a new passport in which his given name and patronymic would be written in their original form on both the Russian and Ukrainian pages. In his submissions he emphasised, *inter alia*, that he belonged to the Russian minority and that consequently, under section 12 of the National Minorities Act, he was entitled to use the original, Russian form of his name. According to the applicant, when entering his given name and patronymic on page 2 of the passport, the authorities would have been entitled to transliterate them into the Ukrainian alphabet, but they had not been entitled to replace them with Ukrainian equivalents.

22. After adversarial proceedings, the Court of First Instance dismissed the appeal as unfounded. The judgment noted that the disputed passport had been drawn up in compliance with the Passports of Ukrainian Citizens Order, which stated that the holder's personal data were to appear "in Ukrainian and in Russian". Finally, the court pointed out that page 3 of the passport had been drawn up in Russian, and that all the elements of the applicant's name appeared on it in their original form; accordingly, there had been no violation of the applicant's fundamental rights.

23. The applicant appealed against this judgment to the Crimea Supreme Court which, in a judgment of 30 August 2000, also dismissed his appeal. In the Supreme Court's opinion, the provision by which the holder's personal data were to appear "in Ukrainian and in Russian" indeed meant that the given name, patronymic and surname were "to comply with the requirements of the Ukrainian language, in application of the rules governing literary translation". Like the Court of First Instance, the Supreme Court added that there had been no violation of the right to the integrity of one's name in the present case, since all the entries on page 3 of the passport had been in Russian.

24. As with his external passport, the applicant made several applications to the prosecution service and the President of the Crimea Supreme Court for a supervisory review of the final decision. These appeals were all dismissed.

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[1] A non-rounded (non-labial) back vowel which roughly corresponds to the Polish "*y*" or Welsh "*y*".

II. RELEVANT DOMESTIC LAW AND PRACTICE AND INTERNATIONAL MATERIALS

A. Domestic Law

1. Constitution of Ukraine, 1996

25. The relevant parts of Article 10 of the Constitution provide:

> "The official language in Ukraine is Ukrainian.
>
> The State ensures the comprehensive development and functioning of the Ukrainian language in all spheres of social life throughout the entire territory of Ukraine.
>
> In Ukraine, the free development, use and protection of Russian, and other languages of the national minorities of Ukraine, is guaranteed..."

2. Law of 25 June 1992 on National Minorities in Ukraine

26. Section 12 of the Law provides:

> "Every Ukrainian citizen is entitled to have a surname, given name and patronymic [corresponding to his or her national origin].
>
> Citizens are entitled, in accordance with the rules in force, to revert to their [original] surname, given name and patronymic.
>
> Citizens whose ethnic tradition does not involve the use of a 'patronymic' [*po-bat'kovi*] are entitled to indicate only their surname and given name in [the] documents; their birth certificate [may] indicate the surnames of the father and of the mother."

3. Legislation concerning the passports of Ukrainian citizens

27. Ukrainian citizens normally have two passports, each of which has a distinct function. The internal passport (also called the "Ukrainian citizen's passport") is the basic identity document, proving the holder's identity in all administrative and socio-economic relations throughout the country. In contrast, the external passport is a travel document for use abroad.

28. The relevant provisions of Parliamentary Order no. 2503-XII of 26 June 1992 concerning the passports of Ukrainian citizens (*Положення "Про паспорт громадянина України"*) read as follows:

> "... 4. All the entries contained in the passport and all the information concerning its holder shall be made in Ukrainian and Russian...."
>
> "...16. An exchange of passports shall be conducted in case of:

A change (replacement) [*зміни (переміни)*] of surname, given name or patronymic...”

[Annex]

Description of the Ukrainian citizen's passport

“... On the upper section of page 2 of the passport, [there is] a space for the holder's identity photograph.... Lower down, the surname, given name and patronymic... [are] in Ukrainian...

On page 3 of the passport – the surname, given name and patronymic ... [are] in Russian...”

29. According to Article 15 of Rule no. 231 of 31 March 1995 on the preparation and issue of Ukrainian citizens' passports for travel abroad and travel documents for children, their temporary seizure and confiscation (*Правила оформлення і видачі паспортів громадянина України для виїзду за кордон і проїзних документів дитини, їх тимчасового затримання та вилучення*), external passports are to be drawn up in Ukrainian and English.

The technical arrangements for the issue of passports are set out in ministerial orders or instructions. In particular, in accordance with the Minister of the Interior's instruction no. 316 of 17 August 1994 on the passports of Ukrainian citizens, the passport holder must sign both the passport application form and the passport itself, thus confirming the accuracy of the information appearing in them.

4. Legislation concerning a change of name

30. A Regulation concerning the procedure for examining applications for a change of surname, given name or patronymic from citizens of Ukraine was approved by the Decision of the Cabinet of Ministers of Ukraine on 27 March 1993.

31. According to that Regulation, any citizen of Ukraine who has reached the age of sixteen can apply for a full or partial change of name to the civil status registration department responsible for the district in which the individual resides. The applicant must pay a fee and provide a birth certificate and photograph and, if he or she is married and has children, the marriage certificate and the birth certificates of the children.

32. The civil status registration department verifies the documents and their archived records and sends the file to the local police department. Within a month, the latter shall make the necessary checks of the person's identity in order to prevent abuse of the procedure by people fleeing from justice, avoiding the payment of child maintenance, or pursuing other fraudulent purposes. The case file is then returned to the civil status registration department together with an opinion on the question of the

proposed change of name. In case of police objections or if the applicant is under criminal investigation, on trial or convicted, the civil status department will refuse the application. This refusal can be challenged in the courts.

33. The whole procedure should normally take three months, unless there is a need to restore some lost archive documents concerning the civil status of the applicant.

34. If the application for a change of name is granted, the individual must change the official documents, like the passport, within a month.

B. International Law

35. The Council of Europe's Framework Convention for the Protection of National Minorities was opened for signature on 1 February 1995 and entered into force in respect of Ukraine on 1 May 1998. Article 11 § 1 of that Convention provides as follows:

> "The Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronymic) and first names in the minority language and the right to the official recognition of them, according to modalities provided for in their legal system."

Paragraph 68 of the explanatory report to the Framework Convention states:

> "In view of the practical implications of this obligation, the provision is worded in such a way as to enable Parties to apply it in the light of their own particular circumstances. For example, Parties may use the alphabet of their official language to write the name(s) of a person belonging to a national minority in its phonetic form. Persons who have been forced to give up their original name(s), or whose name(s) has (have) been changed by force, should be entitled to revert to it (them), subject of course to exceptions in the case of abuse of rights and changes of name(s) for fraudulent purposes. It is understood that the legal systems of the Parties will, in this respect, meet international principles concerning the protection of national minorities."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

36. The applicant considered himself to be the victim of an unjustified interference with his right to respect for private and, possibly, family life. This right is enshrined in Article 8 of the Convention, which provides insofar as relevant as follows:

"1. Everyone has the right to respect for his private and family life, ...

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society ... for the protection of the rights and freedoms of others."

A. Parties' submissions

37. The Government denied any interference with the applicant's rights under Article 8. They pointed out that the applicant's forenames had been entered in his internal passport in both variants (the "Ukrainianised" and original form), and that any complaint on this point was ill-founded. The external passport was of secondary importance compared to the internal passport, since it was reserved exclusively for travel abroad. Thus, any possible inconvenience linked to its use was insufficient to create an "interference" within the meaning of Article 8 § 1 of the Convention. In any event, the restrictions imposed on the applicant and any inconvenience he suffered were minimal compared to the situations previously examined by the Court under Article 8 (cf. in particular, *Stjerna v. Finland*, judgment of 25 November 1994, Series A no. 299-B; *Guillot v. France*, judgment of 24 October 1996, *Reports of Judgments and Decisions* 1996-V). Indeed, if the applicant was not happy with the official rendering of his names, there was nothing to prevent him submitting a request to the competent authorities for them to be changed.

38. Supposing, nonetheless, that the impugned situation could be construed as an interference in the applicant's private life, the Government were convinced that such an interference complied with the requirements of Article 8 § 2, namely that it was in accordance with the law, pursued a legitimate aim and was "necessary in a democratic society" in order to achieve that aim. In this regard, they explained that the "Ukrainianisation" of the given names of individuals belonging to the two other nations of the Eastern Slavic group (i.e. Russians and Belarussians) represented an old and stable practice. In the three nations, every given name of Christian origin was considered to be one and the same, and typing differences ("*Dmytro/Dmitriy*") had always been perceived as a matter of pure form. In other words, this given name had taken on its own phonetic form – a sort of local variation – in each Slavic language, which explained the difference in pronunciation and written form. This tradition also concerned the given names of famous individuals: thus, Tsar Peter the Great (*Piotr* in Russian) was called *Petro* in Ukrainian; Catherine II (*Yekaterina*) was transcribed as *Kateryna*; *Mikhail Gorbatchev* and *Vladimir Ulyanov* became *Mykhaylo* and *Volodymyr* when they were mentioned in a Ukrainian text. A similar practice existed in Russia, where a Ukrainian named *Dmytro* would always be called *Dmitriy*. Finally, the Government emphasised that the applicant

had reported no practical inconvenience arising from the situation of which he complained. The impugned interference was therefore in no way disproportionate to the aims pursued.

39. The applicant disputed the Government's arguments. He stressed that he was not requesting that his given name or patronymic be changed. His only request concerned the general use of their original - Russian - form. In this connection, he pointed out that, when the given name and patronymic "*Dmitriy Vladimirovich*" were transcribed as "*Dmytro Volodymyrovych*", they sounded entirely different. This could pose problems, especially in the Crimea, where the majority of the population was Russian-speaking and where anti-Ukrainian sentiment still existed. In particular, the applicant insisted that, by imposing the "Ukrainianised" form of his given name as its principal form, the Ukrainian authorities had infringed his rights under section 12 of the Ukrainian National Minorities Act.

40. The applicant also related a series of practical inconveniences which he had suffered as a result of the adoption of the "Ukrainianised" form as the authoritative version of his name. Thus, all official documents issued by the Ukrainian authorities contained only the version "*Dmytro Volodymyrovych*", and practically never "*Dmitriy Vladimirovich*". In addition, even when he travelled to Russia, the Russian authorities refused to take into consideration the Russian form of his given name, on the ground that the only form included in his external passport was "*Dmytro*".

41. Furthermore, the applicant explained that he had never requested that his given name and patronymic be entered in Ukrainian documents using the Russian spelling as it stood, namely "*Дмитрий Владимирович*". He stated that he had always agreed that, in Ukrainian, they be written as "*Дмітрій Владіміровіч*". In other words, he fully accepted that the Cyrillic letter *u* (*И*) be changed to an *i* in order to preserve the pronunciation as faithfully as possible.

B. The Court's case-law

42. Neither of the parties sought to question the applicability of Article 8 of the Convention in the instant case, and the Court sees no reason to do so. The Court has, on several occasions, recognised the applicability of Article 8 – in relation to both "private life" and "family life" – to disputes concerning people's surnames and forenames (see the judgments in *Burghartz v. Switzerland*, 22 February 1994, Series A no. 280-B, p. 28, § 24; *Stjerna v. Finland*, 25 November 1994, Series A no. 299-B, p. 60, § 37; *Guillot v. France*, 24 October 1996, *Reports* 1996-V, pp. 1602-1603, § 21; see also *Szokoloczy-Syllaba and Palffy de Erdoed Szokoloczy-Syllaba v. Switzerland* (dec.), no. 41843/98, 29 June 1999; *Bijleveld v. the Netherlands* (dec.), no. 42973/98, 27 April 2000; *Taieb, known as Halimi v. France* (dec.), no. 50614/99, 20 March 2001; *G.M.B. and K.M. v.*

Switzerland (dec.), no. 36797/97, 27 September 2001; *Šiškina and Šiškins v. Latvia* (dec.), no. 59727/00, 8 November 2001; *Petersen v. Germany* (dec.), no. 31178/96, 6 December 2001). The subject matter of the application thus falls within the ambit of Article 8 of the Convention.

43. The Court further refers to the inadmissibility decisions in the cases of *Mentzen alias Mencena v. Latvia* (no. 71074/01, ECHR 2004-XII) and *Kuharec alias Kuhareca v. Latvia* (no. 71557/01, 7 December 2004). In both those cases, the Court examined whether the addition of a variable feminine ending to a foreign surname (in the *Kuharec* case) and/or the transliteration of a foreign surname in accordance with Latvian phonetic rules (in the *Mentzen* case) breached Article 8 of the Convention. In both those decisions, the Court affirmed the following principles:

(a) Although the spelling of surnames and forenames concerns essentially the area of the individual's private and family life, it cannot be dissociated from the linguistic policy conducted by the State. Linguistic freedom as such is not one of the rights and freedoms governed by the Convention. Thus, with the exception of the specific rights stated in Articles 5 § 2 and 6 § 3 (a) and (e), the Convention *per se* does not guarantee the right to use a particular language in communications with public authorities or the right to receive information in a language of one's choice. However, there is no watertight division separating linguistic policy from a field covered by the Convention, and a measure taken as part of such policy may fall within certain Convention provisions. Consequently, provided that the rights protected by the Convention are respected, each Contracting State is at liberty to impose and regulate the use of its official language or languages in identity papers and other official documents.

(b) A language is not in any sense an abstract value. It cannot be divorced from the way it is actually used by its speakers. Consequently, in adopting the national language, the State undertakes, in principle, to guarantee its citizens the right to use that language both to impart and to receive information, without hindrance not only in their private lives, but also in their dealings with public authorities. In the Court's view, it is first and foremost from this perspective that measures intended to protect a given language must be considered. In other words, implicit in the notion of an official language is the existence of certain subjective rights for the speakers of that language. Consequently, in the majority of cases, it may be accepted that a measure intended to protect and promote a national language corresponds to the protection of the "rights and freedoms of others", within the meaning of Article 8 § 2 of the Convention. Furthermore, the authorities, especially the national courts, are in principle in a better position than the international judge to give an opinion on the need for interference in such a sensitive area.

(c) The process whereby surnames and forenames are given, recognised and used is a domain in which national particularities are the strongest and in which there are virtually no points of convergence between the internal rules of the Contracting States. This domain reflects the great diversity between the Member States of the Council of Europe. In each of these countries, the use of names is influenced by a multitude of factors of an historical, linguistic, religious and cultural nature, so that is extremely difficult, if not impossible, to find a common denominator. Consequently, the margin of appreciation which the State authorities enjoy in this sphere is particularly wide.

(d) The fact that a country finds itself in an isolated position as regards one aspect of its legislation does not necessarily imply that that aspect offends the Convention, particularly in a field which is so closely bound up with the cultural and historical traditions of each society.

44. On the basis of those principles, the Court concluded that there was no appearance of a violation of Article 8 in the aforementioned cases of *Mentzen* and *Kuharec*. In particular, it stressed that

(a) the original written version of each of the applicants' names was entered in their respective passports;

(b) in the second case, the difference between the original spelling and the adapted spelling was minimal;

(c) the disputed measure did not prevent the identification of the applicants; and

(d) the practical difficulties which they may have experienced on that account were either insignificant (the *Mentzen* case) or non-existent (the *Kuharec* case).

C. Application of the Court's case-law to the instant case

45. While endorsing the principles established in the preceding case-law, the Court considers that the present application differs from the two aforementioned cases.

46. The *Mentzen* and *Kuharec* cases concerned simple transliterations (i.e. the straightforward adaptation of foreign surnames to the customary rules governing the phonetics and grammar of a given language). Such an adaptation is comparable to the transliteration into Western languages of Russian family names (for example: *Чайковский – Chaikovsky – Tchaïkovski – Tschaikowski – Ciaikovski*; or *Ельцин – Eltsine – Yeltsin – Jelzin*, etc.), or to the addition by the Romans of variable endings to Gaul or German names (*Ariovist**us**, Armini**us**, Tudr**us**, Hariulf**us***). In such cases, even if a proper noun is adapted to the host country's language, it nonetheless retains its foreign sound, unique to the language of origin. Its holder's ethnic and national identity is therefore not affected. Thus, in France, one would always understand that *Piotr Illich Tchaïkovski* is

Russian or of Russian origin, whatever the method used to transcribe his name.

47. In the instant case, however, the disputed measure goes beyond a mere transliteration or grammatical adaptation (*Dmitriy Vladimirovich* to *Dmytro Volodymyrovych*). In this respect, the Court notes that, in Ukraine, the internal passport (which is the standard identity document) contains two main pages; one is drawn up into Ukrainian, the other in Russian. On these two pages, the holder's given name and surname are entered, respectively, in accordance with the spelling system of both languages. In addition, forenames and surnames in Ukrainian, Russian and Belarusian – three languages which belong to the Eastern Slavic language group – are not only transliterated in Ukrainian, but are always entered in both their historical and etymological versions (such as, for example, *Jean – John – Giovanni – João – Ivan*, etc.). Thus, there exists a whole series of doublets, in which the Ukrainian element may sometimes differ significantly from the Russian element, for example *Dmitriy/Dmytro*, *Pavel*/*Pavlo, Nikolay*/*Mykola, Afanasiy*/*Opanas, Darya/Odarka, Yefim/Yukhym*, *Anna/Hanna* and *Aleksey*/*Oleksiy*. In the context of the Eastern Slavic group, this system applies without distinction to all given names, whatever their precise origin. Thus, the given name *Afanasiy*, held by a citizen of Russian origin, will become *Opanas* on the Ukrainian page of his internal passport; and an "ethnic" Ukrainian named *Opanas* would have his forename written as *Afanasiy* on the Russian page. However, it is usually the Ukrainian or "Ukrainianised" version which becomes the main version, and this is the version which is used in the majority of other official documents, drawn up in Ukrainian only. The Court also bears in mind that, despite the fact that both Russian and Ukrainian are used in the internal Ukrainian passport, the two languages have a different status: Ukrainian is the only official language of the country; Russian is one of languages of the national minorities (paragraph 25 above).

48. The Court observes that this system is unique in Europe. However, it reiterates that the distinctive nature of a Member State's legislation does not necessarily imply a violation of the Convention (paragraph 43 (d) above). Indeed, the Court finds no evidence in the case file to conclude that the system of "Ukrainianisation", as such, may be considered to be incompatible with the requirements of Article 8, given that a person belonging to a national minority is entitled to use his or her original name and to revert to that name if it has been changed (paragraph 26 above). These provisions appear to be in line with the relevant international instruments (paragraph 35 above). Therefore, the issue before the Court is whether Ukrainian domestic practice as applied in the applicant's case was compatible with Article 8, as interpreted by the Court's case-law.

49. In the Court's opinion, there are two situations to be distinguished regarding the name recognised in official documents. The first is when the

name is entered in an official document for the first time, such as a birth certificate or the first passport, when the Ukrainian language is imposed. The second situation is when the person concerned has used a "Ukrainianised" name for some time and, for whatever reason, wishes to revert to his or her original name.

50. In the instant case, the Court is faced with the second situation. The facts of the case demonstrate that the applicant did not initially disagree with the practice of "Ukrainianising" his Russian given names when he received his internal passport. He only made a formal objection two years later. Assuming that the practice of "Ukrainianisation" could reasonably be considered by the applicant to have been a forced change of his original name, and that he only realised this belatedly, the principle issue would not be the practice itself, but the possibility for the applicant to revert to his original name under the domestic law.

51. In this respect, it should be observed that the name is not only an important element of self-identification; it is a crucial means of personal identification in society at large. The applicant submitted a number of documents (a tax payer's certificate, university diploma, social security card, etc.), which were issued in the Ukrainian language only and in which his first name appeared in the form to be found in his internal passport – the "Ukrainianised" *Dmytro*. Therefore, in the Court's view, issuing a new internal passport, especially after a considerable lapse of time, without certain formalities being observed might dissociate that person from his or her other important official personal documents and records. To maintain the link between the "old" and "new" forms of a person's name, it would be reasonable to require the individual to follow a specific procedure for effecting the change.

52. The Government maintained that the applicant could apply for a change of name under the procedure designed specifically for that purpose (paragraphs 30-34 above). The applicant, in his turn, maintained that he did not want to change his name, but to restore it to its original form. He argued, therefore, that the existing procedure was not appropriate in his situation. He further complained that the State did not provide a separate procedure for restoring an original name.

53. The Court recalls that, in its decision on admissibility of 22 March 2005, it was unable fully to comprehend the Government's submissions concerning the procedure to change a name. However, in the meantime it has further studied the question, and will now come back to it. The Court notes that this procedure concerns not only the replacement of one name by another, but also any, even minor, changes in the spelling of that name. Moreover, reverting to or, as the applicant puts it, "restoring" a name does not involve anything more than just changing it back to its original form. This procedure does not appear to be particularly complicated, thus placing an excessive burden on the applicant. The restrictions on a change of name

under the relevant regulation appear to be justifiable under Article 8 § 2 (paragraph 32 above). Moreover, the Court cannot speculate whether these restrictions would apply to the applicant, since he has never used this procedure.

54. In view of the above considerations, the Court concludes that the refusal of the domestic courts to order the issue of new passports reflecting a particular form and spelling of the applicant's name, when he can seek its change under the specific procedure examined above, cannot be deemed to have been unreasonable or arbitrary. Accordingly, it finds no violation of Article 8 of the Convention in the present case.

II. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION

55. The applicant considered that he had been the victim of discrimination prohibited by Article 14 of the Convention in exercising his rights under Article 8. Article 14 provides:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as ... language, ... national ... origin, association with a national minority, ... or other status."

56. The Government denied that there had been any discrimination, as the practice criticised by the applicant was applicable to all Ukrainian citizens without distinction. However, the applicant stressed that only the given names and patronymics of Russian origin were subject to "Ukrainianisation"; there had thus been clear discrimination within the meaning of Article 14 of the Convention.

57. The Court recalls that Article 14 affords protection against discrimination in the enjoyment of the rights and freedoms safeguarded by the other substantive provisions of the Convention. For the purposes of Article 14 of the Convention, a difference in treatment is discriminatory if it has no objective or reasonable justification, that is, if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised. The Contracting States enjoy a certain margin of appreciation in assessing whether and to what extent differences in otherwise similar situations justify a different treatment in law (cf. *Stjerna v. Finland* judgment, loc. cit., p. 63, § 48).

58. The Court notes that the applicant challenges the "Ukrainianisation" of names in general. However, it appears from the relevant information that there is a difference in conversion regarding certain forenames, but which is unrelated to the ethnic origin of its bearer (paragraph 47 above). Recalling the margin of appreciation afforded to Contracting States in this field, the Court accepts that a Contracting State may establish an automatic rule, in accordance with the longstanding and generally accepted tradition of using

two different forms of the same name in Russian and Ukrainian, which rule applies in the absence of any clearly expressed wish of the person concerned to the contrary (*mutatis mutandis, Bijleveld v. the Netherlands* (dec.), no. 42973/98, 27 April 2000). Moreover, in the circumstances of the present case, it has not been shown that the applicant could not obtain a departure from that rule if he were to follow the procedure for a change of name.

59. The Court concludes therefore that the applicant has not suffered discrimination in breach of Article 14 of the Convention. Accordingly, there has been no violation of this provision.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been no violation of Article 8 of the Convention;

2. *Holds* that there has been no violation of Article 14 of the Convention.

Done in English, and notified in writing on 11 September 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ	J.-P. COSTA
Registrar	President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the joint concurring opinion of Mr Barreto, Mrs Mularoni and Mrs Jociene is annexed to this judgment.

J.-P.C.
S.D.

JOINT CONCURRING OPINION OF JUDGES CABRAL BARRETO, MULARONI AND JOCIENE

We voted with the majority for a non-violation of Articles 8 and 14 of the Convention.

However, we consider that the case should have been rejected as being inadmissible under Article 35 §§ 1 and 4 of the Convention, the applicant not having exhausted domestic remedies.