



## French law concerning choice of surnames and its transitional provisions complied with the Convention

In its decision in the case of [De Ram v. France](#) (application no. 38275/10), the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

A Law of 4 March 2002, amended by a further Law dated 18 June 2003, allowed parents to give their children the father's surname, the mother's surname or the surnames of both parents in whatever order they chose. The Law was scheduled to come into force on 1 January 2005. Transitional arrangements were laid down for children born before that date.

The children in the present application, born in 1986 and 1989, did not satisfy the conditions laid down by the Law to have their mother's surname added to their father's surname.

The Court found in particular that the difference in treatment to which the applicants had been subjected was reasonable and justified by the need to ensure a gradual transition in the rules governing surnames and by the legitimate decision to take into consideration the principles of legal certainty and the immutability of names.

### Principal facts

The first applicant, Luc De Ram, a Belgian national, is married to Jossia Berou (married name De Ram), a French national. They have two daughters, Aurore and Aëla (the second and third applicants), who were born on 1 January 1986 and 22 June 1989 respectively. When they were born, the girls were entered in the civil register under their father's surname. As permitted by law, their parents decided that, for everyday purposes, the girls should use the first applicant's surname followed by that of his wife (De Ram-Berou).

The Law of 4 March 2002 allowed parents to give their children the father's surname, the mother's surname or the two surnames combined, in whichever order they saw fit. Those provisions entered into force on 1 January 2005. The legislature introduced transitional arrangements for children born before that date, allowing their parents to request that the second parent's surname be added after the first parent's, if the eldest child was under the age of thirteen on 1 September 2003.

On 15 June 2003 Mr De Ram filed a request on behalf of his two daughters to have their names changed, seeking to have them entered in the civil register under the surname De Ram-Berou. The Minister of Justice refused the request as lacking any legitimate interest.

On 6 December 2007 the Paris Administrative Court dismissed an appeal by the applicants against the Minister's refusal. That decision was upheld by the Paris Administrative Court of Appeal. On 30 December 2009 the *Conseil d'Etat* dismissed an appeal on points of law lodged by the applicants.

### Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 30 June 2010.

Relying on Article 8 (right to respect for private and family life) read in conjunction with Article 14 (prohibition of discrimination), the applicants alleged that the difference in treatment based on the parents' sex infringed their children's right to add their mother's surname to their own and

maintained the discrimination existing prior to 4 March 2002. They further complained of the fact that, because of the children's dates of birth, they were unable to benefit from the transitional arrangements laid down by the law.

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

Mark **Villiger** (Liechtenstein), *President*,  
Angelika **Nußberger** (Germany),  
Ganna **Yudkivska** (Ukraine),  
André **Potocki** (France),  
Paul **Lemmens** (Belgium),  
Helena **Jäderblom** (Sweden),  
Aleš **Pejchal** (the Czech Republic), *Judges*,

and also Claudia **Westerdiek**, *Section Registrar*.

## Decision of the Court

With reference to the alleged discrimination in the treatment of men and women regarding the choice of children's surnames, the Court considered that Luc De Ram could not claim to be a victim within the meaning of Article 34 of the Convention. As his daughters' surnames had been given to them under the arrangements in place prior to the Law of 4 March 2002, he was not entitled to complain of the impossibility of passing on the mother's surname to the children and could not therefore claim to be a victim of a difference in treatment based on sex. The Court noted in that regard that Luc De Ram's wife had not been a party to the proceedings before the domestic courts concerning the change of surname, nor was she an applicant before the Court.

Regarding the complaint alleging discrimination based on the date of birth, the Court observed that the legislature had decided that the Law should apply only to children born after 1 January 2005, and had put in place special arrangements that did not apply to children born before 1 September 1990. As the second and third applicants had been born on 1 January 1986 and 22 June 1989 respectively, they could not claim entitlement under those provisions and their situation was governed by the law as it existed previously, which did not allow the mother's surname to be added to the father's.

The Court observed that the application over time of the Law of 4 March 2002 concerning the choice of surname, as amended by the Law of 18 June 2003 and adjusted by the transitional provisions, was the result of a balancing exercise between the principle of the immutability of information entered in the civil register and the interest of individuals in adding to the name given them at birth. It considered that the transitional arrangements put in place by the legislature (making a distinction between children above and below the age of thirteen) could not be regarded as arbitrary. The age criterion laid down by the legislature in fact echoed the right granted to minors over the age of thirteen to consent to a change of name. Accordingly, the distinction made between children under and over the age of thirteen could not be said to be arbitrary.

Lastly, the Court pointed out that the Administrative Court of Appeal had considered the interference with Articles 8 and 14 of the Convention to be justified, taking the view that the law as it stood previously had applied in identical fashion to all individuals placed in the same position as the applicants because of their date of birth. The Administrative Court of Appeal had found that the transitional arrangements were based on the need to ensure legal certainty with regard to entries in the civil register. The Court also noted that the applicants had availed themselves of the opportunity afforded to them under domestic law to institute proceedings to have the children's surname changed. The second and third applicants had used the surname by which they were commonly known throughout their school careers and did not allege that they were unable to continue doing so.

The Court considered that the difference in treatment to which the applicants had been subjected was reasonable and justified by the need to ensure a gradual transition in the rules governing surnames and by the legitimate decision to take into consideration the principles of legal certainty and the immutability of names. The consequences of the difference in treatment at issue had not been disproportionate to the legitimate aim pursued.

The Court unanimously declared the application inadmissible.

*The decision is available only in French.*

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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.