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Advocate General's Opinion in Case C-4/23 | Mirin ¹

According to Advocate General Richard de la Tour, a Member State's refusal to recognise changes of forename and gender acquired in another Member State is contrary to the rights of EU citizens

However, Member States remain competent to regulate the effects of that recognition in relation to marriage and parentage

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

After moving to the United Kingdom, he acquired British nationality while retaining his Romanian nationality. In the United Kingdom, in 2017, he changed his first name and title from female to male and, in 2020, obtained legal recognition of his male gender identity.

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

However, those Romanian authorities refused his requests and asked him to bring new judicial proceedings in Romania, directly seeking authorisation of the change of sex. The citizen concerned brought an action before a court in Bucharest requesting – on the basis of his right to move and reside freely within the territory of the European Union – that his birth certificate be brought into line with his new forename and gender identity, as definitively recognised in the United Kingdom.

That court asks the Court of Justice whether the national legislation on which the Romanian authorities' refusal is based complies with EU law and whether Brexit has any impact on this case.

Advocate General Jean Richard de la Tour notes, first of all, that the facts which gave rise to the dispute before the Romanian court occurred either before Brexit or during the transition period which followed it. The documents issued in the United Kingdom must therefore be regarded as being those of an EU Member State for the purposes of assessing the court's questions.

Next, he takes the view that **the rights of EU citizens to freedom of movement and to respect for their private life preclude** the authorities of a Member State from **refusing to recognise and enter in a civil register the first name** acquired by a national of that Member State in another Member State, of which he or she is also a national. **The same is true of the refusal** of those authorities **to recognise the gender identity** acquired by the national concerned in that other Member State **and to enter it**, without any proceedings, **on his or her birth certificate**.

Lastly, the Advocate General emphasises that the Member States remain competent to regulate, in their national law, the effects of that recognition and that entry on other civil status documents and in relation to marriage and

parentage.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

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.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the Opinion 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 of the parties to the proceedings.