

**Question for written answer E-001120/2013
to the Commission**

Rule 117

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Subject: Provisions concerning the administration of civil registry documents

In its reply to our Question E-007049/2012 concerning the way in which civil registry documents are made out, the Commission stated that ‘the Commission is not in a position to assess whether the refusal at issue gives rise to ... serious inconvenience’. In its arguments, the Commission referred to the case-law of the Court of Justice of the EU, under which ‘it would be up to the competent national court to evaluate the seriousness of the inconvenience taking into account the particular circumstances of the case’.

We believe that, if a Member of the European Parliament tables a question to the Commission of the European Union pursuant to Rule 117 of the Rules of Procedure concerning the compatibility of the provisions in force in an individual Member State with European Union law, the ‘restrictions’ of the preliminary ruling procedure do not apply¹, including the limitation that the Court of Justice only has powers in relation to actual legal proceedings. Irrespective of the ‘restrictions’ of the preliminary ruling procedure, a legal provision of a Member State – or its consistent administrative practice – may also breach Union law if it does not accord with the case-law of the Court of Justice. A breach of Union law cannot be justified by the fact that a Member State does not in practice apply particular legal provisions which are incompatible with Union law.

On the basis of the case-law of the Court of Justice, it is difficult to imagine that no personal harm or material damage would be caused in a cross-border situation² if a parent and a grandparent were entered in the civil registry under different names, thus making it difficult to ascertain their relationship. Our assessment may be further borne out by the fact³ that, under the legislation in question, an extract from the civil registry concerning the birth of a child indicates the parents’ names only in the form which was recognised at the time of the child’s birth, while the authorities do not transfer to civil registry documents any changes made subsequently under legislation on minority languages⁴.

We wish to ask the Commission whether it is on the basis of legal or political criteria that it does not consider itself to be in a position to assess whether the refusal gives rise to serious inconvenience, and whether its view has changed under the new circumstances. If the Commission considers on the basis of legal criteria that it is unable to answer the question, how can it be justified that in the case-law of the Court of Justice, with regard to damaging discrimination on grounds of age⁵, it also occurs that the Court ‘refers’ certain issues requiring individual assessment to the national court for a decision; at the same time, despite this, the Commission, in the case at issue, brought infringement proceedings against Hungary and – as far as we are aware – regarded this as a purely legal issue?

¹ The preliminary ruling procedure should be seen as a cooperative procedure not entailing a relationship of subordination. However, these limitations do not prevent the enforcement of Union law, on which the Court of Justice has a monopoly.

² In cross-border situations, ensuring the unity of the family, or cross-border inheritances, in relation to copyright.

³ Vyhlaska 320/1994 Ministerstva vnútra Slovenskej republiky 25 § (2)

⁴ The Commission likewise (E-008365/2011) acknowledged that it was important for Union law to protect citizens exercising their rights to freedom of movement and residence, to ensure that they did not suffer because their names were not registered in the same form.

⁵ Court of Justice, C-250/09