



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

1 June 2010

SECOND SECTION

Applications nos. 18684/07 by Nuri AKTAŞ and
21101/07 by Padmapani ASLANISKENDER
against Turkey
lodged on 16 April 2007 and 21 April 2007

STATEMENT OF FACTS

THE FACTS AND COMPLAINTS

**A. Application no. 18684/07, introduced on 16 April 2007 by
Nuri Aktaş, represented by Rudi Sümer**

The applicant, who is of Assyrian origin, is a worker living in Switzerland. He holds both Turkish and Swiss nationality. At the time of acquiring his Swiss nationality, he declared his surname as “Amno” (a Syrian name) and was subsequently issued with an identity card under this surname.

On 24 October 2005 the applicant brought proceedings before the Midyat Court of First Instance in order to change his surname “Aktaş” to “Amno”, explaining that he and his family were known as “Amno” in their home town and that having two different surnames on two different identity cards was causing practical problems in his daily life.

On 9 August 2006 the Midyat Court of First Instance dismissed the applicant's request on the ground that “Amno” is not a Turkish name and, under Article 3 of the Turkish Code on Surnames (Law. No. 2525), foreign names cannot be used as a surname. The Midyat Court of First Instance also based its reasoning on Article 5 of the Regulation on Surnames which requires newly adopted surnames to be only in the Turkish language.

The applicant appealed. On 14 November 2006 the Court of Cassation upheld the judgement of the first instance court. The applicant's change of name request was further rejected by the Court of Cassation on 8 March 2007.

The applicant complains that, by disregarding his request for judicial review concerning the constitutionality of Article 3 of the Turkish Code on Surnames (Law. No. 2525), the domestic courts violated his right to a fair trial under Article 6 § 1 of the Convention. He further claims that the national authorities' refusal to allow him to change his surname amounted to a breach of Article 8 of the Convention. Finally, he submits that this refusal resulted in discrimination on the grounds of national origin and association with a national minority, as well as being incompatible with Article 8 taken together with Article 14 of the Convention.

B. Application no. 21101/07, introduced on 21 April 2007 by Padmapani Aslaniskender, represented by Erol Saraçoğlu

The applicant is a Turkish national living in Ankara, Turkey.

Following his interest in religions of the Far East, the applicant decided to convert to Buddhism. At an unknown date, he registered his religion as “Buddhist” on his identity card, which was endorsed by a court decision.

On 21 March 2002 the applicant brought proceedings in the Ankara Court of First Instance in order to change his first name and surname to “Padmapani Leonalexandros”, contending that this name would be more compatible with the requirements of his religious beliefs and that he would be able to enjoy full freedom of expression.

On 16 May 2002 the Ankara Court of First Instance dismissed the applicant's request on the ground that it was in contravention of the Turkish Nationality Law (Law No. 403).

Following an appeal by the applicant, the Court of Cassation quashed the first instance court decision on 25 November 2002.

On 30 September 2009 a professor of Ankara University who was appointed as an expert, drafted a report on the applicant's case. The expert found that Padmapani was a Sanskrit name, whereas Leonalexandros was not. Subsequently, on 2 April 2004 the applicant asked the Ankara Court of First Instance to amend his surname to “Paramabindu”, which is a Sanskrit name.

On 10 June 2004 the Ankara Court of First Instance accepted the case and decided to change the applicant's full name to “Padmapani Paramabindu” in compliance with his religious beliefs.

On 14 February 2005 the Court of Cassation, relying on Article 3 of the Turkish Code on Surnames (Law. No. 2525), quashed the first instance court's judgement, on the ground that names of foreign ethnic or national origin could not be used as a surname. It also referred to Article 5 of the Regulation on Surnames, confirming that newly adopted surnames should only be in the Turkish language. On 29 September 2005 the Ankara Court of First Instance re-affirmed its previous decision on the change of the applicant's first name to “Padmapani”. However, it rejected his request to change his surname as this was not in compliance with Article 3 of the Turkish Code on Surnames (Law. No. 2525) and Article 5 of the Regulation on Surnames.

On 22 May 2006 the Court of Cassation upheld the judgement of the first instance court. The applicant's request for a change of name was further rejected by the Court of Cassation on 22 September 2006.

The applicant, invoking Articles 6 § 1 and 13 of the Convention, complains that the domestic courts wrongfully examined his case and failed to give adequate reasons for their judgments. He also claims that the national authorities' refusal to allow him to change his surname was a violation of Article 8 of the Convention. The applicant further relies on Articles 9 and 10 of the Convention and contends that the prohibition on taking a new surname according to his religious beliefs constitutes a curtailment of the exercise of his rights under these provisions. Finally, he submits that he was subjected to discrimination on grounds of religion in contravention of Article 14 of the Convention.

C. Relevant Domestic Law

The Turkish Code on Surnames (Law No. 2525)

Article 3

“Names of foreign ethnic and national origin cannot be used as surnames.”

The Regulation on Surnames:

Article 5

“Newly adopted surnames should be in the Turkish language.”

Article 7

“Names of foreign ethnic and national origin cannot be used as surnames.”

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicants' right to respect for their private and family life, within the meaning of Article 8 § 1 of the Convention, on account of the refusal by the domestic courts to allow the applicants to change their surnames as they wish?

If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2?

2. Did the decision of the domestic courts concerning the refusal of the request to change surnames violate the applicants' rights under Article 14 of the Convention read in conjunction with Article 8?