Application of Names in Ukraine:
A Modern Discourse Towards European Integration

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Abstract

In this paper I will concentrate merely on the application of personal names in Ukraine, which undoubtedly has a deep connection with the civil society matters and citizenship-identity interrelation due to their constitutional, linguistic, social and financial background.

In order to discuss the particular situation in the official standardization of personal names and. furthermore, its influence on everyday life of the ordinary Ukrainians we should remember that usually application of names is a crisp image of the cultural and historical heritage, recent upheaval of the political despair, lack of consensus among society, gap in the regions' development, etc.

During more than 20 years in Ukraine there were a lot of attempts to find a fair balance between the protection of the rights of minorities and the preservation of the State language. It sounds to be a very hard and simultaneously delicate decision for Ukraine being on the 'grand chessboard', searching to step out from the post-Soviet environment and considering the everlasting distractive 'manoeuvres' of our close neighbours. Therefore, in this paper I will try to answer a vital question whether the application of names in Ukraine is evidence of a search for the preservation of national identity or is it set within a modern discourse of globalization?

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Initially, I began this research with a strong belief that the 'essence of a person is assigned through naming' (Bourdieu 1991: 122) and that is why the application of personal names in Ukraine needs to be more precise and reasonably clarified, specifically through legislation, in order to preserve national identity whilst moving towards European integration. Obviously, names play an important but intertwined role both for the individual and for the state. Gross (1996) observes that these days the name exists at the intersection of the 'public' and the 'private'. Like the coin which has two sides, a name is considered 'private' since it belongs to a person during his / her entire life, and yet it is subject to 'public' legislative regulation and must fulfil certain legal and linguistic requirements due to particular ethnic and religious peculiarities, national customs and traditions.

Shear Kushner (2009: 318-322) argued that the public sphere of application of names is foreseen in the situation where the name is a source for identification (the state government's ability to distinguish one person from another, to track records, allocate benefits, attribute blame or credit, grant rights, and impose responsibilities) and communication (fostering interactions among individuals, organizations, and institutions), where a private one is expressed by self-expression (name's role as a speech act) and identity-formation (name's function in describing and symbolizing an individual). Such a

multilayered and versatile combination (also called duality or dichotomy of names) helps us to understand the real value and significance of a name not only for a person, like a sign, symbol or label (which serves the functional role of precise identification of its bearer), but also for a state seeking to keep national traditions and to present its specificity in context of language application and domestic legal requirements.

In order to express my point of view precisely with regard to the above-mentioned arguments, I shall try to structure this research chronologically and topically. That is why I divide my paper into a few sections related to the particular characteristics of the application of names, with an aim to answer several important questions corresponding to public and private spheres: Is a right to choose one's name constitutionally protected? Does a state need to regulate the child naming process? Does it have sufficient competence to control it? Does it have enough power to limit official names' repertoire (onomasticon) by appropriate legally-based measures keeping in mind national heritage? Does it have precise legal tools to prevent parents from bestowing upon their children names which are improper or the use of which can otherwise cause inconvenience, which are prohibited, contain offensive content (might incite violence or be considered fighting words) or can cause public confusion or hypothetical future harm? Is it important to clarify certain and precise proof-of-identity requirements to obtain government identification in the form of citizenship?

I am sure it is very important to draw the line between private and public spheres, and so far to speak about child naming policy at least in the Ukrainian context. Unfortunately, a name that would be ideal for one person or his/her parents, may be undesirable, inconvenient or even unacceptable for the rest of society and incompatible with state regulations. That is why here I begin my brief analysis of child naming within public dimension (identification) and finish with private matters (identity).

Public Sphere and Legally-Based Background in Naming a Child

'Names are peculiarly situated among most trivial and foundational, social practices, being typically chosen by parents for their newborn children and constructing a crucial point of connection between personal identity and the outside world' (Emens 2007: 861-862). Definitely, it would be completely in frames of state interest to clarify name-a-child policy and to impose names' registration requirements and to limit official names' repertoir by appropriate legally-based measures due to public interest and national heritage since 'the selection of a child's name, which he / she will likely bear for the rest of his / her life, is one of the most significant decisions parents will ever make' (Larson 2011: 162).

Tirosh (2010) says that 'names are tricky entities, [they] both carry and generate meaning'. By naming a child (sometimes not only by choosing it from an official list, but shaping a name) parents are involved in personal 'branding' of their newborn child. By constructing such a reality many prospective and successful parents feel themselves paralyzed and inexperienced enough, trying to find the intangible name that is 'exotic yet not bizarre, classic yet not pompous, on trend but not trendy' (New York Times 2013), traditional but not old-fashioned, modern but not harmful to a child.

Constitutional dimensions in naming a child are related to the fundamental and personal right to a name and so far might be found in the constitutions of different democratic countries, like Austria, Hungary, Ireland, Italy, Norway, Portugal, etc. Some countries have some very strict rules for how you can name your child. Argentina, Australia, Denmark, Germany, Hungary, Iceland, New Zealand, Portugal, Spain and Sweden have an official, list of pre-approved 'good' and 'bad' names, some for girls, some for boys, updated on a yearly basis. In Germany you must be able to tell the gender of the child by the first name.

In the USA legal restrictions in the registration of names depends completely on state policy of a particular state. For example, Connecticut does not require a child's name to be entered on the birth certificate; Iowa prohibits names over a certain number of characters and in Massachusetts the length of the first name is limited to 40 characters because of software limitations; Michigan states that 'a child does not have to be given a name at all'; in Nevada a birth certificate does not need to include the child's name, but parents are given a form to submit as soon as the child will have been named; New Jersey permits to reject names that contain obscenity, numerals, symbols, or a combination of letters, numerals, or symbols, or a name that is illegible; Iowa prohibits names over a certain number of characters; California, Kansas, Massachusetts and New Hampshire impose a restriction to use only 'the 26 alphabetical characters of the English language with appropriate punctuation if necessary' (so called prohibition of pictographs, ideograms, diacritical marks, special characters); Texas prohibits numerals as part of the name or suffix (although Roman numerals may be used) and Delaware, Kentucky, Maryland and Montana impose no restrictions on parents' choice of names, so parents can give their child 'any name they wish' (Larson 2011: 161-170).

Regarding Japan, there are listed a couple thousand 'name kanji' and 'commonly used characters' for use in naming babies (only these official kanji may be used in babies' given names). There are additional requirements that all the names should be easily read and written by the Japanese, also names that might be deemed inappropriate are restricted. The official government of the Republic of China recommends Chinese parents give their children names that are easily readable, and encourages simplified characters over traditional Chinese ones. Usually parents can choose for their children the given names composed of Chinese characters, represented on the computer, but numbers and non-Chinese symbols and characters are not allowed. In New Zealand people are not allowed under current naming law to name their children anything that 'might cause offence to a reasonable person; or [...] is unreasonably long; or without adequate justification, [...] is, includes, or resembles, an official title or rank'. However, for the countries seeking to protect their citizens (customs and traditions, identity, values) and using therefore only a formal list of previously selected, approved or rejected names it is likely to cause particular problems within society.

So far as we know, article 8 of the European Convention of Human Rights does not explicitly and precisely refer to names, the European Court of Human Rights possesses some case law, which might be divided into few types: protection of names (*Guillot v. France 1996, Bulgakov v. Ukraine 2008*), compatibility with interference into private life (*Kemal Taskin and others v. Turkey 2010*), inconveniences which such an unusual name could cause in future (*Salonen v. Finland 1997*), compatibility with domestic naming practice (*Johansson v. Finland 2007*), activity acted within its 'margin of appreciation' (*Baylac-Ferrer v. France 2008*), etc.

In all cases the Court admitted that they fall within the scope of the right to private life, pointing out not only the importance of the name for the identification and national identity, but also the interest of the child and possible consequences of the name for his / her development in the future, notwithstanding that 'many people use their names as vehicles for self-expression' (Shear Kushner 2009: 336).

Here we come to Ukraine.

Ukraine and Legal Regulation of Child Naming Practice

As far as I know, newborn babies as Ukrainian citizens are bestowed with proper names, registered in Ukrainian language, due to linguistic rules and legal requirements, but simultaneously not limiting their parents' choice, nor conflicting with their family ties.

Therefore, this paper is merely an attempt to look on child naming policy in Ukraine from the legal perspective and to show certain close connection between a person's given name and their feeling of self-identity in the context of Ukrainian national identity. In order to protect and develop national identity we need to deal with sufficient legal challenges to make relatively important changes in a naming system in Ukraine (to limit individual (parents) right and choice of names, to avoid improper and incorrect names' official registration, etc.).

Due to the above-mentioned aspects it is very important to find an answer for a vital question for Ukraine: does Ukraine have an obligation to recognize all names, not taking into account their legality and country interest to preserve national identity? Do existing legal rules substantially interfere with the exercise of the fundamental right to a name?

In order to look more precisely on name standardization from the legal perspective, I would like to provide some legal background on these matters. Basic legal information on name giving in Ukraine is provided by the Civil Code of 16 January 2003 and Family Code of 10 January 2002. According to the essence of Article 144(1) of the amendments to Family Code of Ukraine, adopted on 13 June 2011, it is stressed that 'parents shall promptly, but not later than one month after the birth of a child, register its birth in the bodies of civil acts registration'.

These national legal provisions are based precisely on international legislation. We can find specific information in Article 24 of the International Covenant on Civil and Political Rights of 16 December 1966, where it is stated that 'Every child shall be registered immediately after birth and shall have a name. … Every child has the right to acquire a nationality' and Article 7(1) of the Convention on the Rights of the Child, adopted by General Assembly of the United Nations Organization resolution 44/25 of 20 November 1989, where it is written that 'The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents'.

In Ukraine important rules in name giving are set forward in provisions of Article 146 of abovementioned Family Code of Ukraine, where it is stated that, firstly 'the child's first name is determined by the consent of parents.' Definitely such a decision must be based on legitimate or reasonable concerns of both parents. Small wonder that 'name of a child born

from a woman who is not married, in the absence of a voluntary acknowledgment of paternity is determined by the child's mother'. Secondly, 'the child may be given no more than two names, unless other follows from the custom of the national minorities, to which belong its mother and (or) father'. However, there is nothing about the reasons for denial in official name registration by regional and local state bodies.

There are no Ukrainian laws in place restricting what you can name your newborn child (signs, numerals, words with no-alphabetical characters or otherwise unusual characteristics for instance), neither is there any information about the presence of such traditional legal requirements as prohibition of ideograms, pictograms and numerals, diacritical marks, or prohibition of obscenities, or length restriction, etc. by law. So far, the naming practices in Ukraine remain flexible enough and there is no exact and precise information about the standards of scrutiny to be applied in naming policy. However, other countries in the world are not so lenient in official child naming policies.

The only regulation present is related to the linguistic rules of the Ukrainian language applied to name registration by state bodies. Therefore, we have masculine and feminine names. We might combine either two masculine, or two feminine names in double-barrelled (hyphenated of non-hyphenated) names, like Roman-Marko (Роман-Марко), Roman Marko (Роман Марко), Anna-Marija (Анна-Марія) or Anna Marija (Анна Марія), but we do not have Ukrainian forms of androgynous (unisex) names, only in cases of borrowing of foreign names, or merged names (like Renesmee from 'Twilight Saga').

Name, Personhood and Identity: Nationality Matters

Dwyght (1911: 389), in his article on proper names, wrote that 'such importance as proper names have, accrues only as civilization becomes complex, with a greatly increased mingling of people, the multiplication of written records, and the growing necessity for preserving identities'. Under different life circumstances people might change not only a 'names' repertoire', but also formal criteria for name giving and their registration requirements in a particular country.

Names often indicate belonging to a certain community, society, ethnic or religious group. When parents choose a personal (first) name for their newborn child that is common in their society, they definitely show a high degree of their acculturation and a high sense of their national identity. In contrast, by selecting a name common only in some regions of country, the parents support only regional, but not national identity, and show by this their temporality, detachment from the political and social life of the country they live in and disrespect to national traditions, heritage and values.

Obviously, names, identity, personhood and nationality are closely interrelated, intricate and centered not only on psychological, but also on legal, linguistic and political aspects. The name a person bears is often a determining factor in his/her relations within state, society and community he/she lives in and desires to be a part of. The connection between one's personal name and his/her identity is a rich area for understanding how identity is constructed through the language of naming and is closely bound to it.

It is highly important to note that personal (first) names are often part of a severe struggle for pure national identity that all parents face, as they attempt to imagine the identities they mostly want to claim for their newborn children.

Obviously, as I wrote before (Sofinska 2014), the variety in personal names has increased enormously over the past two decades. Thus, Ukrainian academics categorize Ukrainian names into two broad groups: specific and borrowed names. Specific names that exist even today, are mainly of Old Slavic origin, which belong to the time of Kievan Rus' (9th-14th centuries AD). However, the majority of Ukrainian personal names nowadays belong to a group of the so called borrowed names, because usually we know them in their Ukrainian form, but they are derived from Hebrew, Yiddish, Ancient Greek and Latin, Germanic, Old Norse, etc. The most notable loans to domestic anthroponymy appeared after the baptism of Kievan Rus' in 988 AD. It means that after the adoption of Christianity, the population of Kievan Rus' received an entirely new type of names, names of saints or Christian names of Greek and Hebrew origin. It should be noted that, in fact, the number of masculine saints' names was several times greater than the number of feminine saints' names (so called masculine domination in names because of the patriarchal system of family rule in a male-dominated society).

During 14th-20th centuries personal names maintained social divisions, hierarchies, social institutions (such as the family and the nation), and some elements of national identity. Till now, some of those names are very popular in Ukraine and specifically in L'viv region. The next wave of the borrowing of personal names was made in a few stages due to the peculiarities of history of the administrative and territorial division of modern Ukraine. The first one was based on the appearance of names of Latin origin, which remain very popular till now.

Because of historical complexity and the two waves of the last European Union enlargement in 2004 and 2007, Ukraine became a direct, close and one of the most important neighbors of the European Union due to its historic background, geographical position and common land-border with four EU Member States (Hungary, Poland, Romania and Slovakia with a total length of the border ~ 1400 km). Thus, since 1991, citizens of Ukraine have enjoyed the possibility of building intense relations across borders and travelling easily to the neighboring countries in Central and Eastern Europe. Therefore, among ordinary citizens of Ukraine, there appeared a seduction to be not like the other young parents and to give their newborn children names which were popular in different periods of Ukrainian history. However, all of them may identify their bearers as citizens of modern Ukraine.

The last (for now) period of the borrowing of personal names might be characterized by simple word – fashion (Belej 2011: 49). Ukraine is not in any isolation from the rest of the world. More so during the last 20 years as all the barriers were dramatically reduced. It means that up-to-date and changeable fashion on foreign policy movements and music, literature, movies, television, sport, etc. entered into ordinary life of Ukrainians and became a driving force of the name giving process. Usually, such names are far from Ukrainian traditions and religious views, but popular in other countries of the world and are used in other languages. However, such names are still very rare.

Traditionally, there is precise residential model for mapping names in Ukraine.

Conversation about Ukrainian Language and Identity Patterns

Bourdieu (1991: 45) observes that 'language is a code', which is enciphered in national identity of particular person and 'is bound up with the state, both in its genesis and social uses.' Also, it is well-known that 'language is an organism developing through the interaction between people, also it has an important function as a carrier of culture and identity' (Windt-Val 2012: 274-275).

Using Hitchings' words in recent *Language Wars* (2011: 6), 'a language is a transcript of history'. That is completely true, at least from the Ukrainian prospective. Doubtless, Ukraine has a long-going history. Despite the fact that for some centuries all parts of modern Ukraine were parts of different European countries with different legal systems and anthroponymic traditions, different historical patterns, religious and language preferences, life styles, etc., we might count several attempts to unify and build a sovereign country (Kievan Rus' during 9th-13th centuries, Cossack and Het'manate during 17th-18th centuries). Even during the turbulent 20th century (we can characterize it by periods of political upheaval, brutal dictatorship, forced famine, genocide, war, resistance movements, economic uncertainty and renewal of independence), the territory of Ukraine was divided into several parts, which have been included into different European countries (Austria and Hungary, Czech and Slovakia, Poland, Romania and Soviet Union) with different ethnicity, language, religion (all features of national and personal identity), administrative and political structure, level of economic and industrial development. But the language remained the same: Ukrainian.

Usually, the official state language is identical with the national language, belongs to constitutional matters of every democratic state and seems to constitute a self-image of a nation. The same situation can be observed in Ukraine. We need to underline that due to Art. 10 of the Constitution of Ukraine (1996) there is only one official state language in Ukraine – Ukrainian, and therefore, all official workflow must be done only in this particular language without prejudice to the rights provided for national (ethnic and linguistic) minorities in Ukraine. Already in 1999 there was a decision of the Constitutional Court of Ukraine (№ 10-рп/1999 of 14.12.1999), where an official interpretation of abovementioned constitutional provision was made and where it was stated that 'the Ukrainian language as the official state language is a mandatory means of communication throughout the Ukraine during the exercise of authority by state bodies and local self-government bodies (it is the only language of an official workflow, acts, activities, records, documents, etc.) as well as in other public spheres of public life which are determined by law'.[1] At the same time, the Constitutional Court of Ukraine in above-mentioned decision noted that Ukrainian is the language of instruction in preschool, general secondary, vocational and higher education, notwithstanding whether it is founded on state or communal property.

According to officially provided information (2009) Ukrainian language is spoken in 27 countries worldwide. It is an official state language in Ukraine, where 37.5 million of people (81% of its total population) use it not only at home. Therefore, lexically, the closest

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[1] It is stated in the operative part of the Constitutional Court of Ukraine Decision № 10-рп/1999, 14.12.1999, in the Ukrainian language application case [in Ukrainian]

to Ukrainian is Belarusian (84% of common vocabulary), followed by Polish (70%), Serbo-Croatian (68%), Slovak (66%) and finally Russian (62%).

Also, Ukrainian is spoken by a large emigrant population (13-15 million people), particularly in Argentina, Australia, Brazil, Canada, the United States (because of a few waves of voluntarily emigration since 1877 till now), all the European countries (because of voluntarily circular migration, academic mobility since 1991 till now) and Kazakhstan and Russia (because of repressions and forced transmigration during 1937-1991).

Honestly speaking, it is not that easy to define and to clarify received heritage in the sphere of national identity and names standardization in Ukraine after the World War II (specifically since 1947 because of the intervention of foreign Russian written forms of names and denial of Ukrainian ethnical, language and religious traditions). Only after the 'iron curtain' finally fell and Ukraine obtained a favored independence and sovereignty in 1991, we might think on some restoration of a common national identity which had been lost for more than eight centuries.

Nevertheless, some citizens of Ukraine were reluctant to lose their Soviet identity, where the mainstream of ordinary life was organized along the lines of Russian superiority. Final confirmation of the latter may be found in the Law on the principles of state language policy in Ukraine (2012), which has created controversy among Ukrainian citizens residing in different regions of Ukraine, not only from the East to West, but also from the North to the South, centered in the capital of Ukraine, Kyiv.

However, a serious problem with personal names' standardization and state registration in Ukraine lies in correct transcription and transliteration of personal names due to the rules of Ukrainian language. Basically, this situation appeared when names, misspelled in Ukrainian, are given by parents, who want to use a name of their newborn child written in foreign language (for example, Russian-speaking parents, who are living in the East region of Ukraine want to give their child the Russian written form of a name without correct transcription and spelling in Ukrainian). Those Russian written forms of personal names are completely different from Ukrainian forms of the same personal names used in Ukrainian onomasticon[2] and therefore caused a lot of problems for their bearers even in the light of the Law on principles of state language policy in Ukraine (2012), which was adopted to generate crushing danger to our national security and identity, to destroy our sovereignty and reputation on the international arena, to neglect our independence and to cause weird hatred to all Ukrainians.

We can find useful and precise argumentation due to the misspelling of personal names in Ukrainian, for example, in the final version of the already mentioned ECtHR judgment in *Bulgakov v. Ukraine* case of 31 March 2008, where the question concerning people's surnames and forenames is recognized in the light of the essence of Article 8 of European Convention of Human Rights (interference into private and family life) due to previous case-law of the ECtHR (p. 42 of the judgment) and where the Court found no violation of Article 8 of the Convention.

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[2] Artyom (Артбом) instead of Artem (Артем), Gleb (Глеб) instead of Hlib (Гліб), Daniil (Данііл) instead of Danylo (Данило), Kirill (Кірілл) instead of Kyrylo (Кирило), Nikita (Нікіта) instead of Mykyta (Микита); Alyona (Альона) instead of Olena (Олена), Alesya (Алеся) instead of Olesja (Олеся), Darya (Дар'я) instead of Darija, Daria or Dariya (Дарія) and Kristina (Крістіна) instead of Khrystyna (Христина)

Separately, we must take into consideration the extrusion of Ukrainian language, history, culture and mass media (Ukrainian national identity markers) from Donbas and Crimea, the prevailing usage of Russian language and the support of the growing development of Russian identity there, simply because of forced famine in 1933, repressions and transmigration of Ukrainians to concentration camps during 1937-1947, deportation of Crimean Tatars in 1944 and transfer of ethnic Russians into their homes. We experienced a regrettable result of such anti-state position in Ukrainian real life during 2014 by official Russian annexation of Crimea and unaccredited occupation of Donbas region and undeclared war there.

Keeping in mind new trends in the development of modern Ukrainian onomasticon (fashion of foreign names, restoration of old names or usage of Russian written forms of names), doubtless, we observe that the name is not only an important element of self-identification and self-clarification; also it is an example of the personal identification in society. In order to respect parents' individual choice in personal name giving to their newborn child, we need to specify its criteria as for example followings: family based, language based, religion based, ethnicity based, territory based, tradition based and modern fashion based. Those criteria might be compound and have as a result some hybrid solution which can fit to several of them, however, more often they are used like single one.

In order to avoid reaching conflicting conclusions on interdependence between names and national identity, I am sure that Ukraine has to clarify legal nihilism in naming a child and adopt a naming law in order to preserve Ukrainian national identity and not forget about European integration. There is not the slightest doubt that it would be very important, firstly, to regulate names' standardization on legislative level, secondly, to impose explicitly certain rules and requirements for name giving and their official registration. Finally, it is high time to make a serious attempt to look on the application of personal names in Ukraine with certain intent to diagnose a person's relations within state, society and community he/she lives in and to determine level of his/her social integration into it.

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