

The surname of married women in the European Union

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How many people in France are aware that married women are not legally required to take on their husband's surname? In fact, the opposite is true: according to the law of August 23, 1794, still in force today, no person can legally bear any other name but his or her own birth name. Nonetheless, in France, almost all married women use their husband's name (91% in 1995) (see table 1). Indeed, most administrations ignore this law and as a result most people are unaware of its existence. Even the December 1985 law, which allows children to bear both parents' names as a *nom d'usage* ("customary name") is not very popular; in any case, for the time being, only the father's surname can be legally transmitted to legitimate children, a situation which is not without influence on the surnames of children born out of wedlock (cf. box).

◆ Customs differ within the European Union...

After marrying, women rarely continue to use their birth name as it was before they married. In some countries of the European Union (1), almost all women adopt their husband's surname; in others, only some women do, while others keep their birth name or use both. Some women also use one or the other surname alternately. The countries can be organized in several categories according to the dominant practice.

In seven countries (Germany, United Kingdom, Austria, France, Ireland, Sweden and Finland), a vast majority of women use their husband's name (85 % or more). However, within this group, laws vary considerably from one country to the next. In the United Kingdom, for instance, marriage has no legal conse-

quence on the surname of the spouse and there is no law regulating the transmission of surnames to legitimate children. In Sweden and Finland, a married couple can choose to use a common name that will be transmitted to their children, or bear each their own birth name and decide together whether the child will take the father's or the mother's name. In this group, France is the only country that prohibits the transmission of the mother's surname to the child.

In four countries (Denmark, Greece, the Netherlands and Portugal), several customs coexist but most women only use their husband's name (50 to 70%); the frequency of other practices varies according to country. Thus, in Denmark, the proportion of women who retain their birth name is as high as that of those who use both names (13% in both cases); in the Netherlands (2), women only rarely keep their birth name (4%), whereas in Portugal, the latter practice is much more frequent (30%) than that of using both names.

In three countries (Luxembourg, Belgium and Italy), women most often use both names (half to two-thirds of the responses). In Italy and Belgium, although the use of both names is more frequent, one out of five women retains her own name; in

(1) The question of the name of married women was raised in a survey conducted by Eurobarometer in 1995 with the population of member states of the European Union. In order to evaluate common practice, the men were asked which name was used by their spouses at the time of the survey and their spouses were asked which name they used themselves; in addition, both the men and the women were asked their opinion about which name should be used by married women.

(2) In Denmark, the choice of the child's name must be made within six months following birth; if no specific request is made, the child automatically bears the name of the mother at birth. In the Netherlands, the situation is the opposite: since 1998, the name of the mother can be transmitted, but if the parents do not declare their choice together at the time of birth, the child automatically bears the father's name.

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Luxembourg, on the other hand, women more frequently use their husband's name (41%). In these three countries, the law stipulates that spouses keep their respective names, but in Italy and Belgium, the wife is allowed to use both names together. In Luxembourg, it is taken for granted that the wife will bear her husband's name. In the two former countries, the child must legally be given the father's name; in this case, using both names is the only way for a woman to bear the same name as her children.

Spain is the only country where the general rule for women is not to change their name after marriage and where most women retain their own birth name (77%). Only 4% use only their husband's name. The children have two names: the first of the father's surnames followed by the first of the mother's. However, the order of names can be changed either by both parents together or by the child at majority.

◆ ... however, preference for the use of both names is on the rise

When the generally professed opinion differs from social custom, this indicates a widespread aspiration towards change among the population. The countries where women commonly bear their husband's surname are also those where opinions differ most from

actual practice. However, a strong traditional strain can be observed in the United Kingdom, where 71% of the respondents were in favour of wives using their husband's name; in France, this proportion drops to 49%, a figure which clearly shows a wish for change. In countries where women frequently, but not overwhelmingly, take on their husband's name, there are two variants: in Denmark and in Greece, professed opinions differ to a large extent from common practice, whereas in the Netherlands and in Portugal, custom and opinions seem to converge. In the latter country, only half of the women take on their husband's name, and none of the respondents expressed any wish for the situation to change.

In Spain, the only country where married women do not change their surname after marriage, there is a high degree of dissatisfaction, but much less than in countries where women massively use their husband's name.

The choices suggested to the respondents in the survey (preference for the husband's name, for the woman's birth name or for using both names) did not always correspond to their actual preference: a small proportion of the female respondents, in particular in Northern European countries, spontaneously chose other solutions. However, this was not the case for Belgium and Italy, where the most common practice is

Table 1 – The surname of married women: practices and opinions in the countries of the European Union (in %)

| | Practices | | | | Opinions | | | | | | Men | Women | |
|---|--|------|-----------------------|-------|---------------------------------------|------------------|--------------------|-------|---------------|--------------------------|-----|-------------------------------------|--|
| | Which surname do you use? Which surname does your wife use? | | | | It is preferable for the wife to use: | | | | | Opinions favourable | | | |
| | The husband's surname | Both | The wife's surname | Other | Her husband's surname | Both surnames | Her own surname | Other | No opinion | to using the surname: | | | |
| <i>Practically all married women bear their husband's surname</i> | | | | | | | | | | | | of the husband | |
| Germany | 95 | 3 | 1 | < 1 | 64 | 16 | 1 | 11 | 8 | 68 | 62 | | |
| United Kingdom | 94 | 4 | 1 | < 1 | 71 | 15 | 1 | 9 | 3 | 70 | 72 | | |
| Austria | 93 | 4 | 2 | 2 | 67 | 17 | 1 | 10 | 5 | 70 | 64 | | |
| France | 91 | 7 | 2 | 0 | 49 | 40 | 2 | 6 | 3 | 49 | 49 | | |
| Ireland | 90 | 7 | 2 | 2 | 59 | 22 | 4 | 7 | 8 | 60 | 58 | | |
| Sweden | 87 | 7 | 6 | < 1 | 53 | 21 | 4 | 17 | 5 | 54 | 52 | | |
| Finland | 86 | 7 | 3 | 4 | 45 | 22 | 3 | 25 | 5 | 48 | 41 | | |
| <i>The majority of married women bear their husband's surname</i> | | | | | | | | | | | | of the husband | |
| Denmark | 71 | 13 | 13 | 2 | 37 | 29 | 10 | 18 | 6 | 35 | 38 | | |
| Greece | 66 | 22 | 12 | < 1 | 35 | 50 | 11 | 4 | < 1 | 43 | 29 | | |
| Netherlands | 55 | 41 | 4 | < 1 | 41 | 39 | 7 | 9 | 4 | 39 | 42 | | |
| Portugal | 51 | 18 | 30 | 1 | 53 | 14 | 22 | 7 | 5 | 57 | 49 | | |
| <i>The use of both surnames is the most common practice</i> | | | | | | | | | | | | of both husband and wife | |
| Luxembourg | 41 | 47 | 4 | 8 | 31 | 49 | 5 | 11 | 5 | 46 | 52 | | |
| Belgium | 22 | 57 | 20 | 1 | 21 | 60 | 13 | 1 | 5 | 58 | 62 | | |
| Italy | 12 | 64 | 21 | 2 | 13 | 68 | 16 | 1 | 2 | 66 | 69 | | |
| <i>The use of the wife's birth name is the most common practice</i> | | | | | | | | | | | | of the wife | |
| Spain | 4 | 17 | 77 | 2 | 8 | 23 | 59 | 5 | 5 | 51 | 66 | | |

Field: married men and women aged 18 and over • Source: Eurobarometer survey, 1995.

Which surname is given to children born out of wedlock?

France Prioux, INED

Today, in France, only a child born out of wedlock can be given his or her mother's birth name and transmit it to his/her own children. However, this is only possible if the child was not recognized at birth by the father, or if he did so only after the mother. Even in the latter case, the child can easily take his/her father's name if the parents agree and make a joint declaration before a judge in court (1). If the parents of a child born out of wedlock get married, then the child automatically takes his father's name (if such is not yet the case); since 1993, this change is not automatic if the child is over 18, except if s/he clearly requests it.

Since the number of unmarried couples having children out of wedlock has considerably risen over the past thirty years, more and more children are thus likely to be given their mother's name. What are the true facts concerning this issue?

A sample survey of vital records undertaken by INED in 1997 (2) provides an answer to this question for children born before 1994 (see table). Out of 257,000 children born out of wedlock in 1994, about one fifth or 51,000 bore their mother's surname at the age of one month. This is far more than in 1980, since this was the case of only 35,000 children; however, at that time, children born out of wedlock were three times fewer. In addition, in the vast majority of cases, children who bear their mother's name have not (yet) been recognized by their father: this was the case for almost all such children in 1980 (96%) and for seven out of eight (87%) in 1994. Indeed, only very rarely are children who have been recognized by their father given their mother's name: only 6,500 were in this situation in 1994, in other words only 3% of the children recognized

Table: Surname of children born out of wedlock in 1965, 1980 and 1994: situation at the age of one month

| | Year of birth of the child | | |
|--|----------------------------|--------|---------|
| | 1965 | 1980 | 1994 |
| Number of children born out of wedlock (a) | 51 000 | 91 000 | 257 000 |
| Children bearing the mother's name at the age of one month | 33 000 | 35 000 | 51 000 |
| of which: children recognized by their father | 500 | 1 500 | 6 500 |

(a) Respectively 6%, 11% and 36% of all children born in 1965, 1980 and 1994.

Sources: vital statistics, National Statistics Institute, and evaluations based on the survey DEN (Children born out of wedlock), INED, 1996-1997.

by their father at the age of one month. Thus, despite the fact that there is a way for parents to give the mother's name to a child born out of wedlock, only very few do so. If, in some instances, this may be due to ignorance of the law, in most cases, by giving the father's name to the child the parents are making a statement to society: the child indeed has a father.

It often happens that children retain their mother's name for only several months or years and take their father's surname later, either through a joint declaration before court by the parents or if the child is "legitimated" through his/her parents' marriage. Of the 35,000 children born in 1980 under their mother's name, by the age of 3 years nearly 7,000, or one fifth, had already adopted their father's name; by the age of 5, the figure reached 10,000 and by the age of 17, over 15,000. Among the children born in 1994 whom we were able to observe only until the age of three, 8,000 out of the 51,000 had already changed names by the time of the survey; and many of the 43,000 still bearing their mother's name will most certainly change names, even if children are less often "legitimated" now than in the past.

Thus, although the number of women who transmit their own name to their child has increased, the increase in number of births out of wedlock is even greater. Indeed, although more and more couples do not get married, only very rarely do they actually transgress the rules of patronymic transmission: most of the time, the fact that a child bears his or her mother's name means that s/he has not been recognized by the father.

(1) According to the law of 8 January 1993, this joint declaration must be made before the chief clerk of the *Tribunal d'Instance* (Magistrates' Court); after the age of 13 (previously 15) the child must agree with the name change.

(2) DEN study (*Devenir des enfants nés hors mariage* – Children born out of wedlock), under the supervision of Francisco Munoz-Perez and France Prioux, with the financial support of the CNAF (French family-benefits fund) and the "Research mission on Law and Justice".

to use both names.

In countries where spouses massively use their husband's surname, the preference for using both names can be seen as a sign of protest; on the contrary, in countries where the latter practice is widespread, this preference marks approval of the common practice. France, where the vast majority of women take on their husband's name, represents an extreme case: the proportion of women who would prefer to use both names (40%) is twice as high as in the other countries of the same group. The second type of situation is that of Italy, Belgium and Luxembourg, where opinions are practically identical to custom.

In countries where the sole use of the husband's surname is called into question, there is hardly any disagreement on this point between men and women. However, in countries where other options exist for women, the opinions of men and women diverge, men often preferring solutions favouring their own surname. Thus, in Greece, and to a lesser extent in

Portugal, men tend to prefer the idea of women taking on the husband's name, and in Spain, men are less favourable to the practice of women retaining their birth name.

◆ The surname of married women and the surname transmitted to children

Earlier surveys conducted in France have examined the preferences and practices of divorced women. These studies show that although according to the general rule, as mentioned by the Civil Code, women relinquish their husband's name after divorce, there are nevertheless several constraining factors to be taken into account. Often, the wish to retain the ex-husband's name can in fact be explained by the desire to bear the same name as the children: thus, two out of five divorced women with children retain their husband's name, compared to less than one in five when there are no children. However, if the woman has a

Changing surnames in France

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In France, it is possible to legally change one's surname through a procedure established by the law of 8 January 1993 (article 61 and sq. of the Civil Code). According to this law, "all persons who have a legitimate reason to do so may request a change of surname". The notion of "legitimate reason" is not defined by the law. It is defined by the jurisprudence of the State Council (*Conseil d'Etat*). "Legitimate reasons" are, for instance, the wish to change a ridiculous or embarrassing name, to make a name sound more French or to perpetuate an illustrious name or one about to die out. Emotional, sentimental or commercial reasons are not considered legitimate.

The number of applications filed each year rose from about 800 in 1994 to over 1,000 in 1995, and since then has been hovering around 1,200 to 1,340 per year. In 1995, almost nine out of ten persons requesting name changes were adults, among whom one third were also making the request on behalf of a minor. Since women cannot transmit their family name to children born within marriage, fewer women apply for name changes (23% in 1995). The average age of the applicants is 35 for men and 36 for women.

The applications filed in 1995 can be divided into several categories, according to the reasons given for the change, the chosen name and whether or not the name change was approved by the authorities. In 1995, 73% of the applications were accepted and 27% were rejected.

Two thirds of these applications were filed by persons wishing to change a foreign name to a French one (44%) or modify a ridiculous name (21%); since these two reasons are considered legitimate by state jurisprudence, 90% of these requests were approved.

Applications filed for other reasons are more often rejected. 15% provide personal or emotional reasons linked to filiation, in particular "the refusal to bear the name transmitted by the father"; these requests are for the most part rejected (80%), because the reasons given are subjective, and thus "contrary to the principle of transmission and immutability of patronymics".

Requests to take an illustrious name or one about to die out are few (7%) and 80% of these are rejected, "due to insufficient proof"; on the other hand, requests to legalize a name which has been used permanently over a period of ninety years and during three generations are usually granted.

Only one reason is given by authorities to justify approval or rejection, but the files show that the reasons behind certain requests can be quite complex. One third of the applications filed in 1995 mentioned several reasons for the change. Thus, 20% of the requests to change a foreign name to a French name also provided an emotional reason (refusal to bear the father's name, other family reasons, problems linked to filiation); in these cases, the request is approved on the basis of the motivation to obtain a French-sounding name, even if the applications clearly show that the personal or emotional motivations are in fact stronger.

In 6 out of 10 cases, the applicant requested a total name change, and in 4 out of 10 cases, a modification of the original name. The choice of a new name is closely linked to the reason given for the change: in the majority of cases for "French-sounding" names (70%) and in almost all the "emotional" cases, the applicants requested a total change.

Three-quarters of the names requested are already borne by members of the applicant's family: the name most frequently requested is the mother's (60% of applications for a complete name change and over one third of the total number of applications). In 1995, this request concerned 360 applications. The mother's name is requested in an overwhelming majority of cases when the reason given for the change is the refusal of the father's name (87% of applications). Most of the applications for a total name change with a view to obtaining a French name ask to use the mother's name (65% in 1995, against 56% in 1991).

new partner, and especially if she remarries and has other children, the situation becomes more complex. In addition, 60% of divorced women disapprove of the fact that the mother's name is not transmitted to the children. Nevertheless, opinions and common practice are very different things. For example, women in higher level professions more rarely revert to their birth name after divorce than working class women, but they are more open than the latter to the idea of transmitting the mother's name to children. In higher level professions, women often remain single longer, while they finish their studies, and marry later; changing names after marriage is as a result a more difficult step. Divorce reactivates the question of social identity; women can either wish to revert to their own name or be unwilling to change once again.

In the 1980s, public opinion became increasingly favourable to including the mother's name in the family surname transmission system; the proportion of persons in favour of such a change rose from barely over 20% in 1979 to 43% in 1987. Women tend to be more critical of the current system and often regret not being able to transmit their birth name to their children (47%, against 39% of men).

The laws concerning name transmission in the countries of the European Union stem from different historical contexts. Some important changes were made over the last decades, in some cases very recently. As a rule, women tend to adapt so as to have the same name as their children, either by changing names entirely and using only their husband's name, or by using both names. In France, this problem could be solved by changing the law to make it possible to transmit the mother's or, better, both parents' names; in the latter case, to ensure equality at long last, the order of the names given to the child should be a matter of choice.

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