

## MEDIA RELEASE

5 June 2018

For immediate release

# CJEU rules that 'spouse' definition in free movement law includes same-sex couples

In a landmark decision, issued this morning, the Court of Justice of the European Union has defined the term 'spouse' for the purposes of freedom of movement for the first time.

The CJEU judgment confirms that same-sex spouses of EU citizens are included in the definition, after a positive recommendation from the case's [Advocate General in January](#).

In a [press release](#) published this morning, the court notes that "*...in the directive on the exercise of freedom of movement the term 'spouse', which refers to a person joined to another person by the bonds of marriage, is gender-neutral and may therefore cover the same-sex spouse of an EU citizen...*".

Today's judgment means that all EU Member States must treat same-sex couples in the same way as different-sex couples when they exercise freedom of movement rights. Same-sex spouses of EU nationals must now be recognised and granted residence rights on an equal basis.

*"Equality, fairness and pragmatism were at the core of today's verdict from Luxembourg. The CJEU has confirmed that rainbow families should be recognised equally in the eyes of the law on freedom of movement. Now we want to see the Romanian authorities move swiftly to make this judgment a reality."* said **Evelyne Paradis, ILGA-Europe Executive Director**, as the decision was announced.

This momentous decision is the result of a lengthy legal challenge brought by Adrian Coman and Clai Hamilton, supported by Accept Association.

*"We can now look in the eyes of any public official in Romania and across the EU with certainty that our relationship is equally valuable and equally relevant, for the purpose of free movement within the EU. We are grateful to the EU Court and to the many people and institutions who have supported us, and through us, other same-sex couples in a similar situation. It is human dignity that wins today."* commented **Adrian Coman** this morning.

The Coman case clears up the legal uncertainty that many rainbow families currently face – on the one hand, EU law provided protection against sexual orientation discrimination and allowed for freedom of movement, but the EU's law also left couples at the intersection of these situations in legal limbo. Following today's ruling, that contradictory scenario will be eradicated.

*"From the first moment that ILGA-Europe made submissions in the Coman proceedings at national level in 2016, we could see the immensely positive impact the case could have. It will increase legal protection and certainty for same-sex couples – something that should not be underestimated. This clarity will be felt not just by couples in Romania, but all over the EU, highlighting the power of strategic litigation and the enduring relevance of the EU and its laws in people's lives."* remarked **Arpi Avetisyan, ILGA-Europe Litigation Officer**.

Romania currently sits at 35<sup>th</sup> place out of 49 countries on ILGA-Europe's [Rainbow Europe](#) ranking of LGBTI law and policy; and same-sex couples currently have no legal protection.

**Romanița Iordache, Vice President of ACCEPT Association** and member of the legal team reacted: *"Today, Adrian, Clai and ACCEPT won a great victory for same-sex couples across Europe. Starting from this moment onward, all EU norms applying to spouses should also equally to all same-sex families. Romanian authorities now have an obligation to respect the CJEU decision, and ensure residency rights and minimal recognition for all same-sex families in a similar situation."*

ILGA-Europe send all our congratulations to Adrian, Clai and everyone who has supported them on this journey! Their experience means that, in future, same-sex couples and their families will be able to move within in the EU and live their lives free from barriers that once separated them from their family.

**Notes for editors:**

1. ILGA-Europe is the European Region of ILGA, the International Lesbian, Gay, Bisexual, Trans and Intersex Association, and works for the human rights of lesbian, gay, bisexual, trans & intersex people in Europe and Central Asia. ILGA-Europe represents 500 member organisations in 45 European countries: [www.ilga-europe.org](http://www.ilga-europe.org)
2. For up-to-date information on the legal and policy situation for LGBTI people in Europe, visit our Rainbow Europe Module: [www.rainbow-europe.org](http://www.rainbow-europe.org)
3. Romania is 35<sup>th</sup> in the latest Rainbow Europe ranking on law and policy, published in May 2018: <https://rainbow-europe.org/#8655/0/0>
4. Adrian Coman (born in Romania) and Clai Hamilton (a US citizen) were married in Belgium in 2010 but are not recognised as a family by the Romanian authorities. The couple have not been able to live together in Romania as a result and began legal action over five years ago to rectify this.
5. In 2016, the Romanian Constitutional Court referred the case to the Court of Justice of the European Union, and on [21 November 2017](#), the Grand Chamber composed of 15 CJEU judges held a public hearing. The Court was being asked to interpret the word “spouse” in the context of EU law on freedom of movement.
6. The Coman case relates specifically to freedom of movement; today’s decision does not have any automatic implications for EU Member States in relation to marriage legislation at national level.
7. The full judgment will be available from the Court's website from 12.00 CEST; the CJEU press release is available here: [https://curia.europa.eu/jcms/jcms/Jo2\\_16799](https://curia.europa.eu/jcms/jcms/Jo2_16799)
8. A longer longer briefing on the Coman case prepared by Romanian NGO [ACCEPT Association](#) and ILGA-Europe is available here: [https://www.ilga-europe.org/sites/default/files/28\\_may\\_2018\\_briefing\\_note\\_romania\\_final\\_accept\\_ie\\_-\\_final\\_002\\_.pdf](https://www.ilga-europe.org/sites/default/files/28_may_2018_briefing_note_romania_final_accept_ie_-_final_002_.pdf)
9. A Q&A on the Coman case is available here: [www.ilga-europe.org/resources/news/latest-news/coman-case-q%26a](http://www.ilga-europe.org/resources/news/latest-news/coman-case-q%26a)