

Taddeucci and McCall v Italy

[Case Law](#), [Legal Protection](#), [European Court of Human Rights](#), [Family](#), [Italy](#), [Strategic Litigation](#)

Residence permit

(Application no. 51362/09), 18 May 2012

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- The applicants, a same-sex couple, complained that the **refusal to grant the residence** sought by the second applicant for family reasons had amounted to **discrimination on grounds of sexual orientation**.
- The European Court of Human Rights delivered its judgement on 30 June 2016.
- It referred to the intervention by ILGA-Europe and partners, ICJ and NELFA (paras 74-77), especially that a number of jurisdictions around the world recognised that a same-sex couple in a long-term, committed and established relationship was in fact a **“family member”** regardless of whether the couple had been able to marry or otherwise obtain formal legal recognition for their relationship. The Court noted the interveners’ comparative analysis of the concept of **“functional families”** that sought to establish whether or not the relationship displayed certain essential characteristics and on the basis of which a number of countries had recognised unmarried same-sex couples as “families” or “*de facto* spouses” for the purposes of certain (economic or other) benefits. It also referred to the notion of **indirect discrimination** against unmarried same-sex couples: where same-sex couples could not marry, their situation should not be compared with that of unmarried opposite-sex couples but with that of married opposite-sex couples.
- The Court held that, by deciding to treat homosexual couples – for the purposes of granting a residence permit for family reasons – in the same way as heterosexual couples who had not regularised their situation **the State infringed the applicants’ right not to be discriminated against on grounds of sexual orientation**. There was accordingly a **violation of Article 14 of the Convention taken in conjunction with Article 8**.