

EU Court of Justice Advocate General calls for automatic recognition of legal gender recognition in birth certificates

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An opinion from the Advocate General of the Court of Justice of the European Union states that documents received in the UK by Romanian trans man must be recognised in his home country.

In a significant development regarding the rights of trans people in the European Union, the Advocate General of the Court of Justice of the European Union (CJEU) has issued an [opinion](#) calling for the automatic recognition in birth certificates of new name and gender marker acquired in a Member State.

The opinion specifically pertains to the case of Arian Mirzarafie-Ahi, a trans Romanian man facing his home country's authorities' refusal to recognise in his birth certificate his new gender marker, acquired further to his legal gender recognition in the United Kingdom.

Advocate General Jean Richard de La Tour said it was imperative that the Romanian state record in his birth certificate entries related to his name and gender without additional procedures. This recognition, argued the Advocate General, is essential in upholding the rights to free movement and private and family life guaranteed by the European Union.

[Arian's case](#), supported by the ACCEPT Association, ILGA-Europe and TGEU, marks a pivotal moment in addressing the mutual equivalence of legal gender recognition (LGR) procedures across EU Member States.

The refusal of authorities in Romania to recognise Arian's UK-issued identity documents has left him in a precarious situation, living with two different identities. Despite being a citizen of the European Union, Arian's ability to exercise his freedom of movement and his right to private and family life is hindered by the lack of recognition of his true identity in his home country. This discrepancy exposes him to discrimination and humiliating treatment, particularly at border crossings.

Expressing anticipation for a favourable judgment from the CJEU, Arian emphasised the significance of having his identity accurately represented in official documents. "The favourable judgment of the CJEU is extremely important for me and many other Romanian and EU citizens," he said. "It is about respecting a fundamental civil right. I am Romanian, I am in the European Union, I am trans. My documents must represent me and be updated."

The importance of this case extends beyond Arian's individual circumstances. It underscores the broader issue faced by thousands of individuals whose rights are compromised due to disparities in identity recognition among EU Member States. The opinion of the Advocate General reinforces the principle that rights legally obtained in one Member State must remain valid throughout the EU.

In response to the Advocate General's opinion, Katrin Hugendubel, Advocacy Director at ILGA-Europe, added:

“The AG opinion confirms what we have been pointing out for EU institutions for quite some time: without mutual recognition of legal gender recognition from one member state to another, the right to freedom of movement is not guaranteed for trans people in the EU. We are looking forward to the judgement confirming this opinion and urge the European Commission yet again to put forward legislation that will guarantee the freedom of movement for all LGBTI people under its next term. The EU directive on parenthood recognition is a very important piece of the puzzle to ensure the freedom to reside and move across the EU for LGBTI people, but more is needed to ensure that trans people can move freely across the EU and enjoy citizenship rights on equal footing with every other citizen of the EU.”

As the CJEU deliberates on this case, there is a collective hope that the judgment will align with the opinion of the Advocate General and ensure the automatic recognition of Arian’s legal gender recognition in the corresponding entries of his birth certificate by the Romanian state. However, we hope that the Court will not take into account in its judgment the questions of “marriage and parentage” emphasised by the Advocate General in his Opinion, which are not at stake in Arian’s case.