

Freedom of movement for all families? Same-sex couple ask EU court for recognition

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Will married couple Adrian Coman and Clai Hamilton be recognised as a family and have the right to move to Romania together?

That is the potentially life-changing situation being considered by the Court of the Justice of the European Union (CJEU) today.

In Luxembourg this morning, 15 CJEU judges are hearing **Case C – 673/16 Coman and others**. Following a request from the Romanian Constitutional Court, the [CJEU is being asked](#) to interpret the word “spouse” in the context of EU law on freedom of movement.

Specifically, the Court will clarify whether same-sex spouses are included in the definition of the term, and as a result, if same-sex spouses have equal rights to reside in EU Member States. The public hearing, involving legal representatives from both parties to the case, will be heard by 15 judges sitting together as the Grand Chamber.

“The fact that the Court has decided to hear this case in the Grand Chamber speaks volumes about how important it is.” commented **ILGA-Europe Executive Director Evelyne Paradis**

“A Grand Chamber hearing is a rare occurrence; they are reserved for cases of exceptional legal importance and complexity. This will be a huge day, for Adrian and Clai and lots of rainbow families who currently have no legal certainty that their families will be recognised when they want to enjoy freedom of movement within the EU (as any other family can). This case will hopefully provide much needed protection, safety and security for a lot of people.” continued **Evelyne Paradis**.

Adrian and Clai, the couple at the centre of this particular case, were married in Belgium in 2010 and their legal struggle to be recognised as family in Romania has been going on for over five years.

Adrian Coman remarked *“We promised to take care of each other for the rest of our lives, like any other married couple. Our family exists regardless of the law in Romania. Our values do not differ from the values of other Romanian citizens and certainly do not differ from the values of European citizens.”*

Supported by Romanian LGBT NGO [ACCEPT Association](#), Adrian and Clai filed a complaint against the Romanian government in 2014. ILGA-Europe, along with four other NGO partners, entered [submissions in the Coman case](#) when it reached the Romanian Constitutional Court in 2016.

Speaking ahead of the hearing, **Romani? a lordache, anti-discrimination legal expert and member of ACCEPT Association**, said:

“The injustice faced by Adrian and Clai is the result of Romania’s stubborn refusal to respect EU law on freedom of movement and European human rights principles. Their situation is not singular. Currently, 20% of the Romanian population is residing in another EU country – that means a staggering 3.9 million Romanians. The number includes gay and lesbian citizens, who are constantly at risk to see their rights violated when crossing the border

back home.”

This current case is about the right to free movement of EU citizens, one of the four fundamental freedoms guaranteed within the EU. While it touches upon recognition of same-sex marriages and/or unions, the case would not place an obligation on Member States to introduce marriage equality, for example.

Following today's hearing, the case's Advocate General will provide an opinion. The 15 judges will deliberate and then deliver their verdict in the coming months.

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- Romania currently sits at 35th in the [Rainbow Europe ranking](#) on law and policy.
 - The questions submitted to the CJEU for consideration are [available here](#).