The Coman Case: Q&A

News, Legal Protection, Coman Case, Family

The Court of Justice of the European Union delivered a judgment today, saying that the definition of 'spouse' in EU law on freedom of movement includes same-sex couples. Here are some your questions about the judgement answered.

1. So, what does the Coman judgment mean for EU law purposes?
2. The Coman case is about the right to free movement of EU citizens and their families.
3. What does the judgment mean for same-sex couples who are in the same situation as Adrian and Clai?
4. Can EU Member States refuse to follow EU law?

The case was taken by Adrian Coman (who is a Romanian national) and Clai Hamilton (a US citizen). Clai had been unable to apply for a residence permit in Romania as the authorities do not recognise marriages between same-sex partners carried out abroad.

So, what does the Coman judgment mean for EU law purposes?

Now, the term 'spouse' in the Freedom of Movement Directive has been clarified. The Court has clearly stated that same-sex couples are included in the definition of spouses.

This clarification must be applied equally in all EU Member States, through their own national laws.

The Coman case is about the right to free movement of EU citizens and their families.

Today's ruling is about free movement, one of the four fundamental freedoms guaranteed in the EU. According to EU, laws on marriage are decided by the individual Member States. So, the Coman case does not put any automatic obligation on Romania to introduce equal marriage, unless their government wants to.

What does the judgment mean for same-sex couples who are in the same situation as Adrian and Clai?

Married same-sex couples in Romania (or any other EU Member State) now know that they are considered 'spouses' for freedom of movement.

So, EU Member States are under an obligation to grant the spouse (including from a country outside the EU, like in the Coman case) of an EU citizen a residence permit in the same way they would grant permits to different-sex spouses.

Can EU Member States refuse to follow EU law?

In short, no. In this case, the Romanian courts must refuse to apply any national laws that are in conflict with EU law.

If Member States ignore Court rulings, then the European Commission can take legal action – called infringement procedures.