



Annual Review

of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Romania covering the period of January to December 2018

Romania

Family

On 5 June, the Court of Justice of the European Union (CJEU) issued the Coman judgment that affirmed that the term spouse includes same-sex partners and thus EU member states have an obligation to recognise same-sex marriages contracted in other EU countries, in order to ensure the right to free movement within the EU. Adrian Coman, a Romanian citizen, and Clai Hamilton, a US citizen, got married in Belgium in 2010. When they wanted to settle down in Romania, they were denied a residence permit for Mr Hamilton as their marriage was not recognised.

In 2016, the case reached the Romanian Constitutional Court, which referred the case to the CJEU.

On 18 July, the Constitutional Court reaffirmed the CJEU's judgment by saying that Romania must recognise same-sex partnerships or marriages when conducted abroad under the EU freedom of movement, even though there is no legal recognition of same-sex couples in Romania.

"In this light, applying the CJEU decision, which interpreted the European law, the [Romanian] Constitutional Court finds that the relationship of a same-sex couple is part of "private life" and also "family life," similar to the relationship of a heterosexual couple, which brings the protection of the fundamental right to private and family life, guaranteed by Art. 7 of the Charter of Fundamental Rights of the EU, art. 8 of the European Convention on HR, and art. 26 of the Romanian Constitution. Enjoying the right to private and family life, same-sex couples, who form stable couples, have the right to express their personality within these relationships and to enjoy, in time and by the means provided for by law, legal and judicial recognition of the corresponding rights and duties"

Decision 534 of the Constitutional Court, 18 July 2018

Local LGBTI NGOs welcomed both judgments.

"Today's decision confirms once again that rainbow families are equally valuable as any other family. From this moment on, the Constitution of Romania considers a married heterosexual couple and same-sex couples

equal, even though there is no legal form of registration of these family relationships. Civil partnership needs to be urgently regulated by Parliament."

Romanița Iordache, Co-President of ACCEPT

On October 6, a civil partnership bill was tabled in Parliament with the support of 42 deputies from across the political spectrum. The bill is due to enter parliamentary debate in February 2019.

On 4 September, the Senate's legal committees approved the initiative to hold a referendum on whether or not to amend the existing definition of family in the constitution and replace it with text that limits constitutional protection to the marriage of a different-sex couple only. The referendum was initiated in 2015 by the Coalition for Family (23 NGOs purporting to support family values). On 11 September, the Senate, sitting in plenary, approved the initiative by 107 votes; 13 senators voted against. On September 17, the Romanian Constitutional Court approved a proposal (by 7 votes to 2) to hold the referendum on the definition of family and the referendum took place on the 6 and 7 October.

The vote focused on a potential amendment of the current neutral wording of Article 48.1 of the Constitution, to a narrower definition only recognising married different-sex couples as a family deserving of constitutional protection. Romanian civil society launched a campaign encouraging voters to boycott the vote on 6-7 October. The referendum failed to reach the required 30% turnout target by a wide margin as only 20% of Romanian voters cast their ballot.

Freedom of assembly

This year's Pride Parade in Bucharest was the largest ever, with over 5000 participants marching for LGBT equality on 9 June. Then second Pride march took place in Cluj on 23 June.

Freedom of association

A recent bill proposed to require organisations to report within 15 days the names and personal data of people they helped. Another bill requires NGOs to publish a list of their donors and publish a full financial report twice a year. Both bills are pending.