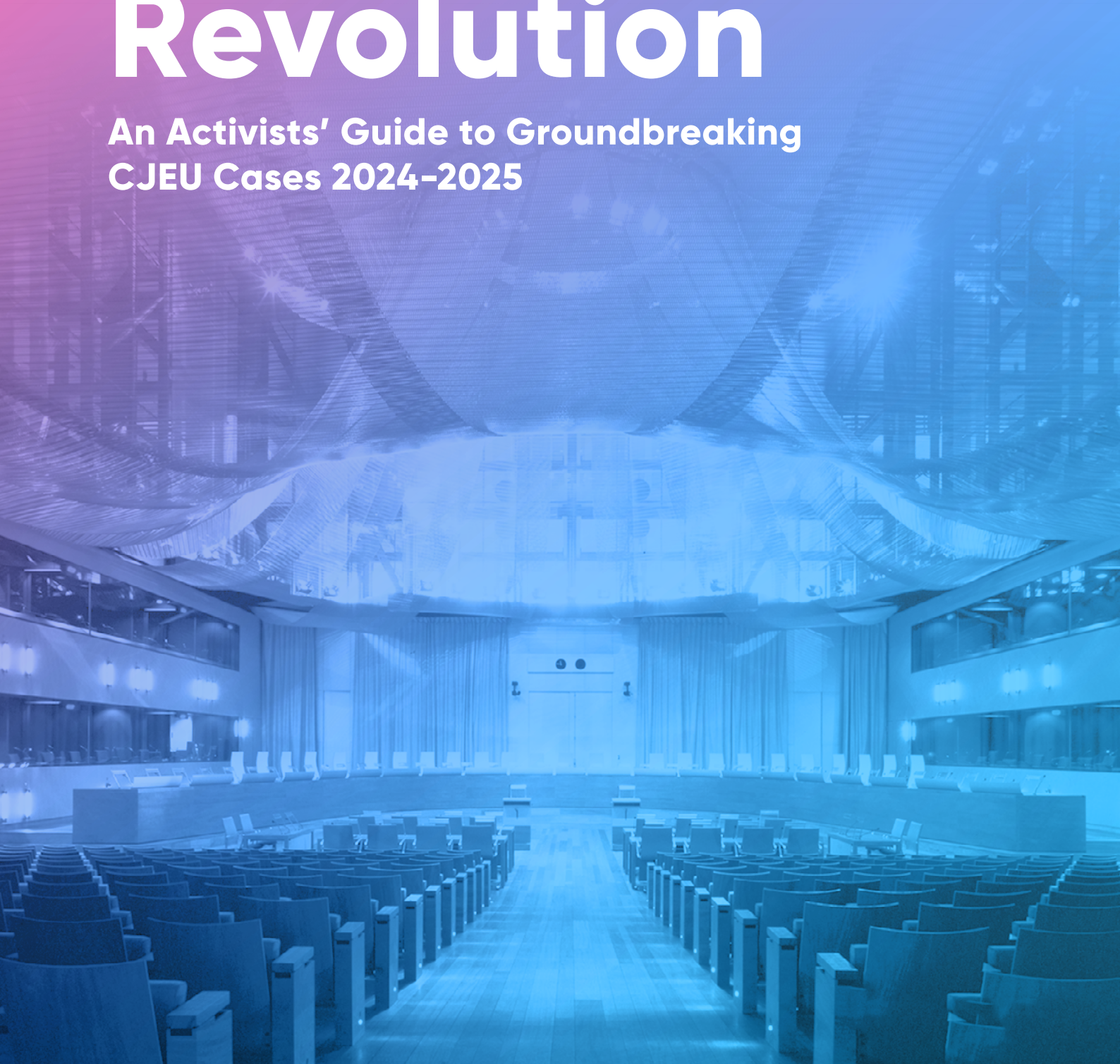


tgeu,

# The Trans Rights Revolution

An Activists' Guide to Groundbreaking  
CJEU Cases 2024-2025



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An Activists' Guide to Groundbreaking  
CJEU Cases 2024-2025

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TGEU (Trans Europe and Central Asia) is  
a trans-led NGO working for the rights and  
wellbeing of trans people since 2005.  
TGEU is an umbrella organisation that represents  
over 200 member organisations in more than  
50 countries in Europe and Central Asia.

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# List of abbreviations

AG	Advocate General
CJEU	Court of Justice of the European Union
CNIL	French Data Protection Authority
EC	European Commission
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
GDPR	General Data Protection Regulation
ICD-11	International Classification of Diseases - Version 11
ID	Identity Card
LGBTIQ	Lesbian, Gay, Bisexual, Trans, Intersex, Queer
LGR	Legal Gender Recognition
NGO	Non-Governmental Organisation
RENFE	Spanish national railway company
SNCF	French national railway company
TFEU	Treaty on the Functioning of the European Union

# About this toolkit

## Why this new toolkit?

Between 2024 and 2025, the Court of Justice of the European Union (CJEU), the EU's highest Court, issued **dealt in four important cases with the rights of trans people** in the EU. This toolkit empowers trans activists to understand why these rulings matter and helps them use them in their important work.

## Who is this toolkit for?

This toolkit is mainly for activists and human rights groups working on trans rights issues in the EU. It is not just for lawyers and legal experts. Its goal is to **empower everyone** to understand and use the CJEU's judgments in their work.

To make this toolkit easier to understand, we have written short summaries of the cases. Sometimes, this meant that we left some details out. For specific information or language, we recommend you read the original judgment or opinion.

## What is in this toolkit?

TGEU's toolkit gives a short and easy-to-read summary of four recent CJEU cases: **Mirin**, **Mousse**, **Deldits**, and **Shipov**. It explains:

- ✓ What the cases are about
- ✓ What the CJEU or the Advocate General<sup>1</sup> said - in short and in detail
- ✓ What this means for trans people in the EU
- ✓ How trans activists can use the cases

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<sup>1</sup> See page 9 for an explanation of who an Advocate General is.

The toolkit covers the following cases:

Name of case	Case number	Focus
Mirin	C-4/23	EU countries recognising each other's LGR decisions
Mousse	C-394/23	Mandatory gendered titles and non-binary identities
Deldits	C-247/23	Gender marker change in a public register
Shipov	C-43/24	Ban on legal gender recognition

Rights within the EU apply to **all EU citizens and residents<sup>2</sup>**, including **trans people**. Between 2024 and 2025, the CJEU made several important rulings that strengthened protections in sensitive areas for trans people. These rulings are the result of **years of hard work** by trans activists, civil society organisations, and legal teams. They show how EU countries must protect trans people's rights. They apply to courts, public authorities, private and public bodies that collect personal data, and other institutions that affect trans people's daily lives. With this toolkit, TGEU hopes that activists across the EU - and beyond - will better understand the rights trans people have and how to make them a reality.

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<sup>2</sup> The GDPR protects everyone whose personal data is processed in the EU



# Introduction

## What are EU laws?

There are many EU laws that EU countries must respect.<sup>3</sup> In the four cases analysed in this toolkit, these EU laws are the ones most often covered:

- > **Treaty on the Functioning of the European Union (TFEU).**<sup>4</sup> The TFEU creates obligations for EU Member States, including the provision of certain individual rights, such as the right to move and reside freely within the EU. Read more about the TFEU [here](#).
- > **The Charter of Fundamental Rights of the European Union, in short, the EU Charter or just the Charter.**<sup>5</sup> The EU Charter lists basic rights such as equality and non-discrimination, respect for private and family life, data protection, and freedom of movement. These rights apply only when EU countries are implementing EU law. Read more about the EU Charter [here](#).
- > **The General Data Protection Regulation (GDPR).**<sup>6</sup> The GDPR is the world's strongest privacy and security law. It imposes obligations on any organisation that wants to collect data about people in the EU. Read more about the GDPR [here](#). Because it is a Regulation, the GDPR directly applies to anyone in the EU.
- > **EU Directives** set the goal and key principles on a specific issue. Member States then have to adopt national laws that translate those EU laws into national law. Some examples are the Goods & Services Directive (2004/113/EC), the Gender Employment Directive (Gender Recast Directive) (2006/54/EC), the Victims Rights Directive (2012/29/EU), the Freedom of Movement Directive (2004/38/EC), and many others. For example, the Goods & Services Directive aims to stop discrimination based on gender, including against trans people, when accessing or providing goods and services — such as shops, restaurants, bars, transport, sports facilities, housing, and more.

Read more about EU Directives [here](#).

Check out TGEU's guide on trans people's rights under EU law [here](#).

<sup>3</sup> European Commission. "Types of EU law." Available at: [https://commission.europa.eu/law/law-making-process/types-eu-law\\_en](https://commission.europa.eu/law/law-making-process/types-eu-law_en) (commission.europa.eu)

<sup>4</sup> European Union. "Treaty on the Functioning of the European Union (Consolidated version)" – English-language PDF. OJ C 326 (26 October 2012), Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016E/TXT> "Treaty on the Functioning of the European Union (TFEU) — Summary." EUR-Lex, European Union. Available at: <https://eur-lex.europa.eu/EN/legal-content/summary/treaty-on-the-functioning-of-the-european-union.html>

<sup>5</sup> "Charter of Fundamental Rights of the European Union" 26 October 2012. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012P/TXT>

<sup>6</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (**General Data Protection Regulation**). Available at: <https://eur-lex.europa.eu/eli/reg/2016/679/oj>



## What is the CJEU and what does it do?

The Court of Justice of the European Union (CJEU) is the EU's highest court.

In all EU countries, it is the **national courts** that must ensure that EU law is correctly applied. If a high-level national court or tribunal is **unsure how to interpret EU law**, it can pause the case and turn to the CJEU for guidance. The CJEU will then give a so-called **preliminary ruling** to explain how EU law should apply in that situation. Once this is done, the national court or tribunal continues the case and decides whether EU law was violated. In all four cases in this toolkit — from **Romania, France, Hungary, and Bulgaria** — a national court asked the CJEU for a preliminary ruling.

**Do all national courts have to turn to the CJEU for guidance?** No. Lower courts (sometimes called **first instance courts**) can go straight to the CJEU. But they can also first ask the higher courts in their country how to interpret EU law. Only the highest national court, which has to give a final decision in the case, is required to ask the CJEU for guidance when EU law is unclear. This is called the **subsidiarity principle**: each country's courts must try to fix a (human rights) problem first. If they cannot, the case can go to a regional or international court.

Read more about preliminary rulings [here](#).

## Who is the Advocate General (AG)?

The Advocate General (AG) is a high-level legal expert. As a 'friend' to the Court, the AG offers the judges a possible solution to the case before them. This is called an **Opinion**. There are **11 Advocates General** who are impartial and independent experts who help the CJEU in its work.<sup>7</sup> Their opinions are very influential and they are often cited by the CJEU (for instance, in **Mousse** and **Deldits**). But the CJEU may still reach a different conclusion in the end. The opinions and the judgments are always listed on the CJEU's website: check out [this](#) example!

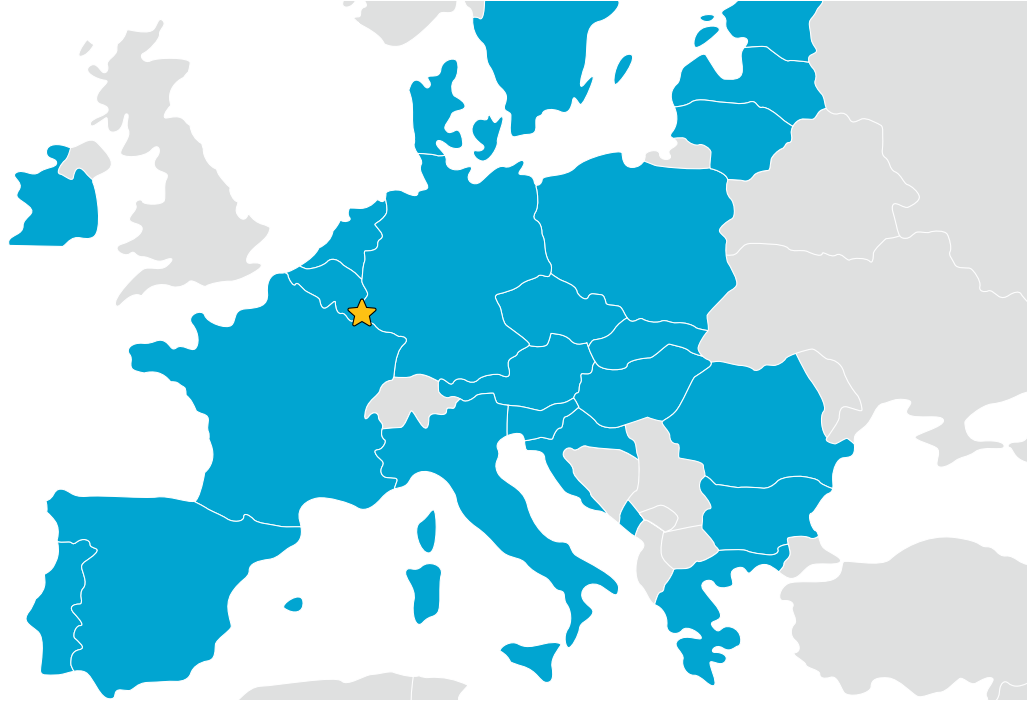
## What else can the CJEU do?

**Infringement procedures** are another important part of the CJEU's work, but this toolkit does not cover them in detail. If an EU country does not follow EU law, the European Commission can start an **infringement procedure** against it. If the country keeps refusing to comply, the Commission can take the case to the CJEU, which then decides if the country has broken EU law. The Commission has already launched infringement procedures against **Hungary and Poland** for violating the rights of LGBTI people. Find out more about infringement procedures [here](#).

You will find everything you need to know about the CJEU [here](#).

<sup>7</sup> See "The public hearing and the Advocate General's opinion" here: EU Court of Justice, Presentation of the Court. Available at: [https://curia.europa.eu/jcms/jcms/Jo2\\_7024/en/#procedures](https://curia.europa.eu/jcms/jcms/Jo2_7024/en/#procedures)

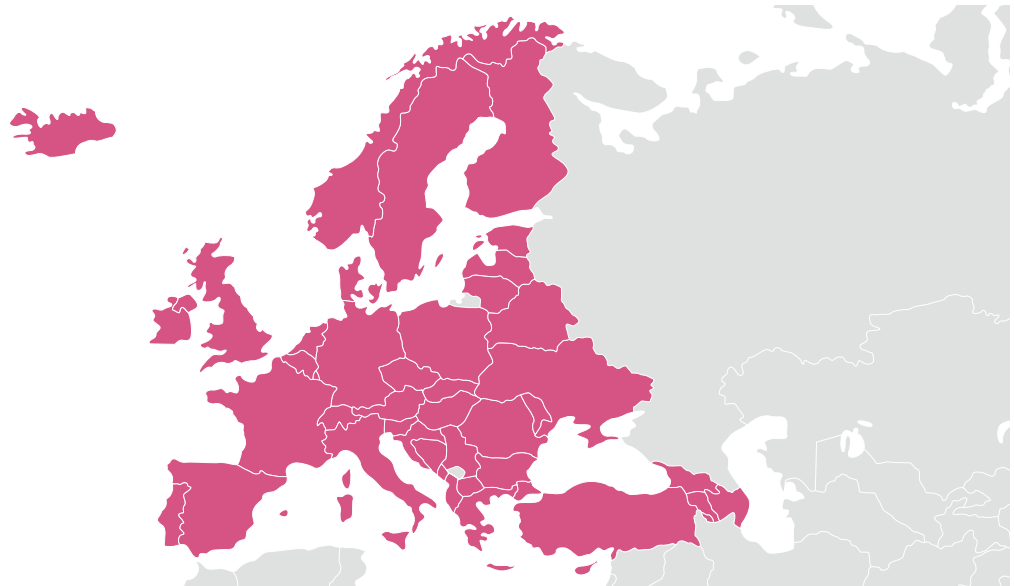
→  
Visual 1:  
Map of the EU  
(dark blue)  
with the CJEU  
marked (star)



## Is the CJEU different from the European Court of Human Rights?

Yes, these two courts are **different**. The CJEU is the EU's court, and the European Court of Human Rights (ECtHR) is the Council of Europe's court. The first landmark judgments on trans issues came from the CJEU in 1996 and the ECtHR in 2002. Since then, the ECtHR has developed a consistent set of standards on trans people's rights.<sup>8</sup> Recently, the CJEU has advanced the rights of trans people further. The rulings of the ECtHR are the minimum standard for every EU country to follow, and the CJEU often refers to those rulings in its trans cases.

→  
Visual 2:  
Map of the  
Council  
of Europe  
(marked  
pink)



<sup>8</sup> Christine Goodwin v. United Kingdom (App. No. 28957/95), Judgment of 11 July 2002. European Court of Human Rights. Available at: [https://hudoc.echr.coe.int/eng?i=001-4027; P v S \(Case C-13/94\) \[1996\] ECR I-2143, ECLI:EU:C:1996:170](https://hudoc.echr.coe.int/eng?i=001-4027;P%20v%20S%20(Case%20C-13/94)%20[1996]%20ECR%20I-2143,ECLI:EU:C:1996:170). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:61994CJ0013>; ILGA-Europe. Inventory of relevant SOGIESC case law and pending cases before the ECtHR and CJEU 2024. 9 Apr 2024. Available at: <https://www.ilga-europe.org/report/inventory-of-relevant-sogiesc-case-law-and-pending-cases-before-the-ecthr-and-cjeu/>; European Court of Human Rights. Guide on the case-law of the Convention – Rights of LGBTI persons. Updated 28 February 2025. Council of Europe. Available at: [https://ks.echr.coe.int/documents/37821/7237693/Guide\\_LGBTI\\_rights\\_ENG.pdf](https://ks.echr.coe.int/documents/37821/7237693/Guide_LGBTI_rights_ENG.pdf)

→  
Visual 3:  
The CJEU vs.  
the European  
Court of  
Human Rights

	<b>Court of Justice of the EU (CJEU)</b>	<b>European Court of Human Rights (ECtHR)</b>
<b>Established in ...</b>	1952	1959
<b>Judgments based on ...</b>	EU law	European Convention on Human Rights (ECHR)
<b>Judgments focusing on ...</b>	How EU law should be applied	Whether member States committed human rights violations under the ECHR
<b>Who can bring a case...</b>	Only a national court or tribunal, or an EU institution	An individual (after trying all legal pathways at home)
<b>Applies to ...</b>	27 EU countries: Austria, Belgium, Bulgaria, Croatia, Czechia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden	47 Council of Europe member States, which also includes all 27 EU countries
<b>Based in ...</b>	Luxembourg	Strasbourg
<b>Number of judges</b>	27 (one per EU country)	47 (one per member State)
<b>Website</b>	<a href="https://curia.europa.eu">https://curia.europa.eu</a>	<a href="https://www.echr.coe.int">https://www.echr.coe.int</a>
<b>Database to search for cases</b>	<a href="https://curia.europa.eu/juris">https://curia.europa.eu/juris</a>	<a href="https://hudoc.echr.coe.int">https://hudoc.echr.coe.int</a>

Note: Membership in the Council of Europe is a precondition for being an EU Member State, but not the other way around.

CHECK in the table if your country is an EU Member State!

Check out ILGA-Europe's database of all LGBTI cases at these two courts, [here](#).

# CJEU cases on the rights of trans people in the EU (2024-2025)

Between 2024 and 2025, the CJEU **dealt in four important cases with** the rights of trans people in the EU. The name of the case can be:

- > the name of the person whose rights were at stake;
- > the name of an organisation that went to court on behalf of a group of people (like in **Mousse**);
- > or a made-up name to protect the person's anonymity (like in **Mirin**, **Deldits**, and **Shipov**).

Visual 4: Summary table ↓

	Mirin	Mousse	Deldits	Shipov
<b>Main topics</b>	EU countries recognising each other's LGR decisions	Mandatory gendered titles and non-binary identities	Gender marker change in a public register	Ban on legal gender recognition
<b>Final judgment</b>	✓	✓	✓	✗
<b>Case number</b>	C-4/23	C-394/23	C-247/23	C-43/24
<b>Date of AG opinion</b>	<a href="#">7 May 2024</a>	<a href="#">11 July 2024</a>	<a href="#">12 September 2024</a>	<a href="#">4 September 2025</a>
<b>Date of final judgment</b>	<a href="#">4 October 2024</a>	<a href="#">9 January 2025</a>	<a href="#">13 March 2025</a>	Expected in late 2025
<b>Country</b>	Romania	France	Hungary	Bulgaria
<b>Case documents</b>	<a href="#">Mirin</a>	<a href="#">Mousse</a>	<a href="#">Deldits</a>	<a href="#">Shipov</a>
<b>TGEU press releases</b>	<a href="#">TGEU statement</a>	<a href="#">TGEU statement</a>	<a href="#">TGEU statement</a>	<a href="#">TGEU statement</a>

	Mirin	Mousse	Deldits	Shipov
<b>Articles and analyses</b>	<p><a href="#">Trans EU citizens: Free beyond movement? The Grand Chamber in Case C-4/23 Mirin, EU:C:2024:845</a> (Maastricht Journal of European and Comparative Law)</p> <p><a href="#">The CJEU on the Recognition of a Union Citizen's Change of First Name and Gender Identity</a> (European Association of Private International Law Blog)</p> <p><a href="#">Why does the CJEU talk in hypotheticals? The Mirin case beyond Gender Recognition</a> (European Law Blog)</p> <p><a href="#">C-4/23, Mirin: At the crossroads of gender identity and EU citizens' right to freedom of movement</a> (European Institute of Public Administration)</p>	<p><a href="#">Historic CJEU Ruling on LGBT+ Rights in Europe</a> (Deshoulières Avocats)</p> <p><a href="#">Privacy vs. business convenience: the Mousse judgment and the future of data protection in the EU</a> (EU Law Journal)</p>	<p><a href="#">Trans* Rights Beyond Medicalisation? The CJEU in Case Deldits (C-247/23)</a> (European Law Blog)</p> <p><a href="#">C-247/23 Deldits: Gender Identity Through the Lens of the Right to Rectification of Personal Data</a> (European Data Protection Law Review)</p>	<p><a href="#">Lived gender identity in EU Law</a> (Leiden Law Blog)</p> <p><a href="#">Legal Gender Recognition and Free Movement in the EU</a> (Verfassungsblog)</p>
<b>EU rights</b>	<p>EU citizenship (TFEU, Art. 20)</p> <p>Freedom of movement (TFEU, Art. 21 and EU Charter, Art. 45)</p> <p>Respect for private and family life (EU Charter, Art. 7 and TFEU, Art. 16(1))</p>	<p>Respect for private and family life (EU Charter, Art. 7 and TFEU, Art. 16(1))</p> <p>Right to the protection of personal data (TFEU, Art. 16(1) and EU Charter, Art. 8(1))</p> <p>Right to rectification (correcting wrong or incomplete personal data) (GDPR, Art. 16)</p> <p>Lawfulness of data processing (GDPR, Art. 6)</p> <p>Principle of data minimisation (GDPR, Art. 5)</p>	<p>Respect for private and family life (EU Charter, Art. 7 and TFEU, Art. 16(1))</p> <p>Right to the protection of personal data (TFEU, Art. 16(1) and EU Charter, Art. 8(1))</p> <p>Right to data rectification (GDPR, Art. 16 and EU Charter, Art. 8(2))</p> <p>Principle of data accuracy (GDPR, Art. 5)</p>	<p>EU citizenship (TFEU, Art. 20)</p> <p>Freedom of movement (TFEU, Art. 21 and EU Charter, Art. 45)</p> <p>Respect for private and family life (EU Charter, Art. 7 and TFEU, Art. 16(1))</p> <p>Right to a travel document (EU Directive 2004/38/EC, Art. 4(3))</p>
<b>EU instrument</b>	<p>Treaty on the Functioning of the European Union (TFEU)</p> <p>EU Charter</p>	<p>GDPR</p> <p>TFEU</p> <p>EU Charter</p> <p>EU Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services</p>	<p>GDPR</p> <p>TFEU</p> <p>EU Charter</p>	<p>TFEU</p> <p>EU Charter</p> <p>EU Directive 2004/38/EC on the right of EU citizens and their family members to move and reside freely within the EU</p>

### How to read CJEU judgments?

Here are some helpful tips for understanding decisions from the Court of Justice of the EU (CJEU):

- > **Check different language versions.** Many CJEU judgments are published in several EU languages, so you can read the one you find easiest! When you open the official judgment, there is a drop-down menu called **Language of the document**. Check out this function [here](#).
- > **Look for the official press release.** The Court often publishes a short press release, which is a simpler summary explaining the key points of the case and the ruling.
- > **Search for articles and posts about the case.** There are many posts, blogs, and articles written about important CJEU cases, like the ones we cited in the summary table above. These can be very helpful. Check out TGEU and national NGOs' websites for commentaries.
- > **Use guides that explain the structure.** CJEU judgments follow a predictable format, and knowing this makes them much easier to follow.

For more detailed tips, we recommend looking at a full guide on how to read CJEU judgments and recommend [this resource](#).

## MIRIN

### (C-4/23) ROMANIA

→ Visual 5:  
Arian's CJEU legal  
team: Anca Baltac,  
Iustian Ionescu,  
Arian Mirzarafie-  
Ahi, Marie Ludwig,  
Richard Köhler  
(source: Patrick  
Braila)



### What was the case about?

Arian Mirzarafie-Ahi is a trans man who has dual citizenship in Romania and the UK.<sup>9</sup> Arian moved to the UK when it was still part of the EU. There, he changed his first name and legal gender before the UK fully left the EU.<sup>10</sup> Arian also wanted his Romanian papers to reflect these changes. Based on his UK papers, Arian turned to the Romanian authorities and asked for a new Romanian birth certificate in 2021. This was after the UK had left the EU. The authorities in Romania denied him. They said Arian should go through legal gender recognition in Romania. However, Romania has no clear and foreseeable procedure for legal recognition that is quick, transparent and accessible.<sup>11</sup> Arian turned to the courts in Romania. The Romanian court in Bucharest, called the Court of First Instance, was not sure about how EU law applies in Arian's case and asked the CJEU for a preliminary ruling.

<sup>9</sup> Mirin (C-4/23), Judgment of the Court (Grand Chamber) of 4 October 2024, M.-A.A. v Direcția de Evidență a Persoanelor Cluj and Others. ECLI:EU:C:2024:845. Available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62023CJ0004>

<sup>10</sup> Mirin, para. 34.

<sup>11</sup> X and Y v. Romania (App. No. 2145/16), Judgment of 19 January 2021. European Court of Human Rights. Available at: <https://hudoc.echr.coe.int/eng?i=001-180607>



Check out TGEU's toolkit **Key Cases: Legal Gender Recognition in European and National Courts (2017–2024)**, which also includes the **Mirin** case. [See here](#).

## What did the CJEU say?

### QUICK SUMMARY:

The CJEU said that Romania must **automatically recognise** the changes Arian made to his name and gender marker in the UK. Arian is an EU citizen, so he has the right to live and move freely in other EU countries. While living in the UK (when it was still part of the EU), he legally changed his name and gender marker there. If Romania does not accept these changes automatically, Arian will have two different sets of ID papers, and this would make it hard for him to travel and live freely in the EU. This would violate his right as an EU citizen to freely travel and live in any EU country ("**freedom of movement**").

→  
Text box 2.

#### IN A NUTSHELL: What is the principle of 'mutual recognition'?

Mutual recognition is an important rule in the EU. It means that, in most situations, one EU country must accept and apply decisions made by courts or authorities in another EU country.

For example, this can apply to custody rulings, criminal judgments, and arrest warrants. The goal is to make it easier for EU countries to work together and to help EU citizens move freely and use their rights across the EU. Read more about 'mutual recognition' [here](#).

→  
Text box 3.

#### IN A NUTSHELL: What is freedom of movement?

The right to move and reside freely, in short: freedom of movement, means that **EU citizens** (and their family members) can travel, live, work, study, or retire in any EU country. For instance, EU citizens can stay in any EU country for up to three months without having to register or meet any requirements other than having a valid EU passport or ID card. If they want to stay longer, they might have to fulfil some requirements, for instance, being able to support themselves or going through a formal registration process. EU citizens can also work in any EU country and will not need any work permit or visa to do so. Read more about freedom of movement in the EU [here](#).

### IN MORE DETAIL:

Everyone who is a citizen of an EU country is also automatically an **EU citizen**. Being an EU citizen gives people **rights**, and each EU country must make sure its citizens can enjoy these rights.

One of these rights is the right to **freedom of movement**. This means that EU citizens can travel, live, work, or study in any other EU country. To exercise this right, people usually need to show that they are EU citizens and prove their identity — for example, by using an EU passport or a national ID card.

Some trans EU citizens might decide to **change their name and/or legal gender** when they live in another EU country. In some countries, you have to be a citizen to do this, but in others, residents and/or asylum seekers and/or refugees can also do it.<sup>12</sup> In this case, Arian also had citizenship in the UK.

Each EU country can make its **own rules** about legal gender recognition; this is its right. But, they cannot forget about their citizens' **EU rights** when they make those rules, including the right to free movement. They are not allowed to have legal gender recognition procedures in place that would make it impossible, or too hard, for their citizens to freely move around in the EU.<sup>13</sup>

EU countries **must accept changes** a person makes to their **civil status**, like their name or gender marker, in another EU country, if the person lived there legally and followed the procedures there.<sup>14</sup> If a country refuses to do this, it will force the person to have two different sets of documents, which can cause **serious problems** in daily life - for example, when travelling, moving elsewhere, applying for a job, or filling out forms.<sup>15</sup> This would violate the person's EU **freedom of movement** under the EU Charter and the TFEU.<sup>16</sup>

#### THE COURT'S SIDENOTE:

The Court went further in the judgment and talked about the **fundamental rights** that EU citizens have. The Court said that in some cases, it is possible for an EU country to limit its citizens' EU rights.<sup>17</sup> In this case, Romania did not want to automatically accept the changes made in the UK to Arian's document. If they do this, they must fulfil some **conditions** (see Text box 4).

→  
Text box 4.

#### IN A NUTSHELL: When can an EU country limit a citizen's EU rights?

EU law is very clear that if an EU country wants to limit its citizens' EU rights, it must meet some conditions to do so. The country must:

➤ **Have a law in place to do this:** There needs to be a 'national provision', for instance, a law that talks about this restriction. It can't be something the authorities suddenly come up with.

<sup>12</sup> TGEU – Trans Rights Map 2025, "Asylum." Available at: <https://transrightsmap.tgeu.org/home/asylum>

<sup>13</sup> Mirin, para. 53

<sup>14</sup> Mirin, para. 53

<sup>15</sup> Mirin, paras. 54-55.

<sup>16</sup> Mirin, paras. 54-56, para. 58.

<sup>17</sup> Mirin, para 59.

- > **Have a good reason:** Any restriction should have a so-called 'legitimate objective'. This means having a valid and strong reason to limit the right, for instance, the health or safety of other citizens, a public emergency, etc.
- > **Respect fundamental rights:** This legitimate objective always has to be in line with fundamental rights that EU law guarantees. For instance, the restriction cannot be discriminatory.
- > **Make the restriction as small as possible:** This restriction needs to be 'proportionate'. This could mean that the restriction is only for a short period of time. For instance, there can be temporary restrictions on travel during a pandemic, but these shouldn't be in place forever.

Romania didn't fulfil these conditions, because it **did not give a good reason** for refusing to accept Arian's UK gender recognition certificate and telling him to go through another legal gender recognition procedure in Romania.<sup>18</sup> But, even if Romania had a good reason, it would have to respect Arian's **fundamental rights** under the EU Charter.<sup>19</sup>

The EU Charter gives every EU citizen the **right to privacy**. This is also called the **right to respect for private and family life**. The European Convention on Human Rights also includes this right.<sup>20</sup> All EU countries must **respect** the Convention and **follow** the decisions of the European Court of Human Rights. This is the **minimum level of protection** that every country must give, but they can give even stronger protection if they want to.<sup>21</sup>

The European Court of Human Rights has published several judgments that focus on legal gender recognition, which falls under the right to privacy. The ECtHR has clearly explained that legal gender recognition procedures must be **effective and foreseeable** and that people should be able to change their legal gender in a **quick, transparent, and accessible** way.<sup>22</sup> The ECtHR actually looked in the cases **X and Y v. Romania** at the legal gender recognition procedure in Romania and found that it did not meet these requirements.

→  
Text box 5.

#### **IN A NUTSHELL: The European Court of Human Rights ruling in *X and Y v. Romania* (2021)**<sup>23</sup>

In *X and Y v. Romania* (2021), two trans men complained to the European Court of Human Rights (ECtHR) that the legal gender recognition procedure in Romania was arbitrary and abusive. It was arbitrary because it was neither clear nor sufficiently transparent. It was abusive because it required trans people to undergo surgery. The ECtHR found that Romania's legal gender recognition procedure violated

<sup>18</sup> Mirin, para 61.

<sup>19</sup> Mirin, para. 62.

<sup>20</sup> Mirin, para. 63.

<sup>21</sup> EU Charter, Article 52(3).

<sup>22</sup> Mirin, paras. 65-66.

<sup>23</sup> X and Y v. Romania.

Article 8 on the right to privacy because the procedure was not **clear, foreseeable, quick, transparent, or accessible**.<sup>24</sup> The ECtHR asked Romania to change its rules about legal gender recognition.

The CJEU took the ruling of the European Court of Human Rights into consideration. It said that even if Arian went through the process in Romania, he might still end up with a different result than in the UK.<sup>25</sup> If this happened, he would still have two different sets of documents. This could cause Arian 'serious inconvenience'<sup>26</sup> and would make it very difficult for him to use his right to **free movement in the EU**.<sup>27</sup>

## What does this all mean?

The judgment means that:

**Name and gender marker changes made in one EU country must be automatically recognised by other EU countries.**

If an EU citizen leaves their country of citizenship, moves to another EU country and changes their name and/or gender marker there legally, this change has to be automatically recognised by the EU country where they have citizenship. Having two different sets of documents would be a violation of the person's EU right to freedom of movement. A country cannot ask for additional evidence or make the person go through another legal gender procedure again.

## Does the ruling apply to dual EU citizens only?

No. Arian has dual citizenship, but the judgment can be used by anyone who has citizenship in an EU country, moved to another EU country, and changed their name and/or legal gender there. In some EU countries, though, only citizens can access legal gender recognition.<sup>28</sup>

## What else stands out in the ruling?

### 1. The Court focuses on 'gender identity' instead of 'gender reassignment'

For the first time, the CJEU talks about 'gender identity' instead of 'gender reassignment'. This is a major step forward. It means that the Court recognises the rights of all trans people, whether or not they have had medical interventions. In the **Mousse** case (see page 22), the CJEU does the same and also recognises the existence and specific needs of non-binary people.

<sup>24</sup> Mirin, para. 67

<sup>25</sup> Mirin, para. 68.

<sup>26</sup> Mirin, para. 55.

<sup>27</sup> Mirin, para. 69.

<sup>28</sup> The AG opinion does stress, though, that the person must have a "close connection" to the EU country where they change their name or gender, for instance, by residing there or being a citizen there, but the Court does not talk about this. The AG affirms that "moving to another Member State with the sole purpose of legally changing gender could be considered a fraudulent circumvention of the Romanian procedure to obtain such change"; Opinion of Advocate General Richard de la Tour delivered on 7 May 2024, Case C-4/23 [Mirin], para. 75. Available at: <https://curia.europa.eu/juris/document/document.jsf?text=&docid=285741&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=2004111>

## 2. The judgment is about the right to freedom of movement and not about the right to legal gender recognition.

Each EU country can set its own rules for how people can legally change their gender. The CJEU respects that. However, when a country makes these national rules, it must still **follow EU law** and protect **EU citizens' rights** — like the right to move freely between countries. The CJEU looked at how Romania's request violated an EU citizen's right to freedom of movement.

## 3. All EU countries must respect the judgments of the European Court of Human Rights on legal gender recognition - when applying EU law.

It is an important principle in the EU that the rights in the EU Charter are connected to the rights in the European Convention on Human Rights (ECHR) and how the European Court of Human Rights (ECtHR) interprets them. The judgments of the ECtHR are the minimum protection that each EU country must provide; they can never do less than that.<sup>29</sup> This is very important because it shows that the European human rights system works together.<sup>30</sup> In this case, the CJEU specifically referred to ECtHR judgments on legal gender recognition and said those judgments set the minimum standards EU countries must follow when applying EU law.

## 4. The Court requested an EU country to amend a trans person's birth certificate.

Because of this judgment, Romania has to give Arian a new birth certificate with his correct name and gender marker.<sup>31</sup> This is more than what the CJEU asked in similar past cases about a person's civil status. In the Coman case, a Romanian-American gay couple married in Belgium, but Romania refused to recognise their marriage or give the American husband a residence permit. The Court said Romania must recognise the marriage only for the residence permit.<sup>32</sup> In the Pancharevo case, a lesbian couple in Bulgaria had a baby, but the country refused to issue a birth certificate listing both mothers. The Court said Bulgaria must give the child travel documents so she could use her right to free movement, but not a full birth certificate.<sup>33</sup> Learning from the refusal of authorities to implement these cases, the Court was much more direct in the **Mirin** case, and asked Romania to change Arian's birth certificate.

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<sup>29</sup> Article 52 (3) of the EU Fundamental Rights Charter reads "In so far as this Charter contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection." See also Mirin, para. 63; Plan, Audrey. "Why does the CJEU talk in hypotheticals? The Mirin case beyond Gender Recognition." European Law Blog, 21 October 2024. Available at: <https://www.europeanlawblog.eu/pub/38k0ck9o/release/3>

<sup>30</sup> Plan, Audrey. "Why does the CJEU talk in hypotheticals? The Mirin case beyond Gender Recognition"

<sup>31</sup> Santaló Goris, Carlos. "C-4/23, Mirin: At the crossroads of gender identity and EU citizens' right to freedom of movement." European Institute of Public Administration, 15 November 2024. Available at: <https://www.eipa.eu/blog/c-4-23-mirin-at-the-crossroads-of-gender-identity-and-eu-citizens-right-to-freedom-of-movement/>

<sup>32</sup> Coman and Others v Inspectoratul General pentru Imigrări and Ministerul Afacerilor Interne (C-673/16), Judgment of 5 June 2018, EU:C:2018:385. Available at: <https://curia.europa.eu/juris/liste.jsf?num=C-673/16>; Santaló Goris, Carlos. "C-4/23, Mirin: At the crossroads of gender identity and EU citizens' right to freedom of movement."

<sup>33</sup> V.M.A. v. Stolichna obshtina, rayon 'Pancharevo' (C-490/20), Judgment of the Court (Grand Chamber) of 14 December 2021, ECLI EU:C:2021:1008. Available at: <https://curia.europa.eu/juris/liste.jsf?lgrec=fr&td=%3BALL&language=en&num=C-490/20&jur=C>; Santaló Goris, Carlos. "C-4/23, Mirin: At the crossroads of gender identity and EU citizens' right to freedom of movement."

## What could the Court have done better?

- > **Talk about the right to legal gender recognition as a standalone right.** The judgment focuses on freedom of movement and not the right to legal gender recognition.<sup>34</sup> This means that the judgment only applies to trans people who have moved within the EU and changed their name/gender marker there. The Advocate General also talked about personal autonomy, which the Court did not pick up on.<sup>35</sup>
- > **Go into more detail about the implications of the name change.** The Court says its decision applies to both changing your **name** and changing your **gender marker**. But it doesn't say what should happen if someone chooses a name that's usually linked to a different gender, as this was not the issue here. In some EU countries, this is still not allowed.
- > **Get the terminology right.** The Court often uses the term '**sexual identity**' when talking about trans people's **gender identity** and their right to have it legally recognised.<sup>36</sup> This might be because the judgment was written and discussed in French, where the term 'identité sexuelle' is still often used instead of 'identité de genre' (gender identity). The same problem also happens sometimes in the European Court of Human Rights when cases are handled in French.
- > **Break away from the gender binary.** The Court does not mention non-binary gender markers or say whether they are included in this case. It only uses binary language, such as "**his or her first** name and gender identity".<sup>37</sup> The Advocate General's opinion in the **Shipov** case is more progressive on this issue (see page 31 for the **Shipov** case).

## How is implementation going?

After the CJEU ruling, Arian's case went back to the Romanian courts. The domestic court cancelled the earlier decision that required Arian to use Romania's legal gender recognition procedure. However, the authorities appealed this decision. They argue that the CJEU's **Mirin** judgment should not apply to Arian's situation. Their reasoning is that the **Mirin** case was about freedom of movement, while Arian's case is about civil status, which they say is something each EU country controls on its own. As of November 2025, the appeal is still pending.

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<sup>34</sup> Plan, Audrey. "Why does the CJEU talk in hypotheticals? The **Mirin** case beyond Gender Recognition"

<sup>35</sup> Opinion of Advocate General, Case C-4/23 [Mirin], para. 92.

<sup>36</sup> Mirin, para. 64.

<sup>37</sup> Mirin, para. 56.

# MOUSSE

## (C-394/23) FRANCE

### What was the case about?

The Mousse Association is a French NGO that fights discrimination against LGBTQI+ people. They helped **64 people** complain about the French train company, SNCF's online ticket system, SNCF Connect. The platform made it mandatory for passengers to pick "Mr" or "Ms," with no other options when buying any train ticket.

In 2021, Mousse told the French data protection authority (CNIL<sup>38</sup>) that this was unfair to people who are trans, non-binary, or intersex.<sup>39</sup> They also said SNCF Connect didn't need to ask for gender to sell tickets, which breaks the **GDPR** rule of only collecting necessary information (see Text box 6 for more information about the GDPR).<sup>40</sup> The CNIL decided that SNCF Connect was not breaking the law. Mousse turned to the Conseil d'État (Council of State). This is the court that turned to the CJEU for guidance.

→  
Text box 6.

#### IN A NUTSHELL: What's the GDPR and how does it protect you?

- The GDPR is the EU's General Data Protection Law that was adopted in 2016.<sup>41</sup>
- The purpose of the GDPR is to protect everyone's personal data.<sup>42</sup>

What is '**personal data**' according to the GDPR?

Personal data is any information that can (be used to) identify a person. It includes your name, identification number (social security number, ID number, personal number, etc.), address, medical records, or photos.<sup>43</sup> Titles such as 'Mr' and 'Ms' are also personal data.<sup>44</sup>

- The GDPR includes many obligations for any company, authority, or government that collects your personal data. For instance, they can only collect personal data if they inform you about this and if they have a good reason to do so.<sup>45</sup>

<sup>38</sup> Commission Nationale de l'Informatique et des Libertés

<sup>39</sup> Deshoulières Avocats. Décision historique de la CJUE pour les droits LGBT+ en Europe. 9 January 2025. <https://www.deshoulieres-avocats.com/decision-historique-de-la-cjue-pour-les-droits-lgbt-en-europe/>

<sup>40</sup> Mousse (C-394/23), para. 14. Judgment of the Court (First Chamber) of 9 January 2025, Mousse v Commission nationale de l'informatique et des libertés (CNIL) and SNCF Connect. ECLI:EU:C:2025:2. Available at: <https://curia.europa.eu/juris/liste.jsf?language=en&num=C-394/23>

<sup>41</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). Articles 5 and 6. Available at: <https://eur-lex.europa.eu/eli/reg/2016/679/oj>

<sup>42</sup> GDPR, Article 1.

<sup>43</sup> GDPR, Article 4(1).

<sup>44</sup> Mousse, para. 30.

<sup>45</sup> GDPR, Article 5(1)a-b.



- > **'Data minimisation'** means that they can only collect data that is really necessary for the specific purpose and not more.<sup>46</sup>
- > The GDPR also says that collecting your personal data is only allowed (**'lawful'**) if you consented to it.<sup>47</sup> If this is not the case, it must be really **necessary** to collect this data. This could mean that it's required by law or that it's really needed for the service that a company or authority wants to perform.<sup>48</sup> For instance, if you are buying a plane ticket, it is necessary that they ask for the name that is on your passport, but they cannot ask you whether you are married, where you live, or what your IP address is.

→  
Visual 5:  
A train on the  
railway tracks.  
Photo by Snap  
Wander on  
Unsplash



## What did the CJEU say?

### QUICK SUMMARY:

The CJEU decided that asking customers for their gendered title, like Mr or Ms, just to make messages more personal, cannot be considered **"necessary"** under the GDPR. Collecting this information goes beyond what is strictly necessary and could also lead to **discrimination** based on gender identity. This would violate the customer's basic rights and freedoms.<sup>49</sup>

### IN DETAIL:

Under the GDPR, it is only allowed to collect personal data if the person has **consented** to this or if collecting the personal data is really **necessary**.<sup>50</sup> In this case, the 64 individuals that Mousse represented did not want to give out information on their gendered titles and having to choose between 'Mr' or 'Ms'.

The CJEU looked at whether it was really **necessary** for the train company to know if its customers use 'Mr' or 'Ms' titles. SNCF Connect wanted to have this information so

<sup>46</sup> GDPR, Article 5(1)c.

<sup>47</sup> GDPR, Article 6(1)a.

<sup>48</sup> GDPR, Article 6(1)b-e.

<sup>49</sup> Mousse, para. 63.

<sup>50</sup> Mousse, para. 26; GDPR, Article 4(11).

it can send more personal messages to its customers when forwarding their ticket or letting them know about **changes** in the schedule.<sup>51</sup>

The CJEU said that it's not enough to collect personal information just because it's useful. The information must be **essential** for the company's main job — in this case, transporting passengers.<sup>52</sup> The Court also said that when companies collect personal data, they must always do it in a way that **least affects people's basic rights and freedoms**, especially their right to privacy.<sup>53</sup>

Collecting a passenger's first and last name is essential for a train company to do its job.<sup>54</sup> If companies want to be polite and protect their brand image, they could do that without knowing the person's gender identity.<sup>55</sup> For instance, instead of saying "Dear Mr/Ms Smith", they could use "**Dear Customer**" or "**Dear Passenger**". SNCF Connect is already using this more inclusive style on some of its other platforms.

SNCF Connect and the French Government asked the Court to consider the importance of "preserving linguistic and cultural diversity".<sup>56</sup> The Court said that the GDPR does not cover this. It also said that collecting information about gendered titles (like Mr or Ms) does not affect that diversity.<sup>57</sup>

Sometimes, it might be **essential** for SNCF Connect to know about a passenger's gender. For example, night trains have sleeping cars separated by gender.<sup>58</sup> But SNCF Connect should not ask all passengers for their gender.<sup>59</sup> This would be **disproportionate** and against the GDPR rule of '**data minimisation**' (see Text box 6).<sup>60</sup>

The Court said it is important to **balance** collecting personal data with protecting a person's basic rights and freedoms.<sup>61</sup> Collecting data for marketing can never be more important than someone's rights, especially if it could lead to **discrimination**.<sup>62</sup> Mousse said this could happen, and the CJEU asked the French court to look into this.<sup>63</sup> The CJEU referred to **EU Directive 2004/113**, which protects people from discrimination between men and women when accessing goods and services, and said that the Directive applies to **anyone who has changed their gender identity**.<sup>64</sup>

See the Mousse Association's press release [here](#).

<sup>51</sup> Mousse, para. 37.

<sup>52</sup> Mousse, paras. 32-34.

<sup>53</sup> Mousse, para. 28.

<sup>54</sup> Mousse, para. 55.

<sup>55</sup> Mousse, para. 37-38, 55.

<sup>56</sup> Mousse, para. 56.

<sup>57</sup> Mousse, para. 55, 57.

<sup>58</sup> Mousse, para. 41.

<sup>59</sup> Mousse, para. 42.

<sup>60</sup> Mousse, para. 42.

<sup>61</sup> Mousse, para. 58.

<sup>62</sup> Mousse, para. 60.

<sup>63</sup> Mousse, para. 61.

<sup>64</sup> Mousse, para. 61; Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services. Available at: <https://eur-lex.europa.eu/eli/dir/2004/113/oj/eng>

## What does this all mean?

The judgment means that:

**Public and private entities can't make people share their gender or gendered title (like Mr or Ms) unless it's essential for them to know this information.**

Collecting information about a customer's gender to make messages sound more personal is **not allowed** under the GDPR. It can also lead to **discrimination** based on gender identity.

Instead, public and private entities can use **neutral** and **inclusive** terms in their messages. For example, a train company could say "**Dear passenger**" or "**Dear traveller**" to stay polite and respectful.

**Is it okay to ask about someone's gender if they choose to share it?** Yes.

**Is it okay to collect information about a person's gender if this is absolutely necessary for a service?** Yes. For example, if someone buys a ticket for a night train where sleeping cabins are divided by gender, the company does need to ask about the customer's gender. In this case, collecting that information is necessary.

## Does the judgment apply to all EU countries or just the French train company?

The **Mousse** judgment explains how the GDPR should be understood. This means it applies directly in **all EU countries**, and all public and private organisations that must respect the GDPR. It also applies to any organisation **outside the EU** that collects the personal data of people in the EU.

## What else stands out in the ruling?

**1. Under EU law, everyone is protected against gender identity discrimination, including non-binary people.**

The CJEU said that the EU Directive 2004/113, which promotes equal treatment between men and women in access to goods and services, also protects people whose **gender identity has changed**.<sup>65</sup> This means that powerful EU laws and policies on gender equality law apply to all **trans and non-binary** people.<sup>66</sup>

**2. The CJEU recognised non-binary people for the first time.**

**Mousse** is the **first case** of non-binary people before the CJEU, and the CJEU did a really good job recognising the **existence and needs** of non-binary people in its judgment. So far, the European Court of Human Rights has always denied complaints from non-binary people.

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<sup>65</sup> Mousse, para. 62. "Joint statement welcoming CJEU judgment to halt unlawful gender title collection." 9 January 2025. <https://tgeu.org/joint-statement-welcoming-cjeu-judgment-to-halt-unlawful-gender-title-collection/>

<sup>66</sup> Mousse, para. 62. "Joint statement welcoming CJEU judgment to halt unlawful gender title collection."

### 3. The CJEU confirmed that gender identity, not sex assigned at birth, is the relevant factor for gender-segregated services.

The Court made an important remark on how it thinks access to sex/**gender-segregated spaces** should be organised. When addressing the railway company's argument that gender information might be necessary for organising sleeping compartments in night trains, the CJEU referred to "passengers of the same gender identity".<sup>67</sup> The Court didn't speak of passengers of the same 'gender' or the same 'sex', but rather made two important points: first, it reminded us that every person has a gender identity (not just trans people), and second, it established that when allocating people to gender-segregated spaces as intimate as small sleeping compartments, it is their gender identity—not the sex assigned at birth—that constitutes the deciding factor.

### How is implementation going?

The French domestic court (Conseil d'État) cancelled the data protection authority's (CNIL) 2021 original decision. The court said it is **not okay to force people to share their gendered titles** like "Mr" or "Ms" under GDPR rules. SNCF Connect's reasons for asking were rejected. The court told CNIL to look at the complaint again. This means people should be able to choose freely if they want to give a title or not. As of November 2025, the CNIL hasn't made a final decision yet.

## DELDITS

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### (C-247/23) HUNGARY

#### What was the case about?

This case is about VP, an Iranian trans man. VP came to Hungary as a refugee and received refugee status in 2014 because he faced persecution in Iran for being trans.<sup>68</sup> To support his asylum application, VP provided medical certificates showing that he was assigned female at birth but identifies as male.<sup>69</sup> The Hungarian asylum authorities recognised his trans identity as the reason why he had to flee. Nevertheless, they registered him as female.<sup>70</sup>

The Hungarian asylum authorities are responsible for keeping refugees' personal data, including gender. Under the GDPR, authorities must record any changes in personal data and correct mistakes.<sup>71</sup> In 2022, VP asked the asylum authorities to change his gender marker to male and update his name, using the GDPR. Article 16 of the GDPR gives people the right to correct their inaccurate personal data.<sup>72</sup> He included the

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<sup>67</sup> Mousse, para. 41.

<sup>68</sup> Deldits (C-247/23), para. 15. Judgment of the Court (First Chamber) of 13 March 2025, VP v Országos Idegenrendészeti Főigazgatóság. ECLI:EU:C:2025:172. Available at: <https://curia.europa.eu/juris/liste.jsf?language=en&num=C-247/23>

<sup>69</sup> Deldits, para. 15.

<sup>70</sup> Deldits, para. 15.

<sup>71</sup> Deldits, paras. 11-12, 14.

<sup>72</sup> GDPR, Article 16; Deldits, para. 16.

same medical certificates from his asylum application. The asylum authority said no, claiming VP had not gone through 'gender reassignment surgery'.<sup>73</sup>

VP then turned to the Budapest-Capital Regional Court. The asylum authority argued that Hungarian law does not specify how it should recognise a change of name or gender marker. In 2018, the Hungarian Constitutional Court said it was unconstitutional that refugees could not correct their gender or name like Hungarian citizens could; the Parliament was instructed to pass the necessary legislation.<sup>74</sup> In 2020, the European Court of Human Rights ruled in *Rana v. Hungary* that Hungary had violated human rights by not allowing refugees to legally change their gender marker. Hungary has still not fixed this problem and has even banned legal gender recognition for its citizens.<sup>75</sup>

## What did the CJEU say?

### QUICK SUMMARY:

A government authority that keeps official records **must update** a person's gender marker if their gender identity has changed (right to rectify). EU countries **cannot** ask for proof of surgery as a requirement to update a person's gender marker.

### IN MORE DETAIL:

The Hungarian court asked the CJEU whether the GDPR's **right to rectify and the principle of accuracy**.<sup>76</sup> This means that authorities **must update** a person's gender marker (or gendered data) if it has changed.

The Court started by saying that the goal of the GDPR is to protect people's fundamental rights and freedoms, especially their **right to privacy**. This right is guaranteed by the EU Charter and the Treaty on the Functioning of the EU (TFEU).

The CJEU confirmed that the information collected by the asylum authority about VP's **gender identity is personal data**.<sup>77</sup> This means that it is protected by the GDPR.

The GDPR says that:

- Personal data must be **accurate** and kept **up-to-date**.<sup>78</sup>
- If the data is wrong, it must be **corrected** or **deleted** quickly.<sup>79</sup>
- People have the right to **fix incorrect or incomplete data** — this right is also in the EU Charter.<sup>80</sup>

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<sup>73</sup> Deldits, para. 16.

<sup>74</sup> Deldits, para. 19.

<sup>75</sup> Deldits, para. 19-20.

<sup>76</sup> GDPR, Article 5(1)d.

<sup>77</sup> Deldits, para. 30.

<sup>78</sup> Deldits, para. 29.

<sup>79</sup> Deldits, para. 25; GDPR, Article 5(1)d.

<sup>80</sup> Deldits, para. 22; GDPR, Article 16; Deldits, para. 24; EU Charter, Article 8(2).

- Authorities must have clear **systems** and **tools** that let people use their rights, including the right to rectify their data.<sup>81</sup>

When deciding if personal data are accurate and complete, you always need to keep in mind the **original purpose** of the data collection.<sup>82</sup> In VP's case, the purpose of the asylum register is to **identify** him. The Court said that, for this reason, the data should show VP's actual **lived gender identity**, not the gender he was assigned at birth.<sup>83</sup> Hungary had already accepted that VP is trans when it gave him refugee status. So, Hungary **should have recorded** his correct gender in the register.<sup>84</sup>

Under the EU Charter and the GDPR, VP has the right to have his personal data corrected.<sup>85</sup> EU countries must respect this right and **cannot use their own laws as an excuse** to limit it. For example, Hungary **cannot** deny this right just because its national law does not include a procedure for legal gender recognition.<sup>86</sup> Hungary can, of course, choose how to regulate legal gender recognition, but if that choice impacts EU rights, it must **be compatible with EU law**.<sup>87</sup> If an EU country's laws stop a trans person from correcting their personal data under the GDPR, those laws are **not compatible with EU law**.<sup>88</sup>

In some cases, EU countries can **limit** a person's rights under EU law, but only if certain conditions are met (see Text box 3). There must be a **clear and valid reason** for the limitation, such as national security.<sup>89</sup> In VP's case, the asylum authorities said the reason was that he had not provided proof of surgery.<sup>90</sup> The Court said this was not a good enough justification.

In conclusion, the GDPR says that **any national authority** that keeps public records must **correct information about a person's gender identity** if the information is wrong or inaccurate.<sup>91</sup>

The Hungarian court also asked whether VP had to prove that he had **undergone surgery** in order to change his personal data.<sup>92</sup> The GDPR does not actually say how someone should prove that their personal data is incorrect.<sup>93</sup> Authorities can ask for "**relevant and sufficient**" evidence, but they can only **limit** a person's right to correct their data if certain conditions are met (see Text box 3).<sup>94</sup> The Court reviewed these conditions in VP's case.<sup>95</sup>

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<sup>81</sup> Deldits, para. 25; GDPR, recital 59.

<sup>82</sup> Deldits, para. 26.

<sup>83</sup> Deldits, para. 32.

<sup>84</sup> Deldits, para. 33.

<sup>85</sup> Deldits, para. 34.

<sup>86</sup> Deldits, para. 37.

<sup>87</sup> Deldits, para. 37.

<sup>88</sup> Deldits, para. 37.

<sup>89</sup> Deldits, para. 36; GDPR, Article 23.

<sup>90</sup> Deldits, para. 36.

<sup>91</sup> Deldits, para. 38.

<sup>92</sup> Deldits, para. 39.

<sup>93</sup> Deldits, para. 40.

<sup>94</sup> Deldits, para. 41.

<sup>95</sup> Deldits, para. 42.

- > **Have a law in place to do this:** There is no law in Hungary that explains how to change or correct gender information in the asylum register.<sup>96</sup>
- > **Have a good reason:** Hungary did not provide a good reason for the limitation, other than VP not having done surgery.
- > **Respect fundamental rights:** Hungary's current practice does not respect the **right to integrity** and the **right to respect for private life**, which are protected by the EU Charter.<sup>97</sup> Hungary should also follow what the European Court of Human Rights has said about trans people's right to private life (see text box 7).<sup>98</sup> This is the **minimum standard** every EU country must follow.
- > **Make the restriction as small as possible:** Hungary's current practice is **not necessary** and **not proportionate** to keep the asylum register reliable.<sup>99</sup> The Court said that the GDPR does not require a specific procedure to be in place; EU countries can decide on a procedure to change the data. They can choose from many different requirements if they want to, for instance, a medical certificate or diagnosis, or others (see more about this on page 31 under 'What could the Court have done better?').<sup>100</sup>

→  
Text box 7.

#### **The CJEU's summary of what the European Court of Human Rights has said about trans people's right to private and family life<sup>101</sup>**

- > A person's gender identity is one of the most private and personal parts of their life.
- > Everyone has the right to define their own identity.
- > Countries must have procedures that make sure this right is respected.
- > Recognising a trans person's gender identity cannot depend on having surgery they do not want.
- > Legal gender recognition must be effective and foreseeable, and people should be able to change their legal gender in a quick, transparent, and accessible way.

<sup>96</sup> Deldits, para. 44.

<sup>97</sup> Deldits, para. 45.

<sup>98</sup> Deldits, para. 46.

<sup>99</sup> Deldits, para. 49.

<sup>100</sup> Deldits, para. 49.

<sup>101</sup> Deldits, para. 47.



## What does this all mean?

The judgment means that:

**EU countries must let trans people correct their gender information in private and public registers.**

Under the GDPR, everyone has the right to have their personal data be **correct and up-to-date**. If the data is wrong, it must be **corrected**. If an EU country wants to limit this right, it must follow **strict rules** and must always respect the right to **personal integrity** and the right to **privacy**. For every EU country, the European Court of Human Rights judgments on these rights are the **minimum standard** to follow.

**Under the GDPR, everyone (not just EU citizens) can correct their gender information.**

Even though the case started from gender data in the asylum register, the Court makes it clear that the GDPR rule to correct personal data applies to **all registers**.

**Personal data that is needed for identifying a person should be based on a person's lived gender identity.**

The purpose of public and private registers, such as the asylum register in this case, is to identify people. For this reason, the data should show people's **lived gender identity** and not the gender they were assigned at birth.<sup>102</sup>

**EU countries cannot require anyone to undergo surgery in order to update their gender information.**

The Court said that gender information should be based on a person's lived gender identity. It referenced the **European Court of Human Rights'** standards. The ECtHR has said that when establishing a person's gender identity, authorities are not allowed to require that the person undergo **surgery** that they do not want.

## What else stands out in the ruling?

EU countries cannot refuse to correct someone's gender information just because they don't have legal gender recognition procedures or have banned them.

The Court looked at Hungary's 2020 law that **banned** legal gender recognition and said that the ban hollows out rights under the GDPR. The Court made it clear that an EU country **cannot limit** the right to correct gender information just because its national law **does not allow for** legal gender recognition. The Court also said that any law that stops a trans person from exercising their right to correct their data under the GDPR **goes against EU law**.

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<sup>102</sup> Deldits, para. 32.

## What could the Court have done better?

**Stand up for self-determination.** The Court was clear that mandatory surgery cannot be required to change gender information, but did not take a stance against the requirement of a psychiatric diagnosis. The Court could have referred to the latest edition of the International Classification of Diseases (ICD-11), which no longer considers trans people to have a 'mental disorder'.<sup>103</sup> The Court could have also highlighted the principle of self-determination and the solid number of EU countries that provide for legal gender recognition on this basis.

## How is implementation going?

After the CJEU judgment, the Budapest-Capital Regional Court in Hungary continued the case and quashed the original decision. In the repeated procedure, the asylum authority followed the CJEU judgment and **changed VP's gender marker** in the asylum registry to male. VP's gender marker was then updated in the Personal Data and Address Registry, and he got a **new ID, address card, and gendered personal number**. In the meantime, VP became a Hungarian citizen. This means he also has a record in the Hungarian **birth registry**. The birth registry change has been less smooth. The district government office was reluctant to comply with VP's request, and he was sent to the Budapest-Capital Government Office. As of November 2025, the Office's decision is still pending.

## SHIPOV (Advocate General Opinion)

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### (C-43/24) BULGARIA

#### What was the case about?

**Important:** The CJEU has not yet ruled on the *Shipov* case. The ruling is expected by the end of 2025. The Advocate General published his Opinion in September 2025, and our analysis is based on that Opinion. The CJEU may follow the reasoning in the Opinion, but it might also decide differently.

#### What is the case about?

A Bulgarian trans woman, K.M.H., who had been living in Italy with her partner, tried to have her name and gender marker changed on her Bulgarian documents. Over the course of 9 years, the Bulgarian courts denied her request several times because she had not undergone **surgical interventions**. The mismatch between her documents and her gender identity has caused **issues for her on a daily basis**, especially when she was trying to find **work**. In 2023, the Bulgarian Supreme Court adopted a

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<sup>103</sup> TGEU. 'ICD-11 Depathologises Trans and Gender Diverse Identities'. 24 March 2019. Available at: <https://tgeu.org/icd-11-depathologises-trans-identities/>

decision saying Bulgarian law does not allow for legal gender recognition. This meant a national **blanket ban**. The Bulgarian Supreme Court was not sure if the ban was compatible with EU law and asked the CJEU for a preliminary ruling in K.M.H.'s case.

This case is different from the **Mirin** case because:

- > K.M.H. did not change her gender marker in Italy. In the **Mirin** case, Arian did change his gender marker in the UK.
- > Bulgaria banned legal gender recognition in 2023. In the **Mirin** case, Romania had a (though flawed) legal gender recognition procedure.

## What did the Advocate General say?

### QUICK SUMMARY:

EU law requires EU countries to recognise a person's **lived gender identity** on **ID cards** or **passports**, even if national law does not allow legal gender recognition. If national law requires a birth certificate to be changed first before updating identity documents, then the EU country must also change the **birth certificate**. Matching travel documents are necessary for a person to be able to **move and reside freely** in the EU. This is their right as an EU citizen.

### IN MORE DETAIL:

The Bulgarian court asked the CJEU whether it is legal under EU law for a country to have laws or court decisions that **stop** people from changing their legal gender.<sup>104</sup>

The Advocate General said that while each EU country **can decide** how to handle legal gender recognition, when these procedures have an impact on EU rights, EU countries must **follow EU law**.<sup>105</sup> This means that they must respect every EU citizen's rights, including the right to **freedom of movement**.

**EU Directive 2004/38**<sup>106</sup> requires EU countries to issue and renew ID cards and passports for their citizens.<sup>107</sup> These documents, showing a person's nationality and photo, are needed for any EU citizen to travel freely in the EU. Even though K.M.H. lives in Italy, only Bulgaria can give her an **ID or passport**, which she **needs** to travel and live in the EU.<sup>108</sup> Right now, K.M.H. has no travel documents that match her lived gender identity, which causes problems when travelling, applying for work, or proving her identity.<sup>109</sup>

<sup>104</sup> Shipov (C-43/24). Opinion of the Advocate General Richard de la Tour of 4 September 2025.

K. M. H. v Obshtina Stara Zagora Shipov. ECLI:EU:C:2025:657. Available at: <https://curia.europa.eu/juris/liste.jsf?language=en&num=C-43/24>

<sup>105</sup> Shipov, para. 58.

<sup>106</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. Art. 4(3). Available at: <https://eur-lex.europa.eu/eli/dir/2004/38/oj/eng>

<sup>107</sup> Shipov, para. 47.

<sup>108</sup> Shipov, para. 46.

<sup>109</sup> Shipov, para. 60.

The Advocate General said that IDs and passports should show a person's **lived gender identity**, if it is different from the gender on the birth certificate. Otherwise, someone could question whether the ID/passport is authentic. In Bulgaria, the gender marker on ID cards has to be the same as on a person's **birth certificate**.<sup>110</sup> Since Bulgaria banned legal gender recognition, trans people cannot change the gender marker on their birth certificates. This means they cannot use an ID card without raising any **doubts about its authenticity**, making it hard for them to travel and live freely in the EU.<sup>111</sup>

Bulgaria can decide that IDs follow birth certificates, but it still must **follow EU law** and make sure its citizens get to enjoy their right to **freedom of movement**.<sup>112</sup> Currently, trans people in Bulgaria **cannot** change their birth certificates. This means that they cannot change their ID or passport either. They can only get passports or ID cards that authorities, employers, banks, and schools might question. This is a restriction on their right to freedom of movement.<sup>113</sup>

**Restrictions** on EU rights are allowed, but only under **certain conditions**.<sup>114</sup> Bulgaria tried to justify the situation with its Constitutional Court decision from 2021, which banned legal gender recognition. The decision said that only "biological sex" can be entered in the birth certificates and justified this with "**religious values and moral principles**".<sup>115</sup>

The Advocate General emphasised that any restrictions on EU rights must still respect **fundamental rights** and referred to the judgments of the **European Court of Human Rights** as setting also the **minimum standards** for legal gender recognition for EU countries.<sup>116</sup> The European Court of Human Rights said that States must provide for legal gender recognition. This means that the Advocate General thinks that EU countries, including Bulgaria, **have to provide for legal gender recognition**, not only because of the European Convention on Human Rights, but also because of EU Law.<sup>117</sup> This is a **new and important development**. When setting up legal gender recognition procedures, EU countries must follow the judgments of the European Court of Human Rights as the minimum standard. According to the ECtHR, legal gender recognition must be **quick, transparent and accessible** (see Text box 8) and cannot require proof of **surgery**.<sup>118</sup>

→  
Text box 8.

#### **IN A NUTSHELL: The European Court of Human Rights ruling in Y.T v. Bulgaria (2020/2024) and P.H. v Bulgaria (2022)**

In **Y.T. v Bulgaria (2020)**, a Bulgarian trans man wanted to change his name, gender marker, and documents. The national courts denied his request. They said that his "socio-psychological aspiration" to be a man was not enough, and sex in Bulgaria

<sup>110</sup> Shipov, para. 76.

<sup>111</sup> Shipov, paras. 75, 82.

<sup>112</sup> Shipov, para. 81; Alina Tryfonidou, "Legal Gender Recognition and Free Movement in the EU". Verfassungsblog. 22 September 2025. Available at: <https://verfassungsblog.de/ag-opinion-shipov/>

<sup>113</sup> Shipov, para. 83.

<sup>114</sup> Shipov, para. 85.

<sup>115</sup> Shipov, para. 87.

<sup>116</sup> Shipov, para. 90.

<sup>117</sup> Shipov, para. 90.

<sup>118</sup> Shipov, paras. 98, 100.

always means birth sex. The European Court of Human Rights found that Bulgaria violated the man's right to private life because it failed to provide a quick, transparent, and accessible procedure for legal gender recognition.<sup>119</sup> In 2023, Bulgaria informed the Court that the man successfully changed his gender marker while the case was still at the ECtHR. Bulgaria asked for a new judgment. In 2024, the Court said that it would not look at the facts of the case again. It did say, however, that the lack of quick, transparent, and accessible legal gender recognition procedures is still an issue in Bulgaria, which the authorities must fix.<sup>120</sup>

In *P.H. v. Bulgaria (2022)*, a Bulgarian trans woman wanted to change her name and gender marker. The first instance court approved her request, but all the higher-level courts denied it. They said this was because in Bulgaria, a person's sex is always based on their sex in the birth certificate. The European Court of Human Rights found that Bulgaria violated the woman's right to private life because it failed to provide a quick, transparent, and accessible procedure for legal gender recognition.<sup>121</sup>

The Advocate General concluded that Bulgaria must provide usable ID cards for trans people, even though it has a ban on legal gender recognition.<sup>122</sup> The ban cannot be an excuse.<sup>123</sup> Importantly, he said that national courts **must protect** trans people's rights under EU law and prioritise this - even **if national laws are unchanged** or **national higher courts say otherwise**.<sup>124</sup>

## What does this all mean?

**Upon a trans person's request, EU countries must issue an ID card or passport reflecting the person's lived gender identity that lets them travel and live freely in the EU**

EU citizens have the right to travel and live freely in the EU. To do this, they must have a **passport or an ID card** that proves their nationality and can identify them. EU countries have the responsibility to **issue** and **renew** these documents for their citizens. For trans people, it is important that their travel documents are based on their **lived gender identity**. If this is not the case, they might face questions or problems in their daily lives. This would restrict their right to live and travel freely in the EU. To make it possible for trans people to have their lived gender identity on their documents, EU countries must set up **quick, transparent and accessible** legal gender recognition procedures.

<sup>119</sup> Y.T. v. Bulgaria, App. No. 41701/16, Judgment of 9 July 2020. European Court of Human Rights. Available at <https://hudoc.echr.coe.int/eng?i=002-12899>

<sup>120</sup> Y.T. v. Bulgaria, App. No. 41701/16, Revised Judgment of 4 July 2024, European Court of Human Rights. Available at <https://hudoc.echr.coe.int/eng?i=001-234521>; TGEU. "European Court Confirms Requirement for Legal Gender Recognition in Bulgaria Despite Rejected Complaint." 9 July 2024. Available at: <https://tgeu.org/european-court-confirms-requirement-for-legal-gender-recognition-in-bulgaria-despite-rejected-complaint/>

<sup>121</sup> P.H. v. Bulgaria, App. No. 46509/20, Judgment of 27 September 2022. European Court of Human Rights. Available at <https://hudoc.echr.coe.int/eng?i=001-219624>

<sup>122</sup> Shipov, para. 77.

<sup>123</sup> Shipov, para. 77.

<sup>124</sup> Shipov, para. 94.

## EU countries cannot refuse to give trans people travel documents that match their identity just because the country has banned legal gender recognition

While EU countries can make their own rules about legal gender recognition, if those rules have an impact on EU rights, countries must **always respect EU law**. Denying trans people travel documents, which make it possible for them to freely travel and live in the EU, is a restriction of trans people's right to freedom of movement. EU countries **cannot justify** this restriction by saying they **do not have** legal gender recognition procedures or have **banned** them.<sup>125</sup>

## EU law can even oblige EU countries to change the birth certificates of their citizens

Each EU country can have its own rules about passports and ID cards. But - if those rules have an impact on EU rights, countries must **always respect EU law**.<sup>126</sup> If a country only allows for changing an ID or passport based on **a birth certificate**, it must make it possible for people to change their birth certificate first.<sup>127</sup> This is a very important point in the judgment because Bulgaria insisted that changes in a person's birth certificate fall under its own competence. The AG clearly affirms that if EU rights are under threat, this competence is not absolute.

## What else stands out in the Opinion?

### EU countries must apply EU law even if their higher courts or national laws don't.

The Advocate General explained that national courts must protect trans people's rights under EU law and prioritise this responsibility. They must honour this responsibility even if it might go against what national laws or national higher courts say.<sup>128</sup>

### EU law allows EU countries to leave the gender marker field empty in a person's passport and to issue ID cards without a gender marker at all.

The Advocate General summarised current regulations and guidance on passports and ID cards and gender. International **passport** rules require a field for "sex" (F, M, and X); this field can be left **empty**.<sup>129</sup> **ID cards** in the EU do not have to include a gender field **at all**. If they do, they can use 'gender' instead of 'sex'.<sup>130</sup> This means that EU law explicitly takes the social realities, not the sex assigned at birth, as relevant for identification. EU countries could decide whether to include **gender** on ID cards or to leave the gender marker **empty** on passports. Such decisions will impact a person's right to freedom of movement. This means that when an EU country makes their rules, it must still **respect EU law** and fundamental rights.

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<sup>125</sup> Shipov, para. 77.

<sup>126</sup> Shipov, paras. 80-81.

<sup>127</sup> Shipov, para. 82.

<sup>128</sup> Shipov, paras. 82, 83, 86, 89, 94.

<sup>129</sup> Shipov, para. 71.

<sup>130</sup> Shipov, para. 73.

## What could the Advocate General have done better?

- > **Consider discrimination as a reason:** The Advocate General chose not to look at equality and anti-discrimination laws in this case.<sup>131</sup> He could have discussed Bulgaria's strong anti-trans laws and court decisions as the real reason behind the ban on legal gender recognition.
- > **Stand up for self-determination.** The Advocate General was firm that surgery cannot be a requirement of legal gender recognition, but did not take a stance against the requirement of a psychiatric diagnosis. The Advocate General could have referred to the latest edition of the International Classification of Diseases (ICD-11), which no longer considers trans people to have a 'mental disorder'.<sup>132</sup> The AG could have also highlighted the principle of self-determination and the solid number of EU countries that provide for legal gender recognition on this basis.

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<sup>131</sup> Shipov, para. 54.

<sup>132</sup> TGEU. 'ICD-11 Depathologises Trans and Gender Diverse Identities'. 24 March 2019. Available at: <https://tgeu.org/icd-11-depathologises-trans-identities/>



# How can you use these cases?

There are many ways you can use these important CJEU cases to advance the rights and lives of trans people. We have collected a number of examples here to give you **inspiration**. If you want to use CJEU case law, but are unsure how to do it, please reach out to [tgeu@tgeu.org](mailto:tgeu@tgeu.org).

Even if the CJEU gives a positive judgment, it can take time for an EU country to put it into action. Some countries may **delay** or even **resist** implementing the ruling. It's important to **manage our expectations**. But as activists, we can use these judgments and **keep pressuring** governments to make the necessary changes.

If you have successfully used these cases in your own work, we would love to hear from you and collect these examples for other activists! Please email us at [tgeu@tgeu.org](mailto:tgeu@tgeu.org).

## 1. Use them in court cases in your country!

### Example 1

A **Bulgarian** trans person changed his name and gender marker in **Germany** through the local court procedure. He also wanted to change his Bulgarian birth certificate and turned to the relevant municipality with his request. The Bulgarian LGBTIQ+ organisation **Deystvie** helped with the case. They asked the municipality to recognise the changes and included the German court ruling and the **Mirin** and the **Deldits** judgements. Despite the existing ban on LGR, in a **big victory**, the municipality agreed.<sup>133</sup> This was the first time in Bulgaria that an **administrative procedure** was successfully used for changing a person's gendered data. Since then, Deystvie has helped with another case at a different municipality and **hopes** it will also succeed.

> **Relevant CJEU case law:** Mirin, Deldits

> **Keywords:** legal gender recognition, mutual recognition, cross-border

<sup>133</sup> РЕШЕНИЕ, № 3/25.07.2025 г. Troyan municipality. This document was shared with TGEU by Deystvie. It is not publicly available. <https://docs.google.com/document/d/1uncJwNiz4wPKRi25iaEbx5ltJwo9yCu5/edit?usp=sharing&ouid=109441885063573731876&rtpof=true&sd=true>

## 2. Use them to make quick and effective changes in education, transportation, and other key areas of life!

### Example 2

Before starting primary school, the father of a young **trans child** in **Germany** turned to the district school authority to ask that they use the **child's chosen name**, in line with the child's gender identity, and in any dealings and correspondence with the parents. The father referred to the **Deldits** judgment and the obligation of public entities to make sure that the personal data they store is accurate, up-to-date, and changed when wrong. The authority and the school both **listened** and have since used the correct name and pronouns in their communications.

> **Relevant CJEU case law:** Deldits

> **Keywords:** school, school authorities, accurate data

### Example 3

A trans person in **Spain** used the **Mousse** judgment to challenge the national railway, RENFE's practice on **gender information**. While it's not mandatory to choose a gender marker when buying a ticket, it is when signing up for an account. Having an account on RENFE's online platform makes it easier to buy and manage tickets, and many people use it. A trans activist asked RENFE's data protection delegate to **change this practice** and sent them the **Mousse** judgment. Within a few weeks, RENFE emailed them that they **had fixed** the issue. The mandatory gender field is no longer on their website. While regular customer service agents might not be aware of a company's obligations under the GDPR, it is worth contacting their **data protection staff**.<sup>134</sup>

### Example 4

A trans person in **Spain** used the **Mousse** judgment to ask their **bank** to recognise their 'X' gender marker, which they acquired in Germany. While we are not aware that the **Mirin** case was also cited, this would be the perfect chance to do it. The bank agreed to introduce a third gender marker in the records, called "**other gender**".

> **Relevant CJEU case law:** Mirin, Mousse

> **Keywords:** mandatory gender fields, goods & services, train company, bank

<sup>134</sup> This example was shared with TGEU following a public call for good practice examples. TGEU shared this call on its mailing list for members in September 2025.

### 3. Use them in your advocacy work!

#### Example 5

In 2025, **Lithuania's** national LGBT organisation, LGL, highlighted the AG Opinion in **Shipov** when the Constitutional Court missed the opportunity to bring Lithuania in line with its international obligations regarding legal gender recognition. LGL's **press release** said:

***"Constitutional Court Refuses to Address 18-Year Trans Rights Gap***

(...)

***The Court of Justice of the European Union (Shipov Case, 2025)***

*Just weeks before Lithuania's Constitutional Court ruling, Advocate General Richard de la Tour delivered a landmark opinion in Case C-43/24. The AG concluded that Article 21 TFEU and Articles 7 and 45 of the EU Charter preclude national legislation that prevents citizens from obtaining identity documents reflecting their lived gender identity.*

*The reasoning is compelling: If identity documents are required for exercising freedom of movement within the EU, those documents must reflect the person's actual identity. Otherwise, EU citizenship rights become hollow promises".<sup>135</sup>*

> **Relevant CJEU case:** Shipov (General Advocate Opinion)

> **Keywords:** legal gender recognition, advocacy, national strategic litigation

### 4. Use the cases in the EU Enlargement processes!

CJEU rulings directly apply in all EU countries. Countries that are candidates or potential candidates for EU membership (often called **Enlargement countries**) do not have to follow CJEU rulings *yet*, because they are not members of the EU. Enlargement countries include Albania, Bosnia and Herzegovina, Georgia, Moldova, Montenegro, North Macedonia, Serbia, and Ukraine. They must, however, show during their **accession process** that they are working on aligning their national laws with EU laws. Trans activists have a strong **opportunity** to use the CJEU judgments when lobbying their countries during the EU accession process. By encouraging their governments to implement these rulings early, countries can earn valuable points with the European Commission. This creates a **powerful incentive** — activists can leverage it in their work!

<sup>135</sup> "Constitutional Court Refuses to Address 18-Year Trans Rights Gap." Lithuanian Gay League, 16 September 2025, <https://www.lgl.lt/en/?p=32321>

- > **Relevant CJEU case law:** Mirin, Mousse, Deldits, Shipov
- > **Keywords:** implementation of CJEU judgement, legal gender recognition, advocacy, national strategic litigation, enlargement, accession, mutual recognition, cross-border, accurate data, mandatory gender fields, goods & services, GDPR

## 5. Use the GDPR to bring a class action case to the CJEU!

In contrast to many other laws, the GDPR allows several people at once to take legal action in their national courts.<sup>136</sup> This is called '**class action**'. Class action cases are very useful because violations of the GDPR usually affect large groups of people. Class action cases show that there is a **systemic problem** that needs to be fixed. Class action cases are also helpful if a trans person is worried about going to court alone - they can do it with many other people! The GDPR also allows organisations, such as NGOs, to go to the national courts if this serves public interest and local laws allow for this.<sup>137</sup>

- > **Relevant CJEU case law:** Mousse, Deldits
- > **Keywords:** legal gender recognition, national strategic litigation, accurate data, mandatory gender fields, goods & services, GDPR

<sup>136</sup> GDPR, Art. 80(1)

<sup>137</sup> GDPR, Art. 80(2)

# Summary overview of the CJEU's new standards on the rights of trans people in the EU

1. Name and gender marker **changes** made in one EU country must be **automatically recognised** by other EU countries ([Mirin](#), para. 53)
2. All EU countries must **respect the judgments of the European Court of Human Rights** on legal gender recognition - when applying EU law ([Mirin](#) paras. 63-67; [Deldits](#), paras. 46-47; [Shipov](#), para. 90)
3. Public and private entities **can't make people share their gender or gendered title** (like Mr or Ms) unless it's essential for them to know this information ([Mousse](#), para. 64)
4. Under EU law, everyone is **protected against gender identity discrimination**, including **non-binary people** ([Mousse](#), para. 62)
5. EU countries must let trans people **correct their gender information in public registers** ([Deldits](#), paras. 37-38)
6. Under the GDPR, **everyone** (not just EU citizens) **can correct their gender information** ([Deldits](#), paras. 37-38)
7. Personal data that is needed for identifying a person should be **based on a person's lived gender identity** ([Deldits](#), para. 32, [Shipov](#) (Advocate General Opinion), paras. 67, 101)
8. EU countries **cannot require anyone to undergo surgery** in order to update their gender information ([Deldits](#), para. 50, [Shipov](#) (Advocate General Opinion), paras. 98-99 )

9. EU countries **cannot refuse to correct someone's gender information** or **deny them matching travel documents** just because they don't have legal gender recognition procedures or have banned it ([Deldits](#), paras. 34, 37, [Shipov](#) (Advocate General Opinion), paras. 77, 83, 89, 94)
10. Upon a trans person's request, EU countries **must issue an ID card or passport reflecting the person's lived gender identity** that lets them travel and live freely in the EU ([Shipov](#) (Advocate General Opinion), para. 67)
11. EU law can even **oblige EU countries to change the birth certificate** of their citizens ([Mirin](#), para. 71, [Shipov](#) (Advocate General Opinion), paras. 80-82)
12. EU countries **must apply EU law** even if their higher courts or national laws don't ([Shipov](#) (Advocate General Opinion), paras. 82, 83, 86, 89, 94)
13. EU law allows EU countries to leave the **gender marker field empty** in a person's passport and to issue ID cards **without a gender marker** at all ([Shipov](#) (Advocate General Opinion), paras. 71-73)

# Notes

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TGEU (Trans Europe and Central Asia) is  
a trans-led NGO working for the rights and  
wellbeing of trans people since 2005.  
TGEU is an umbrella organisation that represents  
over 200 member organisations in more than  
50 countries in Europe and Central Asia.

For more publications and important news  
on trans rights and wellbeing follow us:



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