

Final victory in Arian's case: Romanian courts confirm transgender people's right to have their identity documents aligned, following the CJEU judgment

The Romanian state must issue Arian Mirzarafie-Ahi a new birth certificate reflecting the identity already recognized in the United Kingdom, before Brexit. The ruling in favor of the transgender man with dual citizenship, delivered by the District 6 Court of Bucharest, has become final after the Bucharest Tribunal rejected the appeals filed by the Cluj Directorate for Personal Records, Civil Status Service, and by the General Directorate for Personal Records.

As early as 2024, the Court of Justice of the European Union (CJEU) established, in Arian's case, the obligation of Member States to register the identity documents of transgender persons who have undergone a legal gender recognition procedure within the European Union. Before both the national courts and the European court, Arian was represented by lawyer Iustina Ionescu, with the support of ACCEPT.

“Today, on 31 March, we celebrate Trans Day of Visibility, and I am glad to use this occasion to return to people in my community with good news. I have won definitively before the courts in Romania! This is not only my victory, but ours as well — the victory of those who are still waiting to be seen, heard, and recognized. I thank lawyer Iustina Ionescu, and I encourage everyone who is in my situation and has gone through the process of changing their documents in another European country to contact ACCEPT Association in order to obtain the registration of their documents in Romania,” said Arian Mirzarafie-Ahi.

“The case in which I have accompanied Arian over the past years has now reached an outcome that finally does him justice. More than a personal victory, the ruling upheld by the Bucharest Tribunal is a major step forward for the protection of the rights of all transgender people in Romania. Romanians who have obtained a final decision on gender recognition in another Member State will no longer have to go through the burdensome procedure in Romania. We call on the Ministry of Internal Affairs and the Ministry of Justice to adopt a clear, swift, and accessible procedure for changing identity documents for all Romanian transgender citizens, regardless of whether they have lived in other EU Member States or not, as also required by the European Court of Human Rights since 2021, in the case of X and Y v. Romania,” emphasized lawyer Iustina Ionescu.

“Arian's case is yet another living example that change is possible. That everything we do matters, that justice still exists, and that a better future for the LGBTI community in Romania is possible. It is an opportunity to remember that none of the rights we enjoy today appeared out of nowhere, and that everything we have must be defended. We are grateful to Arian for the courage to make this whole process public and to confront state institutions in court, which, by challenging the judges' ruling, have shamefully shown that they are not acting in the interests of citizens,” said Victor Ciobotaru, Executive Director of ACCEPT Association.

The final ruling of the Bucharest Tribunal also requires the institutions to pay legal costs. In addition, the Cluj Directorate for Personal Records, Civil Status Service, must enforce the court ruling and urgently issue Arian a new birth certificate. Should the competent authorities fail to implement the judgment, we will ask the court to impose delay penalties for each day of non-enforcement, so that the obligations established by the ruling do not remain merely formal, but

produce concrete effects. We will use all necessary legal avenues to ensure the effective enforcement of the judgment.

Case timeline

Arian Mirzarafie-Ahi started proceedings before the District 6 Court of Bucharest in 2021, after the Cluj Directorate for Personal Records, Civil Status Service, refused to register the documents issued by the British state. Although Arian had completed a complex legal gender recognition procedure over a period of approximately four years, the authorities in Romania were requiring him to repeat the entire process in Romania, where there is still no clear and dignified procedure available to transgender people.

The Romanian authorities' refusal forced him, for a period of time, to live with two sets of documents and two different identities. In addition, after Brexit, every time he travelled to Romania to visit his family, Arian had to either use his outdated documents or give up his rights as a European citizen, including the right to free movement. On several occasions, the use of Romanian documents turned him into a victim of discrimination and caused him significant harm over time.

In the second half of 2022, the District 6 Court of Bucharest decided to refer preliminary questions to the CJEU, considering that Romania's refusal to recognize the change in Arian's legal civil status in the United Kingdom could be in breach of EU law. In 2024, the Court ruled that Romania must register any change of name and gender in the identity documents of Romanian citizens made in other EU Member States, without requiring them to go through a new domestic gender recognition procedure.

The case then returned to the Romanian courts, which, in line with the CJEU's ruling, decided in Arian's favor. Contrary to their obligation to properly represent the interests of citizens and to acknowledge the binding force of implementing CJEU judgments, the Cluj Civil Status Service and the General Directorate for Personal Records appealed the court's decision, refusing to apply European case law. In March of this year, the Bucharest Tribunal dismissed the appeal, reaffirming the importance of respecting the rights of transgender people in Romania as European citizens.