Joint Statement: European Court of Justice to rule on landmark case regarding ban on legal gender recognition in Bulgaria

article, legal gender recognition, freedom of movement, non-discrimination

Today, the Court of Justice of the European Union held a hearing in Case C-43/24 *Shipov*. This hearing is a crucial step in this case, which challenges Bulgaria's current ban on legal gender recognition.

Background

The hearing follows a lawsuit filed by a Bulgarian trans woman currently living in Italy. Her requests to legally amend her gender marker and name on her Bulgarian documents have been repeatedly denied by Bulgarian courts. The mismatch between her lived gender identity and expression and her gender marker in her official documents leads to discrimination in all areas of life where official documents are required, from access to health care and goods and services to finding employment, enrolling in education, obtaining housing or claiming welfare benefits. It also creates an obstacle to her exercising freedom of movement.

The European Court of Human Rights had already ruled in 2020 in the case of *Y.T.* and again in 2022 in the case of *P.H.* that Bulgaria is breaching the European Convention on Human Rights by failing to provide quick, transparent and accessible legal gender recognition procedures. Since then, the situation for trans people in Bulgaria has deteriorated significantly. On 20 February 2023, the Supreme Court adopted a binding interpretative decision that established that Bulgarian law does not enable the courts to allow a change to the sex, name and personal identification number of trans people on the civil status register. Therefore, this decision introduced a general, automatic and universal de facto ban on general Bulgarian courts to allow legal gender recognition.

The CJEU case

In this case, the CJEU is being asked to decide whether the Bulgarian legal system, which effectively blocks legal gender recognition mainly due to court decisions based on religious and moral beliefs, violates EU law principles of equality and non-discrimination, freedom of movement and the right to private and family life, as guaranteed by the EU Charter of Fundamental Rights and the Treaties.

At the hearing, the European Commission stated that Member States that do not allow trans people to get legal gender recognition breach EU law as a result as they restrict the enjoyment of EU law rights, including the right to free movement. In the Commission's view, in Bulgaria's case, this would require amending the birth certificate and personal registry data. Such changes should be based on the 'real, lived gender identity of the person'.

The Netherlands also intervened in the case, arguing that EU law obliges Member States to provide a swift, accessible and transparent legal gender recognition procedure, citing fundamental human rights. Portugal and Estonia also filed written submissions in support of fundamental rights in this case.

The Advocate General will give his opinion on 4 September 2025.

Impact

A positive judgment from the CJEU would be of the utmost importance for the protection of trans people still deprived of any possibility of having their gender identity recognised in some EU Member States. It would confirm that the absence of any possibility to obtain legal gender recognition in a Member State is incompatible with the EU's core values, the EU Charter of Fundamental Rights and the Treaties provisions.

In light of the recent Mirin, Mousse and Deldits rulings, this case could provide an opportunity to build on the momentum for the protection of trans people's fundamental rights in the EU, moving beyond mutual recognition of legal gender recognition.

TGEU's Expert Advisor & Senior Policy Officer, Richard Köhler, said: **"We applaud the Commission for its clear support for trans people's lives at today's hearing. Without documents matching our real lived gender identity we cannot access basic EU rights. EU law requires that Member States have legal gender recognition procedures. Banning it can never be compliant with EU law. We are looking forward to the opinion and ruling in the case later this year."**

Bilitis, the Bulgarian Helsinki Committee, Deystvie, ILGA-Europe and TGEU (Trans Europe and Central Asia) are providing support to the applicant and her lawyers in this case.