Trans Man’s Legal Gender Recognition Case in Romania Is Referred to CJEU

article, legal gender recognition

Arian Mirzarafie-Ahi, a trans man with Romanian and British citizenship, has filed a first-of-its-kind lawsuit in Romania against Romanian authorities over their refusal to recognise his new male name and gender identity acquired in the United Kingdom (while still treated as an EU Member State). The lawsuit, which raised fundamental questions under EU law, has now been referred to the Court of Justice of the European Union (CJEU) in Luxembourg.

ACCEPT Romania, a leading Romanian NGO for LGBTQ+ rights, is helping Arian bring this landmark legal claim before the CJEU to have his new gender identity acknowledged in Romania, in accordance with his free movement and citizenship rights.

What is the case?

Arian began the legal process to change his gender identity markers and name in 2016. He was ultimately granted a gender recognition certificate by the UK authorities in 2020, during the Brexit transition period (when the UK was still treated as an EU Member State).

Romania now refuses to acknowledge the name and gender recognition that Arian received in the UK. Instead, it is demanding that Arian undergo Romania’s own gender recognition procedure, which has already been found to violate the European Convention on Human Rights. As a result, Arian now finds himself with two different identities across two countries, which has impacted his well being, his freedom of movement, and his EU citizenship rights.

This situation is humiliating and deeply affects Arian’s right to dignity under the Universal Declaration of Human Rights and the European Convention on Human Rights. Arian’s ability to travel freely in the EU, like any EU citizen, has been unjustifiably restricted, including his ability to visit family members in Romania, because his Romanian passport displays the wrong identity.

Why is this a landmark case for trans people in Romania?

Arian’s case is the first of its kind to reach the European Courts. He hopes the CJEU will side with him and rule that the Romanian authorities should acknowledge his UK gender recognition and issue him new identity documents with the correct name and gender, without subjecting him to the full Romanian gender recognition procedure.

This case could set a precedent for other transgender people whose gender recognition in one Member State is not being acknowledged elsewhere in the EU, harming their ability to travel freely, reside, work or study across the EU, or even to vote.

The Court will also have the opportunity to confirm that the rights that EU citizens lawfully acquired in the UK when it was still treated as a Member State, such as Arian’s gender change, are portable when those citizens wish to exercise their free movement rights.

Arian and ACCEPT are represented by human rights lawyer Iustina Ionescu and assisted by leading international law firm White & Case on a pro-bono basis.

Refer to the press release by ACCEPT, ILGA Europe, and TGEU for more on the background of the case and quotes.