

Romanian transgender man's landmark case requesting that Romania acknowledges his UK gender recognition referred to the Court of Justice of the European Union

Media advisory

Arian Mirzarafie-Ahi, a transgender man with Romanian and British citizenship, has filed a first-of-its-kind lawsuit in Romania against Romanian authorities over their refusal to recognize 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.

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.

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.

The facts of this case are as follows.

Background to the case

Arian was born in Romania and migrated to the UK in 2008, and later gained dual citizenship. He started the medical and legal transition in the UK in 2016 at the age of 24, and obtained a UK gender recognition certificate in June 2020, when the UK was still treated as an EU member state.

Arian attempted to register his name and gender change with the Romanian authorities in 2021, but his request was denied. Instead, the Romanian authorities demanded that Arian undergo the full Romanian gender recognition procedure before the national courts. That procedure has already been found to be in violation of human rights by the European Court of Human Rights ([X and Y v Romania](#)).

Arian then filed lawsuits in the Romanian national court against the Directorate for the Persons' Records in Cluj, Romania; against the Civil Status Service, the Directorate for the Persons' Records and the Administration of Databases and against Cluj Municipality represented by Emil Boc, over their refusal to change his identity documents through a simple administrative procedure.

Through this legal action, Arian is requesting that the national courts oblige the Romanian authorities to change his gender and first name, as well as to issue a new birth certificate.

Before Brexit, Arian could have travelled based on his British passport that reflects his gender identity. However, since Brexit, he can exercise his EU citizen rights only through his Romanian identity documents, which do not reflect his gender identity.

Alongside this breach of Arian's fundamental rights, especially his right to free movement and residence in the EU, this disparity between his Romanian and British documents exposes him to humiliation and discrimination.

Arian has to travel to the EU with a Romanian passport that reflects neither his gender identity nor his appearance, or must travel on his UK passport as a non-EU citizen.

Considering that Arian's case raises new issues of principle requiring the interpretation of EU law, in particular in relation to free movement rights and EU citizenship, the Romanian court has decided to refer the case to the European Court of Justice for a preliminary ruling. After hearing the parties, both in writing and orally, the Court of Justice will render a judgement that will be binding on the Romanian courts and throughout the EU.

Quotes

Arian said: *"My entry into Romania's territory, the country where I was born and where I have family members that I want to visit, depends on a set of identity documents that do not reflect who I am. Due to the Romanian State's refusal to recognise my gender identity and issue updated documents, I have already been a victim of discrimination at Romanian airports."*

"All that I want is to be respected as a Romanian and European citizen and to have my Romanian identity documents updated, just as my UK documents were when I transitioned. I want to be able to enjoy all my rights, but especially my right to dignity."

His lawyer, Iustina Ionescu, said: *"The Romanian state once again violates European law and disregards the efforts made by a Romanian citizen to obtain the recognition of his gender identity in another EU Member State."*

"For over a year and a half, the Romanian civil status authorities have sent Arian on a fool's errand - they have forced him to once again go through a procedure that is entirely random in Romania, and that has already been declared by the ECtHR as violating human rights, and that does not guarantee him a solution of the situation."

"Before being European citizens, we are Romanian citizens, and the state should do its duty towards all its citizens. Fortunately, we can turn to European justice to ensure that we receive equal treatment without discrimination. The European Court of Justice has ruled many times that EU member states should refrain from taking decisions that restrict free movement and the rights of EU citizenship, as Romania did in this case."

Florina Presadă, executive director of ACCEPT, commented: „ACCEPT Association has been working for years to put an end to the discrimination and abuse that the Romanian state subjects transgender persons in Romania by not providing a legal gender recognition procedure and all services required so that transgender persons can exercise their right to self-determination.

We have been providing legal counselling, psychological support and guidance in transition for years for transgender Romanian citizens, and we have also supported strategic litigation cases in order to show, beyond any doubt, that the rights of transgender persons in Romania are being violated. Our goal is to put an end to the current laws, policies and practices leading to the discrimination of transgender persons.

We stand by Arian, as we stand by every transgender person in Romania and in any other EU member state that does not recognize these persons' rights to self-determination and dignity. We hope this ruling will show that European rights are for everyone, regardless of gender identity or expression.”

Patrick Brăila, trans activist, declares: "Among the Romanians who left for other European countries for a better life, there are also transgender Romanians who work and live in these states, where they managed to obtain citizenship and which became their adoptive countries. One of them is Arian, a Romanian and British citizen, whom the Romanian state humiliated and wronged when it did not recognize his identity and put him in abusive and intrusive situations. We trust that the CJEU will give him justice, thus restoring the dignity of both him and other trans people who know that their rights as European citizens can no longer be violated."

“To paraphrase Ursula von der Leyen, if you are trans in one member State, you are trans in all member States. This needs to be settled once and for all,” comments **Lenny Emson, TGEU Executive Director.** *“Having to go through the ordeal of having your gender identity vetted several times is unfair and puts trans people at a clear disadvantage when compared to others living in the EU. Romania, in particular, has no quick, transparent, and accessible legal gender recognition procedures, as confirmed by the European Court of Human Rights. We are proud of Arian for claiming his right to enjoy his EU right to freedom of movement.”*

Katrin Hugendubel, Advocacy Director at ILGA-Europe added: *“This case is just one example of what trans people in the EU have to go through when their gender recognition from a Member State is not recognised in another, forcing them to undergo the full legal recognition procedure again. This is particularly difficult and troubling in those countries that lack an LGR procedure in conformity with international human rights law standards. This judgment from the CJEU will establish a clear obligation to recognise gender recognition from one Member State in another. It will rightfully enable trans people to move freely across the EU, and to enjoy EU citizenship rights on equal footing with everyone else.”*

For further information and interviews, please contact Diana Dragomir, Head of communication & PR ACCEPT Romania at diana@acceptromania.ro or Florina Presadă, Executive Director of ACCEPT Romania at florina@acceptromania.ro.