



Members of the European Parliament

Calin Popescu-Tariceanu

President of the Senate of Romania;
Leader of Alianța Liberalilor și
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Liviu Dragnea

President of the Chamber of Deputies
of Romania; Leader of Partidul Social
Democrat

Traian Băsescu

Leader of Partidul Mișcarea Populară

Raluca Turcan

Leader of Partidul Național Liberal

Kelemen Hunor

Leader of Uniunea Democrată
Maghiară din România

Nicusor Dan

Leader of Uniunea Salvați România

Concerns: Referendum on the definition of the family

Strasbourg, 17th May 2017

Honourable President Tăriceanu and Honourable President Dragnea,

Honourable Mr Băsescu, Honourable Ms Turcan, Honourable Mr Hunor, Honourable
Mr Dan,

Esteemed Members of the Parliament of Romania,

As Members of the European Parliament from various political groups and different EU member states, we want to call on you to support equal treatment and non-discrimination for everyone in Romania, including same-sex couples. In particular, we want to respectfully urge you to not support the proposed referendum on the definition of the family.

The European Parliament's Intergroup on LGBTI Rights

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Indeed, since last year a campaign has been conducted in Romania to hold a referendum on redefining family within the Constitution as being based solely upon the marriage between a man and a woman. This proposal is most surprising, as same-sex couples are already forbidden to marry through the provisions of the standing Civil Code, which also prohibits the recognition of same-sex civil marriages or partnerships legally entered into abroad.

While we do not wish to intervene directly in Romanian family law, we do regret that this referendum would further incite discrimination against families in their various forms which already exist in Romanian society. By allowing the referendum to take place, without providing for any alternative form of legal recognition for non-married couples, you would appear to condone the ongoing human rights violations of same-sex couples and of children living in families where the partners are not married or children living in single parent families.

Indeed, this debate touches on real people and families who are being excluded from basic rights and duties today, with grave consequences. Without any recognition, people are not entitled to the protection of the family home and are not allowed to take care of their partner's children when it is the most necessary, e.g. when he or she passes away. They can be refused to visit their partner at the hospital, they have no right to inheritance, they do not have access to basic social rights as partners, etc. And most often, their children – from previous relationships – are the first victims of this lack of recognition.

Under the current stance of European human rights law, it is still allowed to limit the institution of marriage to different-sex couples. However, the European Court of Human Rights has clearly recognised the right to respect for private and family life (Art. 8 ECHR) for same-sex couples and obliges States to provide for an alternative form of recognition of same-sex couples (*Oliari and Others v Italy*, App. nos. 18766/11 and 36030/11, 21 July 2015). The Court has also ruled that States shall not discriminate between same-sex and different-sex couples when creating such an alternative form of recognition (*Vallianatos and others v Greece*, App. nos. 29381/09 and 32684/09, 7 November 2013).

We all live in the EU – a union of democratic values guaranteeing European citizens and their family members the right to move freely between member states and reside across the EU. Same-sex couples established in Member States that provide for the legal recognition and protection of their families cannot be treated as complete strangers when they cross the border to Romania. Despite repeated calls by the European Parliament, same-sex couples or different-sex couples in registered partnerships currently lack the protection of the law in a shrinking minority of Member States, including Romania. The situation of same-sex couples enjoying their right to move freely across the EU is also under scrutiny of the Court of Justice of the EU in the *Coman* case. Indeed, the Romanian Constitutional Court sought the guidance of the CJUE in interpreting European human rights law, European Union law and Romanian constitutional provisions.

For all these reasons, we call upon the Romanian Parliament to not support the organisation of a referendum which would further divide society and enshrine

discrimination of same-sex couples and non-married different sex couples in the Constitution, which should be a fundamental text designed among others to protect the family life of all. We rather call on you to create an additional and alternative form of recognition for all couples, including same-sex couples, in order to provide for the most basic level of protection to which they are entitled under European human rights law.

Yours sincerely,

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