

**Question for oral answer O-000246/2011
to the Council**

Rule 115

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on behalf of the ALDE Group

Subject: New Romanian Civil Code and free movement of LGBT persons

Article 277 of the new Civil Code of Romania (RCC), which entered into force on 1 October 2011, deals with the 'Prohibition or equivalence of forms of cohabitation with marriage'.¹

Does the Council not think that:

- the explicit prohibition of same-sex marriage (paragraph 1, Article 277 RCC) or partnership or of their recognition when contracted abroad (paragraphs 2 and 3, Article 277 RCC) in civil codes or Constitutions is an unnecessary and counterproductive provision, as it targets same-sex couples and persons on the basis of their sexual orientation and cements such discrimination in the fundamental laws of the State?
- the explicit prohibition of the recognition of same-sex marriages and of civil partnerships, both of the opposite sex or same sex, contracted abroad (paragraphs 2 and 3, Article 277 RCC), regardless of the mentioning of the free movement provisions (paragraph 4, Article 277 RCC), runs counter to EU citizens' fundamental right to carry their civil status with them when moving from Member State A to Member State B, as stated by Commissioner Reding during her speech in the EP of 7 September 2010?
- the new Civil Code creates a situation of legal uncertainty and contradiction between paragraphs 1, 2 and 3, Article 277 RCC on the one hand and paragraph 4, Article 277 RCC on the other, as the application of Article 2 of Directive 2004/38/EC defining family members (which includes 'spouse') and of Article 3 on the duty of facilitation of entry and residence could be nullified or applied in a way to deny free movement of same-sex spouses and partners and to opposite-sex partners, on the basis of the recognition prohibition?
- these provisions are contrary to the values and the spirit of the Treaties and of the principle of equality and non-discrimination and risk creating and intolerant and homophobic climate, as well as further tensions on, and repercussions for, the right to free movement of EU citizens, including of Romanians, in the EU?

Tabled: 13.10.2011

Forwarded: 14.10.2011

Deadline for reply: 4.11.2011

¹ Article 277 RCC states: '(1) Same-sex marriage is prohibited. (2) Same-sex marriages concluded or contracted abroad, either by Romanian or foreign citizens, are not recognised in Romania. (3) Civil partnerships between persons of the opposite sex or same sex, concluded or contracted abroad, either by Romanian or foreign citizens, are not recognised in Romania. (4) Legal provisions on free movement of citizens in Romania, for citizens from EU Member States and from the European Economic Area, remain applicable'.