

(English version)

**Question for written answer E-001135/25
to the Commission
Carolina Morace (The Left)
(18 March 2025)**

Subject: Lack of respect for civil partnerships among EU Member States

In Italy, civil partnerships are recognised under Law No 76/2016 which, however, draws a distinction between them and marriage. Spain, on the other hand, has had marriage equality since 2005 but Italian civil partnerships are not equivalent to marriage.

A couple of Italian citizens who have moved to Spain therefore find themselves forced to dissolve a civil partnership contracted in Italy to be able to marry and obtain full legal recognition of their rights in their new country of residence. This case highlights the lack of regulatory harmonisation in the EU, which can have significant consequences in terms of assets, inheritance and family rights, and create concrete obstacles to the exercise of the right to free movement enshrined in Article 21 of the Treaty on the Functioning of the European Union (TFEU).

Can the Commission say:

1. Whether it believes the failure to recognise civil unions between Member States to be in breach of the principles of non-discrimination and freedom of movement?
2. Whether it intends to propose measures to ensure the mutual recognition of same-sex civil partnerships and marriages throughout the EU.
3. What it intends to do to prevent LGBTQIA+ couples from being forced to dissolve a civil partnership in order to obtain legal recognition in another Member State.

Submitted: 18.3.2025

**Answer given by Ms Lahbib on behalf of the European Commission
(2 June 2025)**

The free movement *acquis* provides for the compulsory recognition of partnerships for the exercise of the rights derived from EU law.

If the registered partnership is recognised by the host Member State as equivalent to marriage, the partner of the mobile EU citizen falls under the definition of core family member ⁽¹⁾.

If not, the partner can be considered as an extended family member if the partnership is durable ⁽²⁾. Since Directive 2004/38/EC on free movement ⁽³⁾ is gender-neutral, the recognition obligation applies to both same-sex and opposite-sex partnerships.

Substantive family law, including rules on the definition of marriage and registered partnership, falls within the competence of the Member States.

The obligation to recognise a marriage or a partnership is currently, under EU law, limited to the recognition for the exercise of the rights derived from EU law.

The EU has not adopted rules on the recognition of marriage or registered partnerships for the purposes of rights derived from national law (such as maintenance, property regimes and succession). This recognition is currently governed by the national law of each Member State.

⁽¹⁾ According to Article 2(2)(b) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, OJ 30.04.2004, L 158, p. 77.

⁽²⁾ Article 3(2)(b) of Directive 2004/38/EC.

⁽³⁾ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, OJ 30.04.2004, L 158, p. 77 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004L0038>.

However, the EU has adopted gender-neutral instruments on family law with cross-border implications and succession that apply to all couples, including same-sex couples ⁽⁴⁾. These instruments aim to facilitate Member States' recognition of each other's judgments on these matters.

Whether a partnership must be dissolved before a marriage can be concluded is not a matter covered by EU law. It is for the Member States to provide their own legislation.

In the specific situation referred to in the question, the obligation to dissolve the registered partnership may not depend on whether the couple is of same or opposite sex.

⁽⁴⁾ Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction, OJ L 178, 02/07/2019, p. 1; Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, OJ L 7, 10/01/2009, p. 1-79; Council Regulation (EU) 2016/1104 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of the property consequences of registered partnerships, OJ L 183, 8.7.2016, p. 30-56; Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, OJ L 201, 27.7.2012, p. 107-134.