

## THE SUPREME ADMINISTRATIVE COURT IN BULGARIA RULED IN FAVOUR OF SAME-SEX FAMILIES

July 25 2019  
Sofia, Bulgaria



On July 24th 2019 the Supreme administrative court (SAC) of the Republic of Bulgaria **recognised same-sex couples' right to reside in Bulgaria on the basis of the right to move freely within the European Union, valid for all citizens of the Union and their family members.** SAC decided that the judgement of Administrative court Sofia-city on the Cristina Palma and Mariama Diallo case should remain valid.

Cristina and Mariama are a same-sex couple who got married on June 1st, 2016 in France. Later that year, Cristina, who is an Australian citizen, received a residence permit in Bulgaria, on the basis of Directive 2004/38/EO on the right to move and reside freely in the European Union. According to the Directive, every citizen of the Union has the freedom of movement for their family on the territory of EU countries, even if their spouse is not a citizen of a Member State, as is the case with Cristina. Regardless of the clarity of the provision and the previous permission in this respect, at the beginning of 2018 the Migration Directorate of the Ministry of Interior refused Cristina Palma the right to

reside in Bulgaria, justifying its refusal with article 46 of the Constitution of the Republic of Bulgaria and the Family Code – 'marriage is a voluntary union between a man and a woman'.



The decision that the Supreme administrative court made not only confirms the judgement of Administrative court Sofia-city but also is in line with the case-law of the Court of justice of the European Union. CJEU recently ruled on a similar case (Coman and others, C-673/16) that the Member States have to respect the right of residence of same-sex couples who have been married in another country who wish to live together in their territory, as the right to move freely within the EU is a fundamental right guaranteed to all

citizens of the Union, which is also often used by a large number of Bulgarian citizens as well as their families.

**The SAC's decision is final and in effect and should be implemented by the Migration Directorate at the Ministry of Interior immediately.**

'The judgement did not surprise us as it was the only possible outcome. We hope that the Bulgarian institutions will not waste more taxpayers' money, as was the case here, after they take into account that the judgement is going to have an effect on similar cases in which citizens of the EU, including Bulgarian citizens, exercise the right to move freely within the territory of the Union', **said Veneta Limberova – chairman of the Youth LGBT organization 'Deystvie'.**



*Attorney Denitsa Lyubenova*

**Attorney Denitsa Lyubenova from Deystvie's Legal program said,** 'Today, the SAC has applied the European law and the case-law of the CJEU unambiguously and recognized a same-sex marriage concluded abroad. This is a big step forward towards equality for same-sex couples in Bulgaria. We have a long way to go, but 'Deystvie' and the attorneys we are working with have laid the foundations of a new era in the struggle for equality for LGBT people in Bulgaria.

**Cristina uses the services of Youth LGBT organization Deystvie's Legal program and attorney**

**Denitsa Lyubenova.**

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