



**Statement by the Presidency of COMECE
on the recent European Court of Justice judgment
concerning the recognition of same-sex marriages between
Member States**

The Presidium of the Commission of the Episcopates of the European Union (COMECE), gathered on 3 December 2025, analysed and discussed the recent judgment issued by the Court of Justice of the European Union in the case *Wojewoda Mazowiecki*, C-713/23.

The considerations we express in the present Statement are rooted in the Church's anthropological view, based on natural law, of marriage as a union between a man and a woman.

While fully respecting the role of the EU judiciary, we feel compelled to comment on some aspects of the ruling, noting with concern its impact upon questions that are at the core of national competences. For a number of years, the COMECE Legal Affairs Commission has been carrying out reflections on the matter of family law with cross-border implications, constantly stressing the importance of a prudent and cautious approach and of avoiding undue influences on national legal systems.

The judgment declares that a Member State has the obligation to recognise a marriage between two Union citizens of the same sex that has been lawfully concluded in another Member State, where they have exercised their freedom to move and reside. The EU Court had already made advances in this area, notably with the *Coman*, C-673/16 judgment. However, the ruling issued on 25 November 2025 appears to push jurisprudence beyond the boundaries of EU competences.

Article 9 of the Charter of Fundamental Rights of the EU ('Right to marry and right to found a family') states that "*The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights*". Marriage is defined as a union between a man and a woman in the legal systems of various EU Member States, including, in some cases, by means of Constitutional provisions.

The EU Court indeed acknowledges that the obligation affirmed in its ruling "...does not undermine the institution of marriage in the Member State of origin, which is defined by national law" and states that "...as EU law currently stands, the rules on marriage come

within the competence of the Member States, and EU law cannot detract from that competence. The Member States are thus free to decide whether or not to allow marriage for persons of the same sex under their national law". However, the EU Court strictly narrows down the significance of such affirmation by underlining that in exercising this competence, each Member State must comply with EU law, in particular the provisions of the Treaties on the freedom of EU citizens to move and reside within the territory of the Member States.

We note with worry the trend to apply provisions that should protect sensitive components of national legal systems in a way that impoverishes their meaning. It is the case, with this ruling, with regard to Article 9 of the EU Charter. In the recent past, the same worrying tendency emerged with other, distinct key EU provisions, such as Article 17(1) TFEU on the protection of the status of Churches and religious associations or communities under Member States law.

Bearing in mind the importance of acknowledging the richness and diversity of the EU juridical panorama and traditions, we also note the disappointingly limited role attributed by the Court to the respect for Member States' 'national identities' (Article 4.2 TEU) and to their public policy/*ordre publique*. For some Member States, the definition of marriage forms part of their national identity.

The EU Court ruling will have an impact on national family law legal systems and may foster pressure to amend them. It also requires the introduction of recognition procedures and even calls for the disapplication, if need be, of the national provisions concerned. The ruling effectively creates a convergence of matrimonial-law effects, even though the Union does not have a mandate to harmonise family law. There is also an impact on legal certainty, as increasingly Member States will not be able to foresee in a clear manner which parts of their family law will remain within their autonomy.

Furthermore, COMECE is concerned that the judgment may lead to negative developments in other sensitive areas for cross-border family law, for instance paving the way to future similar legal approaches regarding surrogacy.

Finally, recalling the challenging context the European Union is currently facing - also in reference to its perception in various countries - it comes as no surprise that these kinds of judgments give rise to anti-European sentiments in Member States and can be easily instrumentalised in this sense.