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## Ordine internazionale e diritti umani

International Legal Order and Human Rights  
Ordenamiento Jurídico Internacional y Derechos Humanos  
Ordre juridique international et Droits de l'Homme

### THE DEFINITION OF “SPOUSE” UNDER DIRECTIVE 38/2004: THE CASE *COMAN* AND *HAMILTON*

This article focuses on the judgement *Coman* and *Hamilton* issued by the Court of justice of the European Union on 5 June 2018. This decision provides a definition of “spouse” under the directive 38/2004 on the free movement on people. In this regard the Court clarified for the first time that this definition includes same-sex marriages. Thus, Member States cannot rely on their national law as justification for refusing to recognise in their territory, for the sole purpose of granting a right of residence to a third-country national, a marriage concluded by that national with a Union citizen of the same sex in another Member State in accordance with the law of that State. In the opinion of the author, however, the judgement will have a broader impact, not limited to the scope of the directive.