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Answer given by Mr McGrath
on behalf of the European Commission
(24.1.2025)

Human dignity, freedom of expression, freedom of assembly and of association are respectively protected by Article 1, Article 11 and Article 12 of the EU Charter of Fundamental Rights¹ (the Charter) and the Commission is committed to ensuring their respect within the remit of its competences. However, according to its Article 51(1), the Charter applies to Member States only when they are implementing EU law.

The Italian draft law on ‘Provisions on public security’ lays down, *inter alia*, national provisions introducing criminal offences related to ‘passive resistance’ or obstructing traffic on roads or railways during demonstrations, and the amount of the penalties for these offences. In so far as such provisions do not relate to a situation within the scope of EU law, they do not seem to fall within the scope of the Charter.

The EU competence in the area of substantive criminal law is set out in Article 83 of the Treaty on the Functioning of the European Union (TFEU) and does not cover the areas of crime concerned by the Italian draft law on ‘Provisions on public security’. Furthermore, in accordance with Article 72 TFEU, Member States are responsible for maintaining law and order and safeguarding internal security.

Therefore, in these cases, it is for the Member States, including their judicial authorities, to ensure that fundamental rights are effectively respected and protected, in accordance with their national legislation and international human rights obligations.

As concerns the respect for the rule of law, the Commission monitors the respect for the rule law in all Member States, including Italy, in the context of the annual Rule of Law Report.

¹ Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391-407.