

EN
E-002184/2024
Answer given by Mr McGrath
on behalf of the European Commission
(13.1.2025)

The rights under the EU-Switzerland Agreement on free movement of persons¹ may be restricted only by means of measures justified on grounds of public order, public security or public health. In this context, Switzerland is to apply Directive 64/221/EEC², which provides that such measures shall be based exclusively on the personal conduct of the individual concerned.

Such restrictive measures may be taken only following an assessment whether an individual is a genuine and sufficiently serious threat affecting one of the fundamental interests of society³. The concept of public policy, where used as a justification for derogation from the fundamental principle of free movement, must be interpreted strictly⁴.

Present membership of an organisation may be taken into account where an individual participates in the activities of the organisation and identifies with its aims or designs. Organisations do not need to be banned to be able to restrict the rights under the Directive 64/221/EEC, as long as some administrative measures to counteract its activities are in place as a result of it being considered to be socially harmful⁵.

The person concerned should always be informed of the exact nature and the consequences of any measure taken pursuant to the Directive, and have a right of appeal. More generally, Switzerland is subject to human rights obligations stemming from, among others, the European Convention on Human Rights.

¹ [http://data.europa.eu/eli/agree_internation/2002/309\(1\)/2021-01-01](http://data.europa.eu/eli/agree_internation/2002/309(1)/2021-01-01)

² <http://data.europa.eu/eli/dir/1964/221/oj>

³ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:51999DC0372>

⁴ 41/74, van Duyn, ECLI:EU:C:1974:133, paragraph 18.

⁵ 41/74, van Duyn, ECLI:EU:C:1974:133, paragraph 17 et seq.