

EN
E-002816/2024
Answer given by Mr McGrath
on behalf of the European Commission
(10.3.2025)

The right to respect private and family life and the rights of the child are protected respectively in Article 7 and 24 of the Charter of Fundamental Rights of the European Union (the Charter)¹. The Commission is committed to ensuring the respect of the Charter within the remit of its competences. According to its Article 51(1), the Charter is addressed to the Member States only when they are implementing EU law.

Substantive family law issues, such as the conditions under which a child is placed in alternative care and the possible limitation of parental rights, do not fall under EU competence. In such cases, it is for the national authorities alone, including the courts, to ensure that their obligations regarding fundamental rights – as resulting from their internal legislation and from international agreements – are respected.

Nonetheless, the Commission is committed to promote the protection of the rights of the child. The Commission Recommendation on integrated child protection systems² calls on Member States to take all necessary measures³ to ensure the prioritisation of family-based and community-based care for children, taking into account the best interests of the child as a primary consideration⁴, having due regard of the needs and wishes of the child, when placing them into alternative care. The same approach is followed in the Council Recommendation establishing a European Child Guarantee.⁵

¹ https://eur-lex.europa.eu/eli/treaty/char_2012/oj/eng

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32024H1238>

³ In accordance with national competences, circumstances and practices and fully respecting the principles of subsidiarity and proportionality.

⁴ In accordance with Article 24 (2) of the Charter of Fundamental Rights of the European Union, in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.

⁵ Council Recommendation (EU) 2021/1004 of 14 June 2021 establishing a European Child Guarantee, OJ L 223, 22.6.2021, p. 14–23.