

EN
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Answer given by Mr McGrath
on behalf of the European Commission
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Member States may restrict the free movement rights of EU citizens, including the right of their own nationals to travel to another Member State, on grounds of public policy or public security.

When adopting a restriction, Member States must comply with the requirements and procedural safeguards set out in Directive 2004/38/EC.

In particular, restrictive measures may be taken only on a case-by-case basis where the personal conduct of an individual represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of the society of the Member State. Decisions must be proportionate and based on an individual assessment. The person concerned must have access to judicial and, where appropriate, administrative redress procedures in the Member State to appeal against or seek review of the decision.

This means that an EU citizen wishing to challenge such a restriction can do so by making use of the means of redress available at national level.

The Commission cannot engage in investigations into establishing the factual situation on the ground, as it lacks the legal powers – and means – to do so. Nor does it have powers of review of individual implementing measures taken by national authorities.

Finally, while the Commission ensures and monitors the compliance with the Charter of Fundamental Rights¹ of measures falling under EU competence, it remains the competence of national authorities to investigate, prosecute, and try, in accordance with applicable national legislation, individual cases of alleged violations of the rights under the Charter in national implementing measures.

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