

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 freedom of movement of EU citizens on grounds of public policy or public security, provided that they respect the substantive and procedural safeguards set out in the Free Movement Directive 2004/38/EC¹.

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 host Member State. Decisions must be proportionate and based on an individual assessment. The persons concerned must be informed, precisely and in full, of the grounds of the decision, unless this is contrary to the interests of State security, and must have access to judicial and, where appropriate, administrative redress procedures.

In individual cases, national courts are competent to establish whether a misapplication of EU law, including a violation of fundamental rights, has taken place and to award compensation to persons who suffered damages.

The Commission works closely with Member States to monitor and promote the correct application of EU free movement law. The Commission guidance on free movement² covers, among others, restrictions on grounds of public policy and public security and the relative safeguards.

¹ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, OJ L 158, 30.4.2004, pp. 77–123.

² https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C_202301392.