

(English version)

**Question for written answer E-000387/26  
to the Commission  
Ioan-Rareş Bogdan (PPE)  
(30 January 2026)**

*Subject:* Protection of Romanian citizens in the EU

According to the press, several cities in western Germany last year withdrew social benefits from over 1 100 citizens from Romania and Bulgaria and compelled them to leave the country. The cities in question were Duisburg, Gelsenkirchen, Dortmund and Hagen, with their justification being that those concerned were not doing enough work to contribute to their own living. The journalists quoted local authorities as saying that the courts often uphold such practices. They also reported the announcement by the Mayor of Hagen, Dennis Rehbein, that he intends to apply this withdrawal of social assistance more vigorously, since the EU rule (stating that anyone working for at least 5.5 hours per week is considered an employee and is entitled to social assistance) was too lax.

1. Does the Commission consider this situation to violate EU laws or not?
2. If certain German authorities are indeed violating EU rules, what measures does the Commission have competence to adopt?
3. Is the Commission considering legislative changes to allow local authorities to treat discretionarily the fundamental freedoms of the EU?

Submitted: 30.1.2026

**Answer given by Mr McGrath on behalf of the European Commission  
(8 April 2026)**

Article 45 of the Treaty on the Functioning of the European Union lays down the right for EU citizens to move to another Member State for the purpose of employment and be treated in an equal way for that purpose as the nationals of that Member State.

The Court of Justice has defined a ‘worker’ as a person who undertakes genuine and effective work for which he or she is paid under the direction of someone else, to the exclusion of activities on such a small scale as to be regarded as purely marginal and ancillary <sup>(1)</sup>.

As ‘marginal and ancillary’ is not defined in EU law, the assessment is to be done on a case-by-case basis by the national authorities.

It cannot be ruled out that an activity may be considered to be real and genuine, independently of the limited remuneration and the number of hours <sup>(2)</sup>.

The conditions for legal residence of EU citizens in another Member State are found in Directive 2004/38/EC <sup>(3)</sup>. One way of qualifying for residence longer than three months is to be a worker, as defined by the Court in the above-mentioned case law.

EU citizens who do not meet the residence conditions set out in Directive 2004/38/EC are not entitled to benefit from equal treatment with nationals of the host Member State under Article 24(1) of that directive, including when it comes to access to social assistance.

In addition, Member States may expel from their territory EU citizens who no longer satisfy the requirements for a right of residence. In such a case, the relevant safeguards of the directive apply.

The Commission is not aware of a systematic failure to correctly apply the relevant EU legislation by Germany. The Commission cannot comment on individual situations, which are for national courts to review.

Moreover, the Commission has not proposed any legislative changes to the underlying legal framework at EU level.

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<sup>(1)</sup> C-138/02, *Collins*, ECLI:EU:C:2004:172, paragraph 26; C-456/02, *Trojani*, ECLI:EU:C:2004:488, paragraph 15 or C-46/12, *LN*, ECLI:EU:C:2013:97, paragraphs 40-42.

<sup>(2)</sup> C-14/09, *Genc*, ECLI:EU:C:2010:57, paragraph 26.

<sup>(3)</sup> 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 amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, pp. 77).