

(English version)

**Question for written answer E-001179/26
to the Commission
Marieke Ehlers (P/E), Sebastian Kruis (P/E), Ton Diepeveen (P/E)
(20 March 2026)**

Subject: Judgment in *Shipova* (C-43/24): encroachment on competences via the Court of Justice of the European Union?

According to the recent judgment of the Court of Justice of the European Union in the *Shipova* case (C-43/24), national rules that make a change of gender in official documents subject to specific conditions may impede the right to free movement of persons. This is particularly the case where such rules lead to discrepancies with identity data registered in another Member State.

Accordingly, policy areas such as civil status and identity registration, which, pursuant to the Treaties, fall within national competence, come under the influence of EU law via the Court's case-law none the less.

1. What is the Commission's assessment of the implications of the judgment in the *Shipova* case for the Member States' competence to independently establish rules on the registration of gender in national identity documents and population registers?
2. Does the Commission share the concern that the Court of Justice's interpretation of the right to free movement in this case may effectively compel Member States to recognise gender changes carried out in another Member State, even where their national legislation imposes different conditions within the exclusive competence of that Member State?
3. In its capacity as guardian of the Treaties, what steps is the Commission prepared to consider taking to ensure that the application of EU law on freedom of movement does not lead to an indirect harmonisation of national rules on civil status and identity registration, and that the competences of the Member States in this area are thus safeguarded?

Submitted: 20.3.2026

**Answer given by Mr McGrath on behalf of the European Commission
(5 June 2026)**

In its judgment in case *Shipova* ⁽¹⁾, the Court of Justice of the European Union (the Court) recalled that as EU law currently stands, a person's status, which is relevant to the rules on changing the family name, patronymic, first name or legal gender identity of a person, is a matter which falls within the competence of the Member States. EU law does not detract from that competence.

Nevertheless, in exercising that competence, each Member State must comply with EU law, in particular the provisions of the Treaty on the Functioning of the European Union (TFEU) on the right conferred on all EU citizens to move and reside within the territory of the Member States.

In that judgment, the Court found that legislation of a Member State that does not permit, in civil registers, changes of gender data ⁽²⁾ of one of its nationals who has exercised the right of free movement is contrary to Article 21 TFEU and Article 4(3) of Directive 2004/38/EC ⁽³⁾, in light of Article 7 of the Charter of Fundamental Rights of the EU.

The Commission is committed, as guardian of the Treaties, to ensuring the correct application of EU free movement law as interpreted by the Court.

⁽¹⁾ Judgment of 12 March 20216, *K. M. H. v Obshtina Stara Zagora*, C-43/24, EU:C:2026:183.

⁽²⁾ Data such as the sex, family name, patronymic, first name and personal identification number.

⁽³⁾ 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.