

(English version)

Priority question for written answer P-001505/26
to the Commission
Irmhild Boßdorf (ESN)
(14 April 2026)

Subject: Compatibility of national rules on the acquisition of real estate with EU fundamental rights and internal market freedoms

According to several media reports, the German Government is planning to amend town and country planning law to give municipalities extended pre-emption rights when purchasing real estate, a move spearheaded by Verena Hubertz ⁽¹⁾. These rights are intended to apply in particular where, on the basis of assessments by the security authorities, potential acquirers are deemed to have so-called anti-constitutional aspirations, whereby not only specific criminal offences but even predicted political activities or mere suspicions could be decisive.

Such an approach raises important questions as regards respect for fundamental freedoms, legal certainty and the internal market freedoms guaranteed by EU law. In particular, it seems questionable whether such far-reaching powers of intervention, which are based on unspecified and prediction-based criteria, are compatible with the principles of a liberal order based on the rule of law as understood by the Union. There is serious concern that state intervention in property rights and the freedom of establishment could be subject to political interpretation, thereby contributing to a creeping erosion of the rule of law within the single market.

1. What is the Commission's assessment of such rules in the light of Articles 17 and 21 of the Charter of Fundamental Rights of the European Union, particularly where the criteria for intervention are determined by political or prediction-based factors?
2. To what extent does such an exclusion of potential purchasers constitute a restriction on the free movement of capital under Article 63 of the Treaty on the Functioning of the European Union?
3. What requirements apply to proportionality, legal certainty and judicial review under EU law, and does the Commission intend to carry out an assessment in the light of Article 2 of the Treaty on European Union?

Submitted: 14.4.2026

Answer given by Mr McGrath on behalf of the European Commission
(23 July 2026)

The Commission is aware of the media reports in Germany concerning the alleged plan described by the Honourable Member. The Commission refrains from commenting on such reports.

It is important to note that, according to its Article 51(1), the provisions of the Charter of Fundamental Rights are addressed to the Member States only when they are implementing EU law.

This also includes cases where Member States seek to justify restrictions to the free movement of capital under Article 63 of the Treaty on the Functioning of the European Union.

National rules governing the acquisition of real estate fall within the competence of the Member States. Restrictions on the acquisition of real estate may possibly constitute restrictions on the free movement of capital under Article 63 Treaty on the Functioning of the European Union.

Such restrictions may be justified by overriding reasons in the public interest, provided that they are appropriate, necessary and proportionate to the objective pursued and respect the principles of legal certainty and non-discrimination, as required by EU law.

¹ https://www.bmwsb.bund.de/SharedDocs/gesetzgebungsverfahren/DE/baugb-upgrade/baugb-upgrade-entwurf.pdf?__blob=publicationFile&v=1.