



20 YEARS OF THE EU CHARTER OF FUNDAMENTAL RIGHTS



“

„The Charter is our compass. It indicates the way to follow and prevents us from taking the wrong path”.

Věra Jourová, European Commission Vice-President
for Values and Transparency



”

Dignity, freedoms, equality, solidarity, citizens' rights, justice. These are the most important personal rights that belong to everyone in the European Union. They are brought together in one legally binding document: the EU Charter of Fundamental Rights. It was declared in 2000 and came into force in December 2009 along with the Treaty of Lisbon. Since then, the Charter has served as an essential tool in turning EU citizens' rights into reality.

“

“The Charter of Fundamental Rights is a remarkable instrument, ground-breaking. It puts together, in one single instrument, in a joined-up manner, the protection of civil rights, political rights, economic, social and cultural rights”.

Prof. Michael O'Flaherty, Director of the EU Agency
for Fundamental Rights



”

What is unique about the Charter?

The Charter is not just any other instrument of EU law. It enshrines the fundamental rights that everyone in the EU should enjoy and recalls the principles on which the European Union was founded, namely democracy and the rule of law. Over the past decade, the Charter has helped better promote and protect people's fundamental rights in the EU and has triggered new European legislation upholding and serving these rights. The new rules on data protection, gender equality, whistle-blowers as well as victims of crime protection, are key examples.

Also, the [Digital Services Act](#), proposed in December 2020, with new rules to curb illegal content including hate speech online, as well as legislation concerning artificial intelligence (AI), which aims to ensure a fundamental rights approach in the design of AI, was framed mindful of the Charter principles. With over 50 articles, it is a modern human rights catalogue that enriches existing entitlements, and goes beyond many constitution texts. It has inspired law and policymakers to develop more sustainable and better legislation.

“

„Initially, the EU was not perceived as an organisation whose role is to protect fundamental rights. It all changed with the introduction of the Charter”.

Prof. Nina Póltorak, Judge at the General Court of the EU, Court of Justice of the EU



”

How does the Charter differ from the European Convention on Human Rights?

The Charter of Fundamental Rights goes further than the European Convention on Human Rights, adopted by the Council of Europe in 1950*. It expands those rights. For example, the due process of law and administration of justice protections in the Charter are considerably stronger than those to be found in the European Convention. Moreover, new rights in the Charter can be found: an explicit right to protection of rights in the context of the environment, the rights of older people, an explicit right of asylum, even a right to establish a business. In addition, across the instrument a profound respect for the universality of rights, and of the need to protect the astonishing diversity of our people regardless of ethnicity, religion, sexual orientation, or whatever other category is promoted.

* The text of the Convention entered into force in 1953 and was followed by several protocols:
https://www.echr.coe.int/Documents/Convention_ENG.pdf

„The Charter of Fundamental Rights for the Office of Polish Ombudsman since the beginnings has been extremely important – as an inspiration, but also as an argument in different actions that we take for the respect of the rights and freedoms of and individual.”



Adam Bodnar, PhD, Polish Commissioner
for Human Rights



Which institutions safeguard and monitor the Charter's enforcement?

Regarding the enforcement of the Charter's rights, the Court of Justice of the EU has played an instrumental role in clarifying the content and the essence of the rights enshrined in the Charter. Its case law on the Charter is growing by the day. The EU Agency for Fundamental Rights provides data and information on the fundamental rights situation on the ground and on the application of the Charter across the EU. There are also independent national human rights institutions and bodies that lay down solid foundations for the enforcement of individual's rights in practice, such as the Office of the Commissioner for Human Rights in Poland.

Where is the Charter applied?

The Charter is applied at all the levels of the European authority. At the legislative level, it has become a fundament for Union initiatives, and an inspiration for such initiatives. It is also applied by the European institutions which enforce European law, particularly by the European Commission. It frequently also comes up in case law of the Court of Justice of the EU.

“

“The Charter does not only guarantee fundamental rights, but it also facilitates the deepening of European integration”.

Kamila Gasiuk-Pihowicz, MP, Vice-President of the Justice and Human Rights Committee of the Sejm



”

05

Who are the key actors for the Charter's application at a national and local level?

Judges, civil society organisations and national human rights institutions are the ones that make the Charter a reality for the people. To do their job effectively, they need to be able to work independently, in a safe and supporting environment.

• Judges and the rule of law

The application of EU law relies not only on the Court of Justice of the EU but also on national courts in the Member States. The very existence of an effective judicial review by national courts, designed to ensure compliance with EU law, is the essence of the rule of law. The rule of law ensures that Member States and their citizens can work together in a spirit of mutual trust, which is crucial for the smooth functioning of democratic societies. Rule of law and fundamental rights are strictly linked. Fundamental rights cannot be effectively applied for the benefit of the people without the respect of rule of law.

• Civil society organisations and rights defenders

Civil society organisations and independent national human rights bodies such as national human rights institutions are also key actors for the Charter's enforcement. They are instrumental in raising people's awareness about their rights and helping them receive effective judicial protection. They are also key partners for the European Commission in the efforts to promote and protect fundamental rights, democracy, and the rule of law.

„The motivations behind adopting the Charter were very noble, humanitarian in nature, but the Charter is commonly criticised in many member states”.

Prof. Tomasz Grosse, Institute of European Politics, Department of Political Sciences and International Studies, University of Warsaw, senior fellow in Jagiellonian Club and Sobieski Institute



• National and local authorities

National and local administrations, parliaments, and law enforcement authorities are central to promoting and protecting Charter rights and creating an enabling environment for civil society and rights defenders. Also, cities have an important role to play to promote a culture of values and protect the fundamental rights of their citizens. A number of cities have now joined the network of human rights cities and embed fundamental rights in their policymaking.

Do European funds support fundamental rights in the EU?

The European Commission has launched a new “Citizens, Equality, Rights and Values programme” with a budget of EUR 1,55 billion for 7 years*. It aims at turning the policy objectives into action and supports civil society organisations and rights defenders to protect fundamental rights and promote a culture of values in the EU.

These funds will also be available to national and local authorities, provided that projects, from their inception to their implementation, will be fully compliant with the Charter. Also, the Commission has funded a new Justice programme to help train judges on the rule of law and on the application of the Charter.

* Citizens, Equality, Rights and Values Programme (CERV):

<https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/programmes/cerv>

“When young lawyers think about human rights, they rather think about the UN Convention on Human Rights”.

Miłosz Gapsa, student at the Department of European Constitutional Law, Faculty of Law and Administration, University of Łódź



What are the challenges regarding the Charter's application?

The EU Charter of Fundamental Rights is a relatively new instrument, which is still underused. A study, conducted by Eurobarometer*, shows that only half of the respondents heard about the Charter and how they could benefit from its existence. Every day in Europe, people are victims of discrimination, hatred and violence. The COVID-19 pandemic widened further the equality gap, and put fundamental rights to the test. Many people cannot adapt to the ongoing transformation via new technologies.

Civil society in different parts of the EU is experiencing multiple forms of pressure, limits are being put on the fundraising capacity of civil society organisations with regard to access to foreign funding, or else with regard to the work they do, for example on LGBT rights. At the same time, the Charter raises controversies in some political circles in some EU member states.

*2019 Eurobarometer survey on citizens' awareness of the Charter

“*„The Charter can be invoked against EU institutions, and also against the state when public authorities are implementing EU law. It can also be invoked against legal or natural persons, individuals”.*

Prof. Anna Wyrozumska, Head of the Department of European Constitutional Law, University of Łódź, member of Team Europe



What can be done to facilitate the implementation of the Charter?

The application of the Charter across the EU institutions and the Member States needs a further push. More questions should be put to the Court of Justice of the EU, the Charter should be far more visible in the act of law-making in national Parliaments, Member States'. Government should be promoting the Charter more actively, and civil society should use the Charter to a larger extent within its own operations. That is why in December 2020 the European Commission adopted the new Strategy for Charter implementation, which sets out the direction for the next 10 years*. It emphasises the importance of institutions, and of protecting and strengthening the national human rights infrastructure. **The Strategy focuses on four pillars:**

1. Effective application by the Member States,
2. Empowering civil society organisations, rights defenders and justice practitioners,
3. The Charter as a compass for EU institutions,
4. Strengthening people's awareness.

The aim of the strategy is to improve use and awareness of the Charter in the EU so that it becomes a reality for all.

*New Strategy for the Implementation of the Charter of Fundamental Rights:

https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12269-New-Strategy-for-the-Implementation-of-the-Charter-of-Fundamental-Rights_en

“Local governments enjoy public trust, but without partnerships with the other organisations that are separate from Public Authority, we cannot convince citizens that they do have their rights and they should enjoy them”.



Aleksandra Dulciewicz, Mayor of Gdańsk,
member of the European Committee of the Regions



More information:

EU Charter case law database: [Case Law Database | European Union Agency for Fundamental Rights \(europa.eu\)](#)

EU Agency of Fundamental Rights expertise on EU Charter of Fundamental Rights: [EU Charter | European Union Agency for Fundamental Rights \(europa.eu\)](#)

The text is based on an [online debate](#) organised by the European Commission Representation in Poland and EU Agency for Fundamental Rights on 25 April 2021 and reflects only the position of its authors. The European Commission and EU Agency for Fundamental Rights are not responsible for its content.

This [online debate](#) follows on [EU wide event, which marked 20 years](#) of proclamation of the EU Charter and launched new [European Commission Strategy to strengthen the application of the EU Charter of Fundamental Rights](#) in the EU.