Session 1
Towards a culture of fundamental rights at national level: making, implementing and enforcing law and policy

On 1 December 2009, the Charter of Fundamental Rights of the European Union (the Charter) became legally binding. 10 years later, the institutional landscape of the EU, the case law of national and European courts and the overall fundamental rights debate in Europe is heavily influenced and shaped by this relatively young instrument. Over the recent years, the European Parliament, the Council and the European Commission have strengthened their fundamental rights culture and developed a solid toolbox to ensure that EU laws and policies fully respect the Charter. The Commission's annual reports on the application of the Charter illustrate the steady development of a specific body of laws and policies directly promoting and protecting Charter rights. The Court of Justice of the EU has developed a rich Charter case law (356 cases with a reference to the Charter in 2018 alone) and played its role as the ultimate authority on the compliance of EU legal acts with the Charter. National courts also increasingly use the Charter as a relevant source of interpretation, sometimes even beyond the scope of EU law.

At the same time, Charter awareness remains low amongst the general population and amongst legal practitioners. Regular reports by the EU Agency for Fundamental Rights (FRA) show that the Charter is not sufficiently used by national legislators and there are hardly any government policies that proactively promote Charter awareness and application among the various actors in the Charter’s enforcement chain. The co-existence of different fundamental rights instruments, and the fact that the Charter only applies to the Member States when implementing EU law (Article 51 of the Charter), contribute to the perception of complexity, which further discourages the use of the Charter. Efficient tools, guidance and training programmes are therefore essential. A variety of tools (such as for instance Charterpedia, the FRA Handbook on the applicability of the Charter or the European e-Justice Portal) and trainings are available. They should be promoted and better used. New funding opportunities, including for training and awareness raising, were recently proposed.

Panel 1 will focus on the use and awareness of the Charter by national legislators, national public administration and the public.

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1 Commission strategy for the effective implementation of the Charter, available here; Commission Guidance on taking into account fundamental rights in impact assessments, available here and the Better Regulation Package, which makes Charter mainstreaming an integral part of the impact assessment (available here); Council Guidelines on fundamental rights compliance check, available here; possibility for the European Parliament’s Committee on Civil Liberties, Justice and Home Affairs (LIBE) to submit an opinion on any legislative file (European Parliament’s rules of procedure – Rule 39).
2 Commission’s 2018 Report on the application of the EU Charter of Fundamental Rights (focus section on the 10th anniversary of the entry into force of the Charter), available here.
3 Special Eurobarometer 487b on the “Awareness of the Charter of Fundamental Rights of the European Union”, available here.
4 See also the conference paper The ‘national life’ of the EU Charter of Fundamental Rights at its tenth anniversary, as submitted by FRA.
5 See most recently, FRA’s 2019 Fundamental Rights Report.
6 Session 2 will deal with this aspect in more detail.
8 FRA guidance on applying the Charter at national level, available here.
9 See https://e-justice.europa.eu/.
11 See the Commission proposal establishing a Rights and Values programme, available here.
and local authorities, and law enforcement bodies. Panel 2 is dedicated to the role and contribution of national courts.

Panel 1 – The role of the legislator, administration and law enforcement bodies

The constitutional traditions of the EU Member States have a strong track record in the protection of fundamental rights.\(^\text{12}\) However, to date, the Charter is not used to its full potential by national law and policy makers and by law enforcement bodies, such as the police. The Charter still has to find its place in various institutional practices at national level.\(^\text{13}\) Participants in Panel 1 will look at how national legislators, national public administration, local authorities and law enforcement bodies can make the Charter a living instrument in their daily work. They will share promising practices and the challenges they encounter in using the Charter, including in operations supported by EU funds. They will also look at how civil society organisations and rights defenders, such as National Human Rights Institutions, Equality Bodies and Ombuds institutions, can cooperate with Member States in ensuring the application of the Charter.

Panel 2 – The role and contribution of national courts

National judges play a key role in upholding fundamental rights and ensuring the uniformity of the application of the Charter. When applying EU law they act as European judges. Data shows that they are increasingly referring to the Charter. One tenth of the requests for preliminary rulings that reach the Court of Justice of the European Union mention the Charter (84 references in 2018). The Charter is also used by national judges to interpret EU and national law outside the context of preliminary rulings. Some cases show that the Charter’s added value is being increasingly recognised, even beyond the scope of application of EU law. Participants in Panel 2 will exchange experiences with applying the Charter in concrete cases and explain how the Charter has played out against the background of their specific constitutional settings. They will also seek to identify tools and means to make the Charter a legal instrument that is easy to use for national judges.

Indicative questions to steer the discussion:

1. How can we stimulate national authorities to invest more in the promotion of the application of the Charter provisions?

2. How can we best reach out to legal practitioners to encourage them to get training on the Charter and use it in their daily work?

3. Are there examples of national practices that have promoted the use of the Charter in national courts, national parliaments and administrations as well as law enforcement bodies?

4. Can you give examples of cooperation between rights defenders/civil society organisations and Member States that have led to a better application of the Charter? How could such cooperation be improved?

5. How can the EU, its institutions, bodies, offices and agencies better assist actors at the national level to use and apply the Charter? (Improve existing tools? Develop new ones? Offer more training?)

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