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Making the EU Charter of Fundamental Rights a reality for all: 10th anniversary of the Charter becoming legally binding

„The EU Charter of Fundamental Rights – a living instrument at the national level?“

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Introductory session

[CHECK AGAINST DELIVERY]

Minister Henriksson,
Commissioner Jourova,
Ladies and gentlemen,
Good morning,

...the importance of the Charter...

During one of my first visits to the European Parliament, I saw a copy of the Charter on display there – the document was in a display case on the main floor.

I was struck by its poor condition. How because of the persistent beam of sunlight down on the case, the words of the Charter quite literally were slowly disappearing.
In a way, you could say that this problematic situation had a ring of symbolic significance about it. We have got this important instrument, this impressive piece of law – but it is still largely unknown, invisible in the places where it needs to be applied, and notably at the level of some Member States.

Dear Friends,

The Charter is our EU Magna Carta. Given its full force it can really help transform people’s lives.

It is about the migrants stuck in reception centres on the islands in unacceptable conditions.

It is about the Roma families, being forced to make the choice between food or clothes, heat or comfort, every single day.

It is about our data that are stored in today’s information society in many contexts and by many actors.

It is about our rights when we are children, consumers or when we enter the last phase of our lives.

The Charter is transformative because it is law. As a human rights instrument it is unique because of its supranational character. It applies in our courtrooms and it needs to be respected by our parliaments.

It is also a startlingly modern catalogue that is often notably more explicit than national constitutional human rights guarantees. What is also special about the Charter
is that it combines civil and political and socio-economic rights.

Indeed, it contains rights that you will hardly find anywhere else.

Think of the right to good administration, the protection of our personal data, the explicit right to asylum, the right to conduct a business just as the right to consumer protection.

...what have we achieved in 10 years...

So, 10 years on – what have we achieved at the national level?

Despite modest but discernable improvements year by year, there is still insufficient knowledge of the Charter among the professional groups who need to work with it.

Take judges, lawyers and law-drafters.

In these groups, there is a lot of uncertainty on how to apply the instrument and especially, when to apply it. The distinction between rights and principles and the difficulty to draw the borders of the scope of EU law prove very challenging to practitioners.

As a result, one can see that some references to the Charter by the national judiciary are superficial, while others are in error.
When it comes to the legislature, the use of the Charter in impact assessments and legislative scrutiny procedures is far from systematic. In this sense, the laudable procedure in Finland, which explicitly requires examining a bill’s compatibility with EU fundamental rights, is the rare exception rather than the rule.

Turning to national civil society, the awareness of the Charter is particularly low. In the FRA conference paper released today, you will find the results of the Agency’s latest consultation on the topic with national organisations. It shows that one out of ten civil society organisations have never used the Charter and only one out of four use it often. Figures are similar for national human rights institutions.

What’s more, most organisations are not aware of any government policies promoting the Charter and the vast majority of them have never organised a training on it.

In the same study we did however uncover rare invaluable work that can inspire us all to try harder. For example, the Czech Public Defender of Rights reported how it referred to the Charter in cases concerning asylum and migration law, dismissal of a policeman because he was HIV positive, and in the case of access of a blind person to a public space.

Turning to the general population, here also we are aware that levels of knowledge of the Charter are low. However, on this point I am not greatly concerned, taking
account of the relative youth of the instrument. Consider how few people were aware of the European Convention on Human Rights in the year 1963, 10 years after its entry into force.

I am confident that over time, if the key professional groups continue to use and engage with the Charter, just as in the case of the European Convention, the levels of awareness will rise in the general population also.

...the role of the ECJ...

As we reflect on how to improve awareness and use of the Charter at the national level, we must acknowledge with gratitude and appreciation the leadership role of the European Court of Justice.

And today is a special day for the Court. We are not only celebrating the 10th anniversary of the Charter, we are also marking the 60th anniversary of the judgment in the Stauder case, the best known of the first human rights cases before the Court.

It was on 12 November 60 years ago, that the Court found that “fundamental human rights [are] enshrined in the general principles of Community law and protected by the Court”. It was only then that human rights became formally recognised as part of EU law.

And in fact, over the years, the Court has taken a human rights-centric approach for which it deserves great credit and respect.
Increasingly the charter is at the heart of the courts’ reasoning. This is well illustrated by the explosion in references to the Charter, from an annual number of some 100 in 2013 to the figure of 350 last year.

...ways forward...

So then what is now needed to enhance attention to and respect for the Charter, especially at the national level? Allow me to suggest three action areas:

• **Ownership**

We need to tackle the lack of ownership of the Charter at the level of some Member States.

I have in mind in particular Article 51 of the Charter, which requires that states not only respect and observe the charter but that they also “promote application thereof”.

This is a clarion call for national level leadership but seems largely overlooked.

Indeed, we have not found a single national action plan in place anywhere in the EU at Member State level. This anniversary year is a good moment to redress the gap.

• **Education & training**

Education and training clearly need to be a top priority – starting at university and continuing throughout their professional lives, judges, lawyers and law makers need
to benefit from high quality academic and professional training.

We have some way to go.

A recent consultation of the Agency shows that learning more about the Charter is a goal or an objective of a judicial training only in some Member States. But it should be a goal in all. And it should be accessible to other professions as well.

In this regard, I of course pay tribute to the longstanding work and important role of the European Judicial Training Network.

• Expanding the focus

We need to see far more engagement across all the entitlements enshrined in the Charter.

The Charter doesn’t only concern the well-known issues such as fair trials, justice, the rights of citizens to vote – it is also about our social economic entitlements: right to decent income, right to proper labour conditions, etc.

Here the engagement with the Charter appears to be especially low. Last year, in the Court of Justice only 10% of its references to the Charter pertained to the chapter on solidarity, where most socio-economic rights are contained.
You will agree that such figures demonstrate significant missed opportunities, especially in the context of a moment where we recognise the need to do much more to combat inequality in our societies.

It is in the spirit of a much wider engagement with the Charter that I am pleased to inform you that today the EU Justice and Home Affairs Agencies, including the Fundamental Rights Agency, are pledging in a common declaration signed by the nine Directors to respect and promote fundamental rights throughout our work.

We aim to build on what has been achieved and work towards greater recognition of what the Charter guarantees.

...FRA’s contribution...

The Fundamental Rights Agency is committed to support use of the Charter at national level. We have already published a handbook for legal practitioners and we are maintaining the so-called “Charterpedia” – an easy to access online tool with information on the Charter. We also include an analysis of use of the Charter in our annual Fundamental Rights Report.

Today we are launching a new tool, the European Fundamental Rights Information System. This online programme will pull together all the judicial findings of all the bodies dealing with fundamental rights, country by country, theme by theme. This will help organise the
Dear colleagues,

To conclude, I would like to come back to the fading copy of the Charter that I saw in the Parliament. I have noticed that it has recently been removed to safe keeping. I consider this also has some symbolic value. It is an indication that invisibility will not be tolerated. Perhaps it could be read as a determination by our law makers for the Charter to leave its case and become a living instrument in the hands of all Europeans.

Thank you