



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from: Presidency
to: Working Party on Fundamental Rights, Citizens Rights and Free Movement of
Persons

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Subject: Charter of Fundamental Rights of the European Union

DRAFT COUNCIL CONCLUSIONS

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Article 2 of the Treaty on European Union, **whereby** the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities;

Having regard to Article 6 of the Treaty on European Union, pursuant to which the Charter of Fundamental Rights of the European Union (hereinafter ‘Charter’) has become legally binding; and to the progress made through the incorporation of the Charter into the EU primary law in increasing the visibility of the EU’s values, human rights, fundamental freedoms and principles;

Whereas the European Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter 'the European Convention on Human Rights') under the conditions laid down by the Treaties;

Whereas fundamental rights, as guaranteed by the European Convention on Human Rights and as they result from the constitutional traditions common to the Member States, constitute general principles of the Union's law;

Whereas the Charter applies to the institutions, bodies, offices and agencies of the Union, and therefore all their acts, legislative or non-legislative, must be in full conformity with the Charter;

Whereas the Charter applies to the Member States only when they are implementing Union law;

Having regard to the Protocol on the application of the Charter to Poland and to the United Kingdom;

Having regard to the Commission Communication of 20 October 2010 on the strategy for the effective implementation of the Charter of Fundamental Rights by the European Union;

Having regard to the European Parliament resolution of 15 December 2010 on the situation of Fundamental Rights in the European Union (2009) – Effective implementation after the entry into force of the Treaty of Lisbon;

Having regard to the Council conclusions of 25 February 2011 on the role of the Council of the European Union in ensuring the effective implementation of the Charter of Fundamental Rights of the European Union;

Having regard to the case law of European Court of Justice relating to fundamental rights.

WELCOMES

1. the first Annual Report from the Commission on the Application of the EU Charter of Fundamental Rights (hereinafter '2010 Report'); which delivers relevant information illustrating the application of the Charter;

2. the commitment taken by the Commission to present annual reports monitoring progress on the enforcement of the Charter in the areas where the Union has powers to act;
3. the opportunity this report presents for an annual inter-institutional exchange of views with the Council and the European Parliament on the application of the Charter.

UNDERLINES

4. its own responsibility for the application of the Charter as well as for informing the citizens about the scope of application of the Charter without prejudice to the competences of the Member States;
5. its readiness to engage in an exchange of views on the application of the Charter with other EU institutions;
6. that since the Lisbon Treaty entered into force several important steps of horizontal nature have been taken by the Council to strengthen the protection of fundamental rights.

HIGHLIGHTS

7. in this context among others that the Council gave the former ad hoc Working Party on Fundamental Rights and Citizenship a permanent status in the very end of 2009 and tasked it with all matters relating to fundamental rights, citizens' rights and free movement of persons; this working party started to work in its present form in 2010;
8. that the Council adopted a Decision authorising the Commission to negotiate the accession agreement of the European Union to the European Convention on Human Rights and laying down the negotiation directives;
9. its contribution, provided for through the FREMP Working Party as a special committee appointed pursuant to Article 218 (4) of the Treaty on the Functioning of the European Union, to the significant progress made towards concluding the negotiations on the EU accession to the European Convention on Human Rights and stresses the importance of this accession in complementing the fundamental rights protection on European level;
10. the effectiveness of the guidelines, endorsed by the Coreper, on methodological steps to be taken to check Fundamental Rights compatibility at the Council's Preparatory Bodies in order to ensure a better implementation of the Charter in the course of the Council's work in both legislative and non-legislative actions;

STRESSES

11. that beside the steps taken to overall implementation of fundamental rights and to ensure the proper application of the Charter as a whole,
12. that in responding to the 2010 Report which focuses rather on the legislative acts adopted by the relevant institutions as well as the initiatives taken by the Commission, it finds it essential to highlight, by going through the chapters of the Charter, actions taken by the Council in 2010 regarding the application of the Charter and to point out some areas for future initiatives;

Dignity

13. that the Council adopted a Decision supplementing the Schengen Borders Code as regards the surveillance of the sea external borders, which, inter alia, also contains guarantees for respecting the prohibition of inhuman or degrading treatment regarding migrants intercepted at sea;

Freedoms

14. that the Council is committed to individual liberties, such as the protection of personal data, the respect for private and family life, the right to marry and the right to found a family, the right freedom of thought, conscience, religion, expression and information, as well as the security of the citizens;
15. that, with a view to addressing in a more effective way the challenges to EU internal security, the Council invited the Commission to submit to the co-legislators of the EU by the end of 2011 an annual report on the achievements and progress made within the framework of the Internal Security Strategy;
16. that, being committed to guaranteeing the protection of personal data, in its conclusions the Council declared its support to a new legal framework based on a comprehensive approach providing for a higher level of harmonisation and aimed at ensuring a higher level of awareness and protection for individuals;
17. that the Council adopted conclusions on the social dimension of education and training inviting the Member States to ensure wider access to high quality education and care, vocational training, higher, and adult education and in general to strengthen the social dimension of education and training systems;

18. that the Council reaffirms its efforts in guaranteeing the right to asylum, and the protection in the event of removal, expulsion or extradition for non-EU citizens in accordance with international standards;

Equality

19. that the respect for prohibition of discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation as well as nationality is one of the founding values of the European Union;
20. that the Council attributes utmost importance to preserve cultural, religious and linguistic diversity of people living in the European Union and adopted conclusions on the role of culture in combating poverty and social exclusion, inviting the Member States and the Commission to mobilise the potential of culture for peaceful co-existence to combat stereotypes and prejudice against particular social and cultural groups experiencing poverty or social exclusion;
21. that the Council reaffirmed, with the adoption of the European Pact for Gender Equality for the years 2011-2020, its commitment to fulfil EU ambitions on gender equality as mentioned in the Treaty and in particular to close the gender gaps in employment and social protection, including the gender pay gap, promote better work-life balance for women and men throughout the life-course, so as to enhance gender equality, increase women's participation in the labour market and contribute to meeting the demographic challenges, as well as combat all forms of violence against women in order to ensure the full enjoyment by women of their fundamental rights.
22. that, recognizing the need to react to the demographic change, the Council adopted conclusions on active ageing in 2010 to mobilise the potential of older persons inviting the Member States to highlight the benefits and opportunities that the economic and social participation of older women and men would provide to society and to strengthen intergenerational solidarity.
23. that, in order to promote the integration of persons with disabilities, the EU ratified in 2010 the UN Convention on the Rights of Persons with Disabilities after the Council had adopted a code of conduct setting out internal arrangements for the implementation by and representation of the European Union relating to this convention;

24. that the Council adopted conclusions on advancing Roma Inclusion aiming at advancing the full inclusion of the Roma by guaranteeing their rights and promoting their social and economic integration (within the framework of the decisions and recommendations made by the EU institutions);
25. that the protection of the rights of the child remains a priority for the Council, which attaches great importance to the proposal of the Commission on the new rules to fight sexual abuse of children and child pornography now being under trialogue with the European Parliament and also adopted Council Conclusions from 2010 on the Action Plan on unaccompanied minors;

Solidarity

26. that concerning the prohibition of child labour and protection of young people at work, the Council reaffirmed its commitment to the prohibition of child labour and the protection of young people at work. The Council adopted conclusions on the integration youth on the labour market;
27. that in order to further reconcile competitiveness and social protection, the Council adopted conclusions on the Social dimension in the context of an integrated Europe 2020 Strategy which reflects its full readiness to deploy its expertise on social inclusion and social protection policies to actively contribute to the successful implementation of the Europe 2020 Strategy and the European Semester, including its key feature of enhanced economic governance;
28. that in the context of health care, the Council adopted conclusions on Equity and Health in All Policies, inviting the Member States to further develop their policies and actions to reduce health inequalities and to participate actively in sharing good practice, taking into account the need for action across all relevant policies.

Citizens' Rights

29. that the Council adopted conclusions on facilitating entry for citizens of the EU at external borders, focusing on the need to improve fast-track systems for external border crossings for the benefit of EU citizens with due regard also to the security aspects;

30. that relating to diplomatic and consular protection the Council approved updated consular guidelines on the protection of EU citizens in third countries which, notwithstanding primary national responsibility in consular matters, provide a framework for consular cooperation, especially in situations in which the safety of EU citizens is endangered in a third country.

Justice

31. that the Council adopted a Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings, calling for the adoption of five measures covering fundamental procedural rights;
32. that the Council as co-legislator adopted in 2010 the Directive on the right to interpretation and translation in criminal proceedings and hopes that following the Roadmap, depending on the ongoing triologue with the European Parliament, the Directive on the right to information in criminal proceedings can also be adopted in the near future.

STRESSES

33. that action to respect, promote and protect fundamental rights and meet the values, objectives, and principles of the EU requires a combination of all relevant efforts and instruments at EU and national levels including also maintaining an intense dialogue with the citizens;
34. that the effective application of the Charter shall be underpinned by the dynamic activity of all EU institutions and bodies, offices and agencies, such as the European Union Agency for Fundamental Rights, as well as the actions of competent national institutions while applying EU law.

CONSIDERS

35. that citizens' expectations about the enforcement of the Charter are noticeable, however, the requests and complaints of the citizens addressed to EU institutions frequently reflect misunderstandings and over-expectations about the purpose of the Charter;
36. therefore essential to better inform the citizens about the scope of the Charter and that the Charter and its explanations should be easily accessible also on the homepages of the Council and its Presidency in order to raise awareness of the general public;

37. that citizens shall be granted access to information on the judicial and non-judicial remedies existing in the Member States as well as possible remedies at EU level.

INVITES THE COMMISSION

38. to pursue its activity as described in the 2010 Report with emphasis on areas which are likely to have the most decisive impact on the implementation of fundamental rights enshrined in the Charter;
39. to enhance the European e-Justice Portal by providing the citizens with information about where to turn to when their fundamental rights have been violated.

INVITES THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

40. to continue its precious activity within its mandate including providing expertise as well as reliable and comparable data for the relevant decision making bodies and raising public awareness of fundamental rights.

INVITES THE EUROPEAN PARLIAMENT

41. to take part in the dialogue on the implementation of the Charter.

INVITES THE MEMBER STATES

42. to inform the citizens on the application of the Charter, and especially about the way they can get information about their rights;
43. to ensure proper compliance with the provisions of the Charter while implementing EU law.
