



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

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to:	COREPER/COUNCIL
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Subject:	Draft Council conclusions on the Council's actions and initiatives for the implementation of the Charter of Fundamental Rights of the European Union

On 1 April 2011, the Commission submitted to the Council the 2010 Report on the Application of the EU Charter on Fundamental Rights.¹

In follow-up to this report, the Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons examined the above mentioned draft Council conclusions during three of its meetings and lastly on 12 May 2011, on the basis of doc. 9008/3/11 REV 3 FREMP 34 JAI 239 COHOM 106 JUSTCIV 96 JURINFO 19.

The text of the draft Council conclusions as it arose from this meeting is set out in the Annex to this note.

COREPER is invited to recommend to the Council (General Affairs) to adopt the Council conclusions as set out in the Annex to this Note.

¹ Doc. 8453/11 FREMP 28 JAI 206 COHOM 91 JUSTCIV 82 JURINFO 15

DRAFT COUNCIL CONCLUSIONS**on the Council's actions and initiatives for the implementation of the Charter of Fundamental rights of the European Union**

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 fact that the European Council in the Stockholm Programme underlined the “obligation of the Union, including its institutions, to ensure that in all its areas of activity, fundamental rights and freedoms, are actively promoted” and invited the Union institution to “make full use of the expertise of the European Union Agency for Fundamental Rights and to consult, where appropriate, with the Agency, in line with its mandate, on the development of policies and legislation with implications for fundamental rights”.

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 Court of Justice of the European Union 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 [...] provides information illustrating the application of the Charter;
2. the commitment made 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 and expresses its readiness to engage in such an exchange of views.

UNDERLINES

4. its own responsibility for the application of the Charter as well as for informing citizens about the scope of application of the Charter without prejudice to the competences of the Member States;
5. that since the Lisbon Treaty entered into force several important steps of a horizontal nature have been taken by the Council to strengthen the protection of fundamental rights.

HIGHLIGHTS

6. in this context among others that the Council gave the former ad hoc Working Party on Fundamental Rights and Citizenship a permanent status at 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 (FREMP) started to work in its present form in 2010;
7. 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;
8. 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 a European level;
9. the efficacy 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

10. that in responding to the 2010 Report which focuses on the legislative acts adopted by the relevant institutions as well as the initiatives taken by the Commission, it finds it essential to highlight actions taken by the Council in 2010 regarding all provisions in the Charter and to point out some areas for future initiatives;

Dignity

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

Freedoms

12. 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;
13. 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;

Equality

14. that the principle of equality is one of the founding values of the EU which is also reflected in the prohibition of discrimination based on any grounds 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;

15. that the Council attributes the utmost importance to preserving 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;
16. that the Council reaffirmed, with the adoption of conclusions on 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;
17. 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;
18. 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;
19. that the Council adopted conclusions aimed 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);
20. 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 trilogies with the European Parliament and also adopted Council Conclusions from 2010 on the Action Plan on unaccompanied minors;

21. that one of the results of the European Year for Combating Poverty and Social Exclusion 2010 was to raise awareness concerning the vulnerability of persons facing social exclusion and poverty;

Solidarity

22. that the Council reaffirmed its commitment to the prohibition of child labour and the protection of young people at work. The Council also adopted conclusions on the integration of youth in the labour market;
23. 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;
24. 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

25. 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;
26. 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

27. 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;

28. 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 on-going negotiation on the Directive on the right to information in criminal proceedings, that Directive can also be adopted in the near future.

STRESSES

29. its commitment to continue its activities for a more effective implementation of all provisions of the Charter;
30. 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;
31. that the effective application of the Charter should be underpinned by actions 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 when implementing EU law.

CONSIDERS

32. that although citizens have certain expectations about the implementation of the Charter the requests and complaints of the citizens addressed to EU institutions frequently reflect misunderstandings and over-expectations about the purpose of the Charter;
33. that it is therefore essential to better inform 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.

INVITES THE COMMISSION

34. to pursue its activity with emphasis on areas which are likely to have the most significant impact on the implementation of fundamental rights reaffirmed in the Charter;
35. 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

36. to continue its important activities within its mandate which includes providing expertise as well as reliable and comparable data for the relevant decision making bodies and raising public awareness of fundamental rights;
37. to build on its practice of issuing thematic situation reports in the context of fundamental rights issues that are of relevance for the implementation of European Union law by the institutions and by Member States in their respective competence.

INVITES THE EUROPEAN PARLIAMENT

38. to take part in the efforts aimed at the implementation of the Charter.

INVITES THE MEMBER STATES

39. to inform their citizens on the application of the Charter, and especially about the way they can get information about their rights;
40. to maintain their vigilance on the proper compliance with the provisions of the Charter when implementing EU law.
