



Brussels, 20 September 2019
(OR. en)

12357/19

LIMITE

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NOTE

From: Presidency

To: Committee of the Permanent Representatives / Council

Subject: Council Conclusions on the Charter of Fundamental Rights after 10 Years:
State of Play and Future Work

1. This year marks the 10th anniversary of the EU Charter of Fundamental Rights becoming legally binding.
2. In June 2019, the Commission adopted its 2018 Annual Report¹ on the Application of the EU Charter of Fundamental Rights, and the EU Agency for Fundamental Rights adopted the Fundamental Rights Report 2019².
3. The Presidency prepared a discussion paper on the application of the Charter at the national level that was discussed at the FREMP meeting on 10 July 2019. On the basis of this discussion, the Presidency subsequently prepared a set of draft Council conclusions that were examined at the FREMP meetings on 5 September and 17 September 2019.

¹ 10064/19

² 10116/19

4. As a result of these discussions, the Presidency produced a revised version of the draft conclusions (annexed to this note) that presents a balanced compromise that should meet the concerns of all delegations. This text was put into silence procedure after the last FREMP meeting and no delegation objected to it.
5. In the light of the above, COREPER is invited to agree on the draft conclusions, as set out in the annex to this note, and to submit them to the Council (Justice and Home Affairs), for adoption.

Encl.: Draft Council Conclusions on the Charter of Fundamental Rights after 10 Years: State of Play and Future Work

DRAFT

**Council Conclusions on the Charter of Fundamental Rights after 10 Years: State of Play and
Future Work**

INTRODUCTION

1. The Council recalls that the European Union is a union based on common values, as enshrined in Article 2 of the Treaty on European Union, founded on respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These common values underpinning our democratic and societal models are the foundation of European freedom, security and prosperity. The rule of law plays a crucial role in all our democracies and is a key guarantor that these values are well protected. It must be fully respected by all Member States and the EU¹.

¹ A New Strategic Agenda 2019-2024, adopted by the European Council on 20 June 2019.

2. The Council welcomes the 10th anniversary of the EU Charter of Fundamental Rights becoming legally binding for the EU institutions, bodies, offices and agencies and for the Member States when implementing EU law. The Council emphasises that the Charter has the same legal value as the Treaties of the European Union. The Council acknowledges that the Charter is one of the most modern and comprehensive legally binding fundamental rights instruments.

3. The Council looks favourably on the 2018 Commission report on the application of the Charter² as well as the Fundamental Rights Report 2019³ of the European Union Agency for Fundamental Rights (the Fundamental Rights Agency). As reflected in the reports by the Commission and the Fundamental Rights Agency, the challenges in the field of non-discrimination persist. Therefore, the Council reiterates its commitment to measures to combat discrimination on any ground listed in Article 21(1) of the Charter. The Council welcomes new initiatives launched in 2018 to promote Charter rights and emphasises that this work must continue with a strong commitment to promoting and protecting fundamental rights and ensuring that the Charter is used to its full potential.

² 10064/19

³ 10116/19

4. The Council underlines the importance of the case-law of the Court of Justice of the European Union in the interpretation and application of the Charter and recognises the growing role played by national courts in ensuring the effectiveness of the Charter.
5. The Council reaffirms its commitment to the EU's accession to the European Convention on Human Rights, as enshrined in Article 6(2) of the Treaty on European Union. The Council recognises that the aim of the accession is to reinforce the common values of the Union, further enhance the effectiveness of EU law and improve the coherence of fundamental-rights protection in Europe.
6. Fundamental rights can only be realised in people's lives in a democratic society based on the rule of law, where independence of the judiciary is an essential building block. The Council therefore welcomes the conference 'How to Ensure the Resilience of Our Societies in a Changing European Landscape – the Interaction between Democracy, the Rule of Law and Fundamental Rights', organised by the Finnish Presidency on 10-11 September in Helsinki, which concluded that these norms and values are inseparably interlinked and mutually reinforcing.
7. The Council welcomes the Charter-related conferences organised by Council Presidencies and looks forward to the upcoming conference 'Making the EU Charter of Fundamental Rights a reality for all: 10th anniversary of the Charter becoming legally binding', organised by the Commission, the Finnish Presidency and the Fundamental Rights Agency on 12 November 2019. The conference will provide a timely occasion to reflect on how to promote the use and awareness of the Charter amongst all the actors in the Charter's enforcement chain so that it can be fully effective in people's lives.

8. The Council recalls its conclusions⁴ adopted on 9 April 2019 entitled ‘Towards an ever more sustainable Union by 2030’. The Council emphasises that the realisation of fundamental rights, including ensuring compliance with the fundamental rights set out in the Charter, is a precondition for the achievement of the Sustainable Development Goals and for the fulfilment of the commitment to leave no-one behind.

APPLICATION OF THE CHARTER OF FUNDAMENTAL RIGHTS: STATE OF PLAY AND FUTURE WORK

9. The Council invites the following stakeholders to contribute to the implementation of the EU Charter of Fundamental Rights within their respective spheres of competence and by ensuring that sufficient human and financial resources are available to that end:

⁴ Conclusions of the Council of the European Union, ‘Towards an ever more sustainable Union by 2030’, of 9 April 2019 (8286/19).

The Council and Member States

10. The Council reaffirms its commitment to take into account the guidance on the application of the Charter, including the guidelines on methodological steps to be taken to check fundamental-rights compatibility at the Council preparatory bodies⁵, and it expresses its readiness to explore ways to make more efficient use of that guidance in Council preparatory bodies, including through training.
11. The Council recalls Opinion 4/2018⁶ of the Fundamental Rights Agency on the challenges and opportunities for the implementation of the Charter, in particular Opinion No 8 recommending the establishment of an annual ‘Charter exchange’ in the Council Working Party on Fundamental Rights, Citizen’s Rights and Free Movement of Persons (FREMP). The Council also notes the European Parliament resolution⁷ on the implementation of the Charter in the EU institutional framework, adopted on 12 February 2019, and in particular the Parliament’s encouragement of Member States to regularly exchange information and experience on the use, application and oversight of the Charter.

⁵ Guidelines of the Council of the European Union on methodological steps to be taken to check fundamental rights compatibility at the Council preparatory bodies of 20 January 2015 (5377/15).

⁶ Available at https://fra.europa.eu/sites/default/files/fra_uploads/fra-opinion-04-2018_charter-implementation.pdf

⁷ Resolution of the European Parliament on the implementation of the Charter of Fundamental Rights of the European Union in the EU institutional framework, 12 February 2019, P8_TA(2019)0079.

12. The Council acknowledges the usefulness of exchanging good practices on the implementation of the Charter at national level and between Member States and having thematic discussions on the Charter. The Council recalls the exchange of views that took place in FREMP on this topic during the Finnish Presidency and commits itself to continuing such dialogue on an annual basis.
13. The Council notes with concern the results of a recent Eurobarometer survey on citizens' awareness of the Charter⁸, according to which awareness of the Charter remains low. It also notes that the Fundamental Rights Agency's Fundamental Rights Report 2019 points to a lack of national policies that promote awareness and implementation of the Charter.
14. The Council calls on the Member States to strengthen their awareness-raising and training activities regarding the Charter, including for policy makers, civil servants and legal practitioners, as well as national human rights institutions, civil society organisations and other human rights defenders. The Council also calls on the Member States to bring the Charter to the attention of the judiciary and recommends that consideration be given to the development and implementation of guidelines and training programmes on the Charter. The Council also emphasises the importance of providing accessible information about the rights enshrined in the Charter to the general public in order to foster the citizens' ownership of the Charter.

⁸ Special Eurobarometer 487b 'Awareness of the Charter of Fundamental Rights of the European Union', conducted at the request of the European Commission in March 2019.

15. The Council encourages Member States to ensure consistency with the Charter in their national procedural rules on legal scrutiny and impact assessments of national legislation that falls within the scope of EU law. It welcomes relevant tools provided by the Commission and the Fundamental Rights Agency to assist Member States in this regard, and invites Member States to make full use of these tools.

The Commission

16. The Council welcomes the important work carried out by the Commission in the framework of the Commission's Strategy for the effective implementation of the Charter of Fundamental Rights⁹. The Council invites the Commission to continue its efforts to ensure consistency with the Charter in all its legislative and policy initiatives and to examine if the Strategy needs to be reviewed.

17. In order to ensure fundamental rights compliance in all policy areas, the Council invites the Commission to continue to conduct and further enhance systematic fundamental rights impact assessments for all relevant legislative proposals.

⁹ Communication from the European Commission on 'Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union' of 19 October 2010 (COM(2010)0573).

18. The Council emphasises the relevance of the European e-Justice Portal, managed jointly by the Commission and the Member States, in promoting awareness-raising on, and the application and use of, the Charter. It invites the Commission and the Member States to further develop the e-Justice Portal, including by creating a dedicated page on the e-Justice Portal where Member States could publish and update their good practices on awareness-raising on, and use of, the Charter.

The Fundamental Rights Agency

19. The Council welcomes the essential role played by the Fundamental Rights Agency, as set out in its founding regulation¹⁰, in providing expertise on fundamental rights, in particular through the collection and analysis of data on the fundamental rights situation in the Member States. The Council welcomes the Charter-specific work of the Agency, in particular awareness-raising, e-tools and Charter training. The Council encourages the Fundamental Rights Agency to continue developing tools and training, including for legal professionals, and supporting Member States and EU institutions, bodies and agencies in the implementation of the Charter and in promoting a culture of compliance with fundamental rights across the Union.

¹⁰ Council Regulation (EC) No 168/2007 of 15 February 2007.

20. The Council reaffirms its readiness to make the best use of the Fundamental Rights Agency's expertise and data when preparing initiatives that may have an impact on fundamental rights. The Council recalls the possibility of asking for the Agency's advisory opinions on specific thematic topics within its areas of activity or on positions taken by the Council in the course of legislative procedures. The Council invites the EU institutions and Member States to consider using more frequently the data collected by the Agency when preparing fundamental rights-related legislative and policy initiatives.
21. The Council recalls the previous recommendations by external evaluators and the Agency's Management Board on the need to further increase the legal clarity, efficiency and impact of the Agency's work. In this regard, the Council reiterates that it will consider carefully any proposal for amendment of the Agency's founding regulation¹¹ that the Commission may decide to submit, including in order to align it with the Common Approach on EU Agencies, to ensure better governance and efficiency.

¹¹ Council Regulation (EC) No 168/2007 of 15 February 2007.

National Human Rights Institutions, Equality Bodies and other national mechanisms

22. The Council underlines the necessity of safeguarding an enabling environment for independent national human rights institutions, equality bodies and other human rights mechanisms. They play a crucial role in the protection and promotion of fundamental rights and in ensuring compliance with the Charter. The Council encourages Member States as well as the Commission, the Fundamental Rights Agency and other Union institutions, bodies and agencies to further enhance their cooperation with these mechanisms and to support them in their respective mandates, including the implementation and promotion of the Charter.

Civil society

23. The Council recognises the essential role of civil society organisations at local, regional, national and EU levels in promoting fundamental rights, including in raising awareness of fundamental rights among rights-holders and in supporting their efforts to exercise and defend their rights, within the framework of international, EU and national law. The Council recalls the importance of removing and refraining from any unnecessary, unlawful or arbitrary restrictions on the civil society space and acknowledges that transparent, sufficient and easily accessible funding is crucial for civil society organisations. The Council looks forward to the continuation of the legislative work on the new Justice, Rights and Values Fund.