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Glossary



Charter of Fundamental Rights

The Charter of Fundamental Rights of the European Union (EU) summarises the common values of the EU Member States and brings together in a single text the traditional civil and political rights as well as economic and social rights. Its purpose is set out in the preamble: "it is necessary to strengthen the protection of fundamental rights in the light of changes in society, social progress and scientific and technological developments by making those rights more visible in a Charter."

Background

In June 1999 the Cologne European Council concluded that the fundamental rights applicable at EU level should be consolidated in a charter to give them greater visibility. The Heads of State or Government believed that the charter should contain the general principles set out in the Council of European Convention of 1950 and those derived from the constitutional traditions common to the Member States, as well as the fundamental rights that apply only to the Union's citizens and the economic and social rights contained in the European Social Charter and the Community Charter of the Fundamental Social Rights of Workers. It would also reflect the principles derived from the case law of the Court of Justice and the European Court of Human Rights.

The Charter was drawn up by a Convention consisting of the representatives of the Heads of State or Government of the Member States, one representative of the President of the European Commission, members of the European Parliament and members of national parliaments. Formally adopted in Nice in December 2000 by the Presidents of the European Parliament, the Council and the Commission, it constitutes a political undertaking that has no binding legal effect.

In the Lisbon Treaty amending the Treaties, the Charter is given binding effect by the insertion of a phrase conferring on it the same legal value as the Treaties. To this end, the Charter was proclaimed a second time in December 2007.

Content

For the first time, a single document brings together all of the rights previously to be found in a variety of legislative instruments, such as national laws and international conventions from the Council of Europe, the United Nations and the International Labour Organisation. By making fundamental rights clearer and more visible, the Charter helps to develop the concept of citizenship of the European Union and to create an area of

freedom, security and justice. It enhances legal certainty as regards the protection of fundamental rights, where in the past such protection was guaranteed only by the case law of the Court of Justice and Article 6 of the EU Treaty.

The Charter contains a preamble and 54 Articles, grouped in seven chapters:

- Chapter I: **Dignity** (human dignity, the right to life, the right to the integrity of the person, prohibition of torture and inhuman or degrading treatment or punishment, prohibition of slavery and forced labour);
- Chapter II: **Freedoms** (the right to liberty and security, respect for private and family life, protection of personal data, the right to marry and found a family, freedom of thought, conscience and religion, freedom of expression and information, freedom of assembly and association, freedom of the arts and sciences, the right to education, freedom to choose an occupation and the right to engage in work, freedom to conduct a business, the right to property, the right to asylum, protection in the event of removal, expulsion or extradition);
- Chapter III: **Equality (equality before the law, non-discrimination, cultural, religious and linguistic diversity, equality between men and women, the rights of the child, the rights of the elderly, integration of persons with disabilities)**;
- Chapter IV: **Solidarity (workers' right to information and consultation within the undertaking, the right of collective bargaining and action, the right of access to placement services, protection in the event of unjustified dismissal, fair and just working conditions, prohibition of child labour and protection of young people at work, family and professional life, social security and social assistance, health care, access to services of general economic interest, environmental protection, consumer protection)**;
- Chapter V: **Citizens' rights (the right to vote and stand as a candidate at elections to the European Parliament, the right to vote and stand as a candidate at municipal elections, the right to good administration, the right of access to documents, the ombudsman, the right to petition, freedom of movement and residence, diplomatic and consular protection)**;
- Chapter VI: **Justice (the right to an effective remedy and a fair trial, the presumption of innocence and the right of defence, principles of legality and proportionality of criminal offences and penalties, the right not to be tried or punished twice in criminal proceedings for the same criminal offence)**;
- Chapter VII: General provisions

In general, the rights referred to apply to everyone. However, the Charter also refers to categories of persons with special needs (children, the elderly, people with a disability). Chapter V also examines the specific situation of European citizens, referring to certain rights already mentioned in the treaties (freedom of movement and residence, the right to vote, the right to petition) and introducing the right to good administration. Recognising the changes that have occurred in society, the Charter includes not only the traditional rights (right to life, freedom of expression, right to an effective remedy, etc.), but also rights that were not included in the Council of Europe Convention of 1950 (data protection, bioethics,

etc.). In line with certain national legislation, it also recognises ways of founding a family other than marriage and no longer refers to marriage between men and women, but simply marriage.

Scope

The general provisions serve to establish links between the Charter and the European Convention on Human Rights and to determine the scope of the Charter. The Charter applies to the European institutions, subject to the principle of subsidiarity, and may under no circumstances extend the powers and tasks conferred on them by the Treaties. The principles of the Charter also apply to the Member States (to central, regional and local authorities) when they are implementing Community law. The Court of Justice had already confirmed the duty of Member States to respect fundamental rights (see, for example, the judgment in Case C-292/97).

The Charter as a point of reference for the courts

The Charter has been repeatedly cited in the opinions of the Advocates-General and has on several occasions influenced the conclusions of the Court of Justice of the European Communities. The opinions of the Advocates-General are not binding on the Court, but suggest legal solutions that are likely to influence it. In some cases the reference to the Charter has been marginal, but in other the Advocates-General have used it to interpret fundamental rights, though noting that it is not legally binding. The Charter's lack of legal status does not mean, however, that it has no effect. Advocates-General Tizzano, Léger and Mischo have stated that "the Charter has undeniably placed the rights which form its subject-matter at the highest level of values common to the Member States." For the first time, in its ruling of 27 June 2006 concerning the Directive on family reunification (Case C-540/03), the Court of Justice made explicit reference to the Charter and stressed its importance.


Network of independent human rights experts

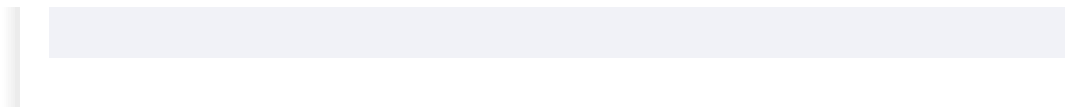
In its report on the state of fundamental rights in the European Union (2000) (2000/2231(INI)), the European Parliament recommended the creation of a network of experts in fundamental rights to assess the application of each of the rights set out in the Charter. The network was created in September 2002 and on 31 March 2003 it produced its first report on the situation of fundamental rights in the European Union and its Member States in 2002. This is a summary of the national reports by each of the experts and contains recommendations for the institutions and the Member States. The network was financed as a "preparatory action" under Article 49 of the Financial Regulation (Council Regulation No [1605/2002](#)) that terminated in September 2006 since such an action is limited to three years and cannot be renewed.

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