



The Charter of Fundamental Rights of the European Union

DG JUSTICE.C2 FUNDAMENTAL RIGHTS POLICY UNIT

These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

Structure of the Presentation

- 1. The development of fundamental rights in EU law**
- 2. The Charter of Fundamental rights**
 - *Structure and main group of rights covered*
 - *Scope and applicability*
- 3. Putting the Charter into practice**
 - *The Charter in the legislative/policy-making process*
 - *Implementation of EU law and policy*

1. The development of fundamental rights in EU law

- Human rights have always been integral to the European Union
- The early days - The role of the **European Court of Justice**

- **The Charter of Fundamental Rights**

- Drawn up in 2000 by a convention consisting of a representative from each EU country and the European Commission, as well as members of the European Parliament and national parliaments.
- Formally proclaimed in Nice in December 2000 by the European Parliament, Council and Commission.

- On 1 December 2009, with the entry into force of the **Lisbon Treaty**, the Charter was given binding legal effect equal to the Treaties.
- The new status of the Charter strengthens the Union's action on respect for fundamental rights.

2. The Charter of Fundamental Rights

2.1 Structure and main groups of rights covered

- The Charter entrenches all the rights found in the case law of the Court of Justice of the EU; the rights and freedoms enshrined in the European Convention on Human Rights; other rights and principles resulting from the common, constitutional traditions of EU countries and other international instruments.
- Creates legal certainty in the EU, by making fundamental rights clearer and more visible.

- Structure: Preamble and 54 articles in seven chapters
 - *Dignity,*
 - *Freedom,*
 - *Equality,*
 - *Solidarity,*
 - *Citizens' rights,*
 - *Justice*
 - *General Provisions*

Article 52.1: Possible limitations to the rights.

Article 52.3: when rights correspond to rights guaranteed by the ECHR: same meaning and scope - EU law may provide for more extensive protection.

2.2 Scope and Applicability

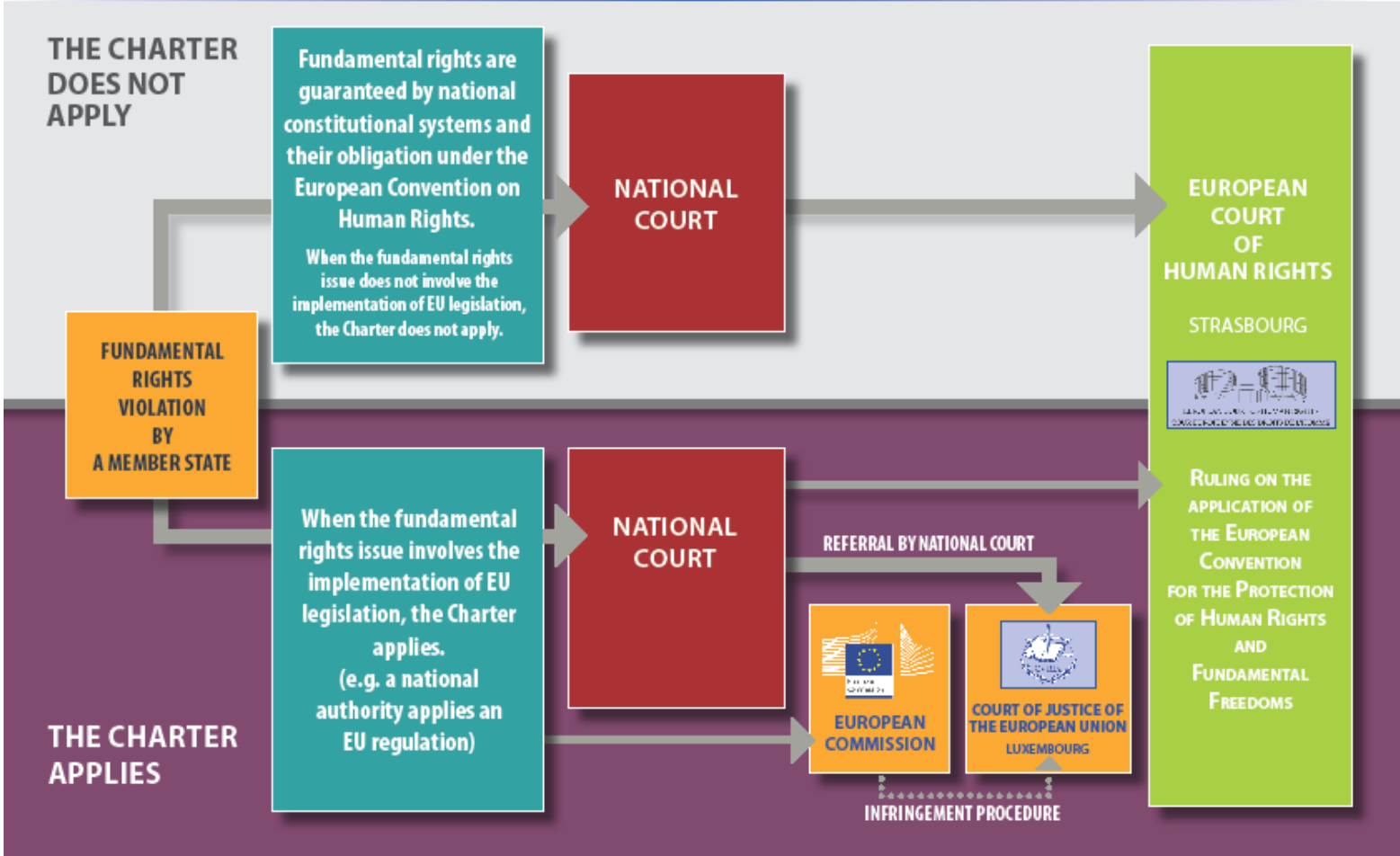
- *Article 51.2 Charter applies to the European Institutions.*
- *Does not extend the powers and task conferred on them by the Treaties.*
- *The Charter only applies to EU Member-States when they implement EU law.*
- *Principles vs rights (eg. right to social security and assistance) – the Charter as a tool for interpreting EU law*



European
Commission

EU CHARTER OF FUNDAMENTAL RIGHTS

When does it apply and where to go in case of violation?



3. Putting the Charter into practice

The Charter strategy*:

- Strengthen the culture of Fundamental Rights in all the EU institutions (fundamental rights checklist).
- Ensure compliance in implementation

**COMMUNICATION FROM THE COMMISSION - Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union, COM(2010) 573*

3.1 The Charter in the legislative/policy-making process

The Commission has a methodology for ensuring that systematic and thorough checks are carried out regarding respect for fundamental rights in draft proposals during:

- **Preparatory consultations**
- **Impact Assessments**
- **Drafting of legislation: Regulations, Directives, Recommendations (non-binding)**
- **EP and Council**

The Commission carries out checks to ensure that the Charter is reflected in ex-post evaluations of EU instruments.

Assessment of Fundamental rights in the Impact assessment and in drafting of Commission legislative proposals and policy documents

- *All proposals for EU legislation/policy must respect the Charter*
- *The Commission therefore reinforced its assessment of the impact of new legislative proposals on fundamental rights*
- *On the basis of a '**fundamental rights check list**', the Commission's services identify which fundamental rights could be affected by a proposal and assess systematically the impact on these rights of each envisaged policy option*

Fundamental Rights "Check-List"

1. *What fundamental rights are affected?*
2. *Are the rights in question absolute rights (eg. ban on torture)?*
3. *What is the impact of the various policy options under consideration on fundamental rights? Is the impact beneficial or negative for fundamental rights?*
4. *Do the options have both a beneficial and a negative impact, depending on the fundamental rights concerned (eg. negative impact on freedom of expression and beneficial on property)?*
5. *Would any limitation of fundamental rights be clear and predictable?*
6. *Would any limitation of fundamental rights:*
 - *be necessary to achieve an objective of general interest or to protect the rights and freedoms of others?*
 - *be proportionate to the desired aim?*
 - *preserve the essence of the fundamental rights concerned?*

3.2 The Charter in the context of Implementation of EU law and policy

- *In case of against acts by the EU institutions that infringe fundamental rights. European Court of Justice has the power to review.*
- *In case national authorities violate the Charter when implementing EU law - National courts (under the guidance of the European Court of Justice) has power to review.*
- *The European Commission, can take an EU country to court for violating fundamental rights when implementing EU law.*

Annual Report on the Application of the Charter

Monitors progress in the areas where the EU has powers to act, showing how the Charter has been taken into account in actual cases, notably when new EU legislation is proposed.

https://ec.europa.eu/info/aid-development-cooperation-fundamental-rights/your-rights-eu/eu-charter-fundamental-rights_en



Thank you for your attention!

Feel free to ask questions!