Situation of fundamental rights in the European Union (2009) - Effective implementation after the entry into force of the Treaty of Lisbon

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PURPOSE: the adoption of a strategy for the effective implementation of the Charter of Fundamental Rights by the European Union in the new legal context following the entry into force of the Lisbon Treaty.

BACKGROUND: with the Lisbon Treaty, decisive steps were taken towards a Europe of fundamental rights:

the Charter of Fundamental Rights of the European Union has become legally binding and the Union is going to accede to the European Convention on Human Rights;

- the European Parliament and the European Council have made promotion of fundamental rights in the Union one of their priorities for the future of the area of justice, freedom and security;
- there is now a member of the Commission with specific responsibility for the promotion of justice, fundamental rights and citizenship, and the members of the European Commission promised, in a solemn undertaking before the Court of Justice, to uphold the Charter;
- lastly, the Lisbon Treaty is a major step forward in that it has extended the co-decision procedure, removed the pillar structure set up under the earlier Treaty, given the Court of Justice general responsibility in the field of freedom, security and justice, and confirmed the place of human rights at the heart of the Union's external action.

All the components of an ambitious fundamental rights policy are therefore present. Respect for fundamental rights has always been an obligation subject to scrutiny by the Court of Justice and an essential component in the construction of the Union, but the Charter's new status will give **a boost to the Union's work in this area**. The objective of the Commission's policy following the entry into force of the Lisbon Treaty is to make the fundamental rights provided for in the Charter as effective as possible.

CONTENT: the strategy put forward by the Commission is based on a clear objective: **the Union must be exemplary** to ensure the effectiveness of the fundamental rights contained in the Charter. It covers the following aspects:

1) Guarantee the respect of fundamental rights within the European Union:

Strengthening the culture of fundamental rights in the Commission: it is necessary to promote a "fundamental rights culture" at all stages of the procedure, from the initial drafting of a proposal within the Commission to the impact analysis, and right up to the checks on the legality of the final text. **The Commission routinely checks its legislative proposals** and the acts it adopts to ensure that they are compatible with the Charter. The Commission has already taken some internal organisational measures - "the methodology"- in order to ensure that its departments are systematic and thorough in checking that all the fundamental rights concerned have been respected in all draft proposals.

Taking the Charter into account in the legislative process: during the legislative process, the Commission's proposals may be amended by one of the co-legislators raising questions about fundamental rights, without any systematic review of their impact and compatibility with fundamental rights.

Co-legislators' amendments to Commission proposals must comply with the Charter. The Commission will strongly defend its position when it comes to the standards of fundamental rights protection contained in its proposal, and will notify co-legislators of its opposition if they seek to lower those standards. In addition, the manner in which draft amendments which raise issues of compatibility with the Charter are dealt with, should be subject to a **transparent inter-institutional dialogue**.

Ensuring that the Member States respect the Charter when implementing Union law:the upholding of fundamental rights by Member States when they implement Union law is essential to the mutual confidence necessary for the operation of the Union. The Commission will use all the means at its disposal to ensure that the Charter is adhered to by the Member States when they implement Union law. Whenever necessary, it will start **infringement procedures** against Member States for non-compliance with the Charter in implementing Union law.

2) Better informing the public: the public needs to be well informed about these rights and how to enforce them in practice when they are violated. Information on means of redress is particularly important in relation to: the rights of the child: for example, the problems most often cited by young people are that they do not know how defend their rights or who to turn to.

The Commission will step up its information activities concerning the Union's role and powers in the area of fundamental rights and the possibilities for intervention, and also ensure that the language needs of citizens and professionals are catered for.

To provide better information on the existing means of redress, it will ensure that, in 2011, the **e-justice portal** provides the public with information about legal remedies in cases of alleged violations of fundamental rights. It will also launch a joint reflection on the information available on legal remedies in the area of fundamental rights.

3) Following progress: the Commission will present an Annual Report on application of the Charter which will have two objectives: i) to take stock of progress in a transparent, continuous and consistent manner, and ii) to offer an opportunity for an annual exchange of views with the European Parliament and the Council.

The **European Parliament**, particularly through its questions and petitions, is a crucial intermediary for finding out about the fundamental rights situation in Member States in areas within the Union's competence. The Commission will explore with Parliament the best way of cooperating and harnessing their efforts in the preparation of its annual report and within the mechanisms for cooperation between Parliament and national parliaments.