Implementation of the Charter of Fundamental Rights of the European Union in the EU institutional framework

2017/2089(INI) - 30/01/2019 - Committee report tabled for plenary, single reading

The Committee on Constitutional Affairs adopted the own-initiative report by Barbara SPINELLI (GUE /NGL, IT) on the implementation of the Charter of Fundamental Rights of the European Union in the EU institutional framework.

The Lisbon Treaty conferred the status of primary law on the Charter of Fundamental Rights of the European Union within the EU legal framework, having the same legal value as the Treaties. Notwithstanding relevant progress made by the EU institutions to integrate the Charter into the legislative and decision-making processes, it still appears to be an under-evaluated instrument, not exploited to its full potential. The general tendency is that of focusing on avoiding its violation rather than on maximising its potential.

Strengthening the integration of the Charter in the legislative and decision-making processes

Members recognised the important steps made by the EU institutions to integrate the Charter into the EU legislative and decision-making processes and stressed that all proposals for Union legislation must respect the fundamental rights enshrined in the Charter.

They called for a review of the Commission's Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union, which was elaborated in 2010, in order to update it to take account of the new challenges and institutional reality, particularly after Brexit.

Given that the procedures established by the EU institutions to assess the compatibility of legislative proposals with the Charter are mainly of an internal nature, Members called for the opportunity to provide for enhanced forms of consultation, impact assessments, including specific gender impact assessments, and legal scrutiny with the involvement of independent experts in the field of fundamental rights.

The Commission is called on to ensure comprehensive impact assessments through a balanced evaluation of economic, social and environmental consequences and a revision of its decision to divide its considerations on fundamental rights into the current three categories– economic, social and environmental effects – and to create two specific categories entitled 'Effects on fundamental rights' and 'Gender impact assessment', so as to guarantee that all aspects of fundamental rights are assessed.

The report stressed that fundamental rights should be mainstreamed in all relevant policy areas.

The Charter and the EU Agencies

The relevant EU agencies are called on to step up work to implement the gender equality principles enshrined in the Charter, including by ensuring that all the EU institutions and agencies pursue a policy of zero tolerance towards all forms of sexual violence and physical or psychological harassment.

Supporting Member States in implementing the Charter at national level

Members called on the Commission to strengthen its awareness-raising activities concerning the Charter, with the full involvement of civil society organisations and to equip the Member States with practical guidelines supporting them in the implementation of the Charter at national level. The report pointed out that the loopholes in the transposition and proper implementation of EU law in Member States can have a genuine impact on the enjoyment of EU fundamental rights. It recalled, in this context, the Commission's role as guardian of the Treaties, rendering it ultimately – if not primarily – responsible for safeguarding fundamental rights, including through infringement procedures, where needed. It called, in this regard, for more determined leadership in ensuring adequate implementation of EU legislation.

Toward a more consistent interpretation of the Charter

Members are convinced that different interpretations concerning the application of the provisions of the Charter by the EU institutions, bodies, offices and agencies of the Union and the Member States are detrimental to the added value brought by the Charter, namely that of representing a set of common minimum standards of protection to be applied horizontally to all institutional actors and policies and activities connected to the EU sphere.

They stressed that the incorporation of the Charter into primary EU law creates new responsibilities for the decision-making and implementing institutions, as well as for Member States when implementing EU legislation at national level, and that the Charter's provisions have thus become directly enforceable by European and national courts.

They regretted that to date, Poland and the United Kingdom have not decided to withdraw from Protocol No 30 of the Treaties, thereby ensuring their opt-out from the Charter.