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

2017/2089(INI) - 12/02/2019 - Text adopted by Parliament, single reading

The European Parliament adopted by 349 votes to 157 with 170 abstentions a resolution 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. Parliament noted that the principal role of the Charter is to ensure that the EU's legislation is in full compliance with rights and principles enshrined in it, and acknowledged the difficulties involved in actively promoting them and ensuring their fulfilment. It added that the potential of the social and economic rights set out in the Charter has not been adequately exploited so far, and affirmed that respect for social rights is not only an ethical imperative and a legal obligation, but also an economic necessity.

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

Parliament strongly believed that the Commission's Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union, which was elaborated in 2010 constituted an initial effort after the entry into force of the Charter, but urgently needed to be updated, and it called for a review of this strategy, 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 Commission was also asked to submit a proposal giving effect to Parliament's resolution of 25 October 2016 on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights, which would allow for the systematic screening of developments in the EU institutions and in the Member States. In this respect, the resolution stated that the conditions set out in the Copenhagen criteria relating to fundamental rights should not simply be used once as preconditions for accession, but that Member States be periodically assessed to gauge compliance with them.

Mainstreaming the Charter into EU policies

Parliament reaffirmed that all legal acts adopted by the Union must fully comply with all of the Charter's provisions, including its social provisions, and must incorporate explicit references to the Charter within the legal framework regulating EU economic and monetary policy. It stressed that recourse to intergovernmental arrangements does not relieve the EU institutions of their obligations to assess the

compatibility of such instruments with EU law, including the Charter. Members also called on the Commission to ensure that the European Semester process, including the country-specific recommendations and the annual growth survey recommendations, comply with the normative components of the social rights of the Charter. Furthermore, the adoption of the horizontal Anti-Discrimination Directive should be concluded in order to further guarantee fundamental rights in the EU by means of concrete EU legislation.

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. Parliament pointed out that the loopholes in the transposition and proper implementation of EU law in Member States could 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.

Lastly, Parliament 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.