Basic information

2011/2069(INI) INI - Own-initiative procedure	Procedure completed
Situation of fundamental rights in the European Union (2010-2011) **Subject** 1.10 Fundamental rights in the EU, Charter	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	BEŇOVÁ Monika (S&D)	09/12/2010
	Shadow rapporteur GÁL Kinga (PPE) WEBER Renate (ALDE) ŽDANOKA Tatjana (Verts/ALE) KIRKHOPE Timothy (ECR) VERGIAT Marie-Christine (GUE/NGL)	

Committee for opinion	Rapporteur for opinion	Appointed
FEMM Women's Rights and Gender Equality	JÁRÓKA Lívia (PPE)	15/09/2011
PETI Petitions	VĂLEAN Adina (ALDE)	08/05/2012

Council of the European Union

Council configuration	Meetings	Date
General Affairs	3092	2011-05-23

European Commission

Commission DG	Commissioner
Justice and Consumers	REDING Viviane

Key events

Date	Event	Reference	Summary
12/05/2011	Committee referral announced in Parliament		
23/05/2011	Resolution/conclusions adopted by Council		Summary
06/11/2012	Vote in committee		
22/11/2012	Committee report tabled for plenary	A7-0383/2012	Summary
11/12/2012	Debate in Parliament		
12/12/2012	Decision by Parliament	T7-0500/2012	Summary
12/12/2012	Results of vote in Parliament		
12/12/2012	End of procedure in Parliament		

Technical information	
Procedure reference	2011/2069(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Annual report
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/05797

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee opinion	FEMM	PE467.074	20/09/2011	
Committee draft report		PE489.625	11/07/2012	
Committee opinion	PETI	PE489.608	13/07/2012	
Amendments tabled in committee		PE494.582	25/07/2012	
Amendments tabled in committee		PE492.760	20/08/2012	
Committee report tabled for plenary, single reading		A7-0383/2012	22/11/2012	Summary
Text adopted by Parliament, single reading		T7-0500/2012	12/12/2012	Summary

Situation of fundamental rights in the European Union (2010-2011)

2011/2069(INI) - 23/05/2011

The Council adopted conclusions on implementation of the EU's Charter of Fundamental Rights. Prepared in response to the 2010 Commission report on the application of the EU Charter on Fundamental, the conclusions highlight actions taken by the Council and identify areas for future initiatives.

The Council **welcomes** the report and particularly the opportunity presented by the report or an annual inter-institutional exchange of views with the Council and the European Parliament on the application of the Charter and expresses its readiness to engage in such an exchange of views.

It **underlines** its own responsibility for the application of the Charter as well as the fact that since the Lisbon Treaty entered into force several important steps of a horizontal nature have been taken by the Council to strengthen the protection of fundamental rights.

In this context, the Council **highlights** that:

- it gave the former ad hoc Working Party on Fundamental Rights and Citizenship a permanent status at the very end of 2009 and tasked it with all matters relating to fundamental rights, citizens' rights and free movement of persons;
- it adopted a Decision authorising the Commission to negotiate the accession agreement of the EU to the European Convention on Human Rights, and made significant progress in concluding negotiations;
- the efficacy of the guidelines, endorsed by the Coreper, on methodological steps to be taken to check fundamental rights compatibility at the Council's Preparatory Bodies.

The Council **also highlights** that in responding to the 2010 Report which focuses on the legislative acts adopted by the relevant institutions as well as the initiatives taken by the Commission, it finds it essential to highlight actions taken by the Council in 2010 regarding all provisions in the Charter and to point out some areas for future initiatives. It stresses the following:

Dignity: the Council adopted a Decision supplementing the Schengen Borders Code as regards the surveillance of the sea external borders, which also contains guarantees for respecting the prohibition of inhuman or degrading treatment regarding migrants intercepted at sea.

Freedoms: on personal data, it declared its support to a new legal framework based on a comprehensive approach providing for a higher level of harmonisation and aimed at ensuring a higher level of awareness and protection for individuals.

Equality: the principle of equality is one of the founding values of the EU which is also reflected in the prohibition of discrimination. The Council attributes the utmost importance to preserving cultural, religious and linguistic diversity of people living in the EU and adopted conclusions on the role of culture in combating poverty and social exclusion. It reaffirmed, with the adoption of conclusions on the European Pact for Gender Equality for the years 2011-2020, its commitment to fulfil EU ambitions on gender equality as mentioned in the Treaty. The Council also adopted conclusions on active ageing in 2010. It points out that the EU ratified in 2010 the UN Convention on the Rights of Persons with Disabilities after the Council had adopted a code of conduct setting out internal arrangements for the implementation by and representation of the EU relating to this Convention. Lastly, it adopted conclusions aimed at advancing the full inclusion of the Roma by guaranteeing their rights and promoting their social and economic integration.

Solidarity: the Council adopted conclusions:

- on the integration of youth in the labour market;
- on the Social dimension in the context of an integrated Europe 2020 Strategy;
- on Equity and Health in All Policies, inviting the Member States to further develop their policies and actions to reduce health inequalities and to participate actively in sharing good practice, taking into account the need for action across all relevant policies.

Citizens' Rights: the Council points out that it:

- adopted conclusions on facilitating entry for citizens of the EU at external borders, focusing on the need to improve fast-track systems for external border crossings for the benefit of EU citizens with due regard also to the security aspects;
- approved updated consular guidelines on the protection of EU citizens in third countries which, notwithstanding primary national responsibility in consular matters, provide a framework for consular cooperation, especially in situations in which the safety of EU citizens is endangered in a third country;

Justice: the Council adopted a Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings, calling for the adoption of five measures covering fundamental procedural rights. As co-legislator it adopted in 2010 the Directive on the right to interpretation and translation in criminal proceedings and hopes that the Directive can also be adopted in the near future.

The Council stresses:

- its commitment to continue its activities for a more effective implementation of all provisions of the Charter;
- the effective application of the Charter should be underpinned by actions of all EU institutions and bodies, offices and agencies, as well as the actions of competent national institutions when implementing EU law.

The Council **considers that** although citizens have certain expectations about the implementation of the Charter the requests and complaints of the citizens addressed to EU institutions frequently reflect misunderstandings and over-expectations about the purpose of the Charter. It is therefore essential to inform citizens better about the scope of the Charter.

Lastly, the Council **invites the Commission** to pursue its activity with emphasis on areas which are likely to have the most significant impact on the implementation of fundamental rights reaffirmed in the Charter, and to enhance the European e-Justice Portal by providing the citizens with information about where to turn to when their fundamental rights have been violated.

Situation of fundamental rights in the European Union (2010-2011)

2011/2069(INI) - 22/11/2012 - Committee report tabled for plenary, single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the own-initiative report by Monika FLAŠÍKOVÁ BEŇOVÁ (S&D, SK) on the situation of fundamental rights in the European Union.

Members recall that Article 2 of the Treaty on European Union (TEU) founds the Union on a community of indivisible and universal values of respect for human dignity, freedom, democracy, gender equality, non-discrimination, solidarity, the rule of law and respect for human rights and civil liberties, for all persons on the territory of the EU, including those belonging to minorities, stateless persons and those who are temporarily or irregularly on the territory of the European Union. However, the gap between fundamental rights and their implementation undermines the credibility of the EU and of its Member States and the effective respect for and promotion of human rights, within its territory and throughout the world.

That is why Members call on the Commission, the Council and the Member States to fully assume their responsibilities in relation to the proper and full application of the EU's mandate and competences with regard to fundamental rights, on the basis of both the Charter and the articles of the Treaties dealing with fundamental rights and citizens' rights issues, in particular Articles 2, 6 and 7 of the TEU. To deal with the democracy, rule of law and fundamental rights crisis and tensions that are affecting it and its Member States, the Members call for the urgent **strengthening of European mechanisms to ensure that democracy, the rule of law and fundamental rights are respected in the European Union.**

To reinforce the impact of proposed measures on fundamental rights, Members call on the Commission to take tangible steps to verify whether:

- the proposals are consistent with the Charter of Fundamental Rights;
- the implementation of the legislation by Member States is satisfactory from this perspective;
- the European Parliament and the national parliaments are fully involved in the procedure of assessing measures taken;
- the systematic use of external independent expertise, notably from the Fundamental Rights Agency, during the preparation of impact assessments;
- the role of the Parliament is fully taken into account within the framework of its autonomous impact assessment on fundamental rights.

Members call on the Commission to draft an annual report on the situation of fundamental rights in the EU, including an analysis of the situation in the Member States, including concerns expressed by civil society.

More generally, Members recommend that the Commission and the Council jointly and formally recognise the **existence of positive obligations to protect and promote human rights** as part of EU law. They call on the Commission to revise the EU legislative *acquis* by duly taking into account the rights outlined in the EU Charter, and to revise the former third pillar domain (police and judicial cooperation in criminal matters) in the light of the Charter.

Transparency: the Members regret the lack of transparency in the Commission's dialogue with Member States when fundamental rights or the interests of European citizens are at stake. Such a lack of transparency with regard to the transposition of EU law is contrary to the EU rules on transparency and is extremely prejudicial for EU citizens. They also regret the lack of transparency and openness in international negotiations (which has led Parliament to reject international anti-counterfeiting agreements such as ACTA).Members propose that steps be taken to ensure continuous channels of information-sharing on fundamental rights in the EU between the relevant bodies and within the EU institutions and EU agencies, and to hold a **yearly interinstitutional forum in order to assess the EU fundamental rights situation**, bringing together a large gathering of representative organisations.

European Court of Human Rights (ECHR): Members deplore the delays in the EU's accession to the ECHR. They call on the Council to act so that the procedures for EU accession to the ECHR are concluded. They remind all Member States to comply with their obligations to respect fundamental freedoms and rights. They particularly regret the Commission's weak response to specific violations of fundamental rights and the weakening of democratic checks and balances and the rule of law in Member States.

Monitoring: Members call on the Commission to draw up before the end of 2012 a detailed proposal for a clear-cut monitoring mechanism and early warning system in the event of infringement of the fundamental rights. They demand the setting-up of appropriate national human rights institutions (NHRIs) in all Member States and for measures to facilitate networking between these bodies across the EU. A closer cooperation between Union institutions and other international bodies, particularly with the Council of Europe and the Venice Commission, could make use of their expertise in upholding the principles of democracy, human rights and the rule of law.

Worsening of rights in the EU: Members regret the worsening situation of media freedom in various Member States, especially of the written press. They condemn the conditions under which some journalists work and the obstacles they face. They welcome the adoption by the UN Human Rights Council of a resolution recognising internet rights, particularly concerning access to the internet and freedom of expression. They also call for a parliamentary evaluation of policies in the sphere of Civil Liberties, Justice and Home Affairs.

Fundamental Rights Agency (FRA): Members considers it unacceptable that Parliament has not been permitted to define, as a co-legislator, the thematic areas for the multi-annual framework (MAF) of the FRA and that police and judicial cooperation in criminal matters, which has become standard EU policy, are still not explicitly included in the mandate of the FRA. They ask more financial means for this Agency and above all a clear widening of its remit.
For better information for citizens on their rights: Members called again on the Commission to better inform people about the rights conferred upon them by the Charter and to enforce their rights in relevant fora. In particular, they invited the Commission to inform those citizens contacting it in relation to fundamental rights violations of these additional or more appropriate possibilities in detail, to keep record of these indications and to report on this in full detail in its annual reports on fundamental rights in the EU.
State of play on fundamental rights in the EU: the report covers all the actions carried out within the framework of the EU as regards fundamental rights and are expressed as follows:

- **discrimination**: Members deplore the current blockage of Council negotiations on the Commission's proposal for a horizontal directive extending comprehensive protection against discrimination on all grounds and call for its rapid adoption. They also demand a reinforced complaints procedure for wronged citizens;

- **protection of minorities**: Members call on the Member States to address racial and ethnic discrimination in employment, housing, education, health, access to goods and services but also to fight against the rise of political parties which are openly racist, xenophobic, Islamophobic and anti-Semitic. Whilst no single solution exists for improving the situation of national minorities in all the Member States, they consider that some common and minimum objectives for public authorities in the EU should be developed, taking account of the relevant international legal standards and existing good practices;

- **the Roma question**: Members most particularly regret that **citizens of Roma origin are subjected to collective expulsion procedures** by Member States and deplores the weak reaction of the Commission in certain cases. They call on Member States to provide an effective response to Roma exclusion by implementing the measures presented in their national Roma integration strategies, eliminating their spatial segregation and providing sufficient means to develop effective actions:

- **equal opportunities**: once again Members called for measures in favour of women, especially as regards equal pay. They consider that violence against women is the most pervasive violation of girls' and women's human rights worldwide, including in the EU; measures are also sought for migrant women and to fight against the sexual exploitation of women;

- **gender identity**: the Members invite Member States to adopt the national legislative framework to address discriminations experienced by LGBT people and same-sex couples on grounds of their sexual orientation or gender identity; they further call on Member States to ensure the effective protection of participants in LGBT public events, including "Gay Pride" marches;

- **young people, the elderly and people with disabilities**: several measures are sought to protect these persons both in the Member States and at the EU level, and to combat all forms of discrimination of which they are victims. Among other things, Members call for **people's dignity to be respected at the end of life**, in particular by ensuring that decisions expressed in living wills are recognised and respected;
- **migrants et refugees**: Members call on the Member States to a set up a procedure for more coordinated rules governing asylum seekers. They call on the Council and Member States to ensure that the Common European Asylum System (CEAS) is implemented by the end of 2012 as planned. They strongly condemn the extensive use by most Member States of detention to facilitate removal of immigrants, including minors;
- **rights of the child**: overall, Members call on all EU institutions to effectively address challenges such as the removal of children from the custody of one or both parents, missing children, sexual exploitation of children and child pornography, protection of unaccompanied migrant children and the situation of institutionalised children with disabilities; they underline that no unaccompanied minor should be detained.

Measures are still sought to reinforce the rights of victims across the territory of the Union and to address remaining barriers, such as time limits, legal standing, the length of proceedings, legal costs and procedural formalities.

Lastly, Members seek specific measures to i) reinforce the citizenship of the Union (in particular, as regards electoral rights); ii) to improve citizens' rights as regards **data protection** (notably by establishing a comprehensive data protection framework with a uniform and high level of harmonisation and by improving the international framework in the context of European Passenger Name Record (PNR) agreements concluded with several third countries).

Situation of fundamental rights in the European Union (2010-2011)

2011/2069(INI) - 12/12/2012 - Text adopted by Parliament, single reading

The European Parliament adopted by 308 votes to 229, with 48 abstentions, a resolution on the situation of fundamental rights in the European Union.

Parliament recalls that Article 2 of the Treaty on European Union (TEU) founds the Union on a community of indivisible and universal values of respect for human dignity, freedom, democracy, gender equality, non-discrimination, solidarity, the rule of law and respect for human rights and civil liberties, for all persons on the territory of the EU, including those belonging to minorities, stateless persons and those who are temporarily or irregularly on the territory of the European Union. However, the gap between fundamental rights and their implementation undermines the credibility of the EU and of its Member States and the effective respect for and promotion of human rights, within its territory and throughout the world.

The current economic crisis is challenging the principle of solidarity and the underlying bond bringing together EU citizens as members of the same political community. It is therefore important that social and economic rights, which are an essential element of the Charter of Fundamental Rights, should be given prominent recognition.

That is why Parliament calls on the Commission, the Council and the Member States to fully assume their responsibilities in relation to the proper and full application of the EU's mandate and competences with regard to fundamental rights, on the basis of both the Charter and the articles of the Treaties dealing with fundamental rights and citizens' rights issues, in particular Articles 2, 6 and 7 of the TEU. It calls in particular for the preparation of a report on the situation of the protection and promotion of, as well as the respect for, fundamental rights in the Union and its Member States, containing specific recommendations for improvements.

To deal with the democracy, rule of law and fundamental rights crisis and tensions that are affecting it and its Member States, Parliament calls for the **urgent strengthening of European mechanisms to ensure that democracy, the rule of law and fundamental rights are respected in the European Union**. The Plenary invites the Commission to ensure that its annual report on the application of the Charter addresses the situation of social and economic rights in the Union and, in particular, how these are implemented in the Member States.

To reinforce the impact of proposed measures on fundamental rights, Parliament calls on the Commission to take tangible steps to verify whether:

- the proposals are consistent with the Charter of Fundamental Rights;
- the implementation of the legislation by Member States is satisfactory from this perspective;
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- the European Parliament and the national parliaments are fully involved in the procedure of assessing measures taken;
- the systematic use of external independent expertise, notably from the Fundamental Rights Agency, during the preparation of impact assessments;
- the role of the Parliament is fully taken into account within the framework of its autonomous impact assessment on fundamental rights.

More generally, Parliament recommends that the Commission and the Council jointly and formally recognise **the existence of positive obligations to protect and promote human rights** as part of EU law. It calls on the Commission to revise the EU legislative acquis by duly taking into account the rights outlined in the EU Charter, and to revise the former third pillar domain (police and judicial cooperation in criminal matters) in the light of the Charter.

Transparency: Parliament regrets the lack of transparency in the Commission's dialogue with Member States when fundamental rights or **the interests of European citizens are at stake**. Such a lack of transparency with regard to the transposition of EU law is contrary to the EU rules on transparency and is extremely prejudicial for EU citizens. It also regrets the lack of transparency and openness in international negotiations (which has led Parliament to reject international anti-counterfeiting agreements such as ACTA). Parliament proposes that steps be taken to ensure continuous channels of information-sharing on fundamental rights in the EU between the relevant bodies and within the EU institutions and EU agencies, and to hold a yearly interinstitutional forum in order to assess the EU fundamental rights situation, bringing together a large gathering of representative organisations.

European Court of Human Rights (ECHR): Parliament deplores the delays in the EU's accession to the ECHR. It calls on the Council to act so that the procedures for EU accession to the ECHR are concluded. It reminds all Member States to comply with their obligations to respect fundamental freedoms and rights. In an amendment adopted in Plenary, Parliament expresses its concern about the situation of fundamental rights in some Member States and, in particular, about the **practice by those in power of selecting, appointing or dismissing people occupying independent positions** in, for example, constitutional courts, the judiciary, public broadcasting media, media regulatory bodies and the offices of ombudsmen or commissioners, **merely on the basis of political affiliation rather than on that of competence, experience and independence**. Parliament particularly regrets the Commission's weak response to specific violations of fundamental rights and the weakening of democratic checks and balances and the rule of law in Member States.

Monitoring: Parliament calls on the Commission to draw up before the end of 2012 a detailed proposal for a clear-cut monitoring mechanism and early warning system in the event of infringement of the fundamental rights. In particular, it suggests the **introduction of a freezing procedure** to ensure that Member States, at the request of EU institutions, **suspend the adoption of laws suspected of disregarding fundamental rights or breaching the EU legal order**. It also demands the setting-up of appropriate national human rights institutions (NHRIs) in all Member States and for measures to facilitate networking between these bodies across the EU. A closer cooperation between Union institutions and other international bodies, particularly with the Council of Europe and the Venice Commission, could make use of their expertise in upholding the principles of democracy, human rights and the rule of law.

Worsening of rights in the EU: Parliament regrets the worsening situation of media freedom in various Member States, especially of the written press. It condemns the conditions under which some journalists work and the obstacles they face. It welcomes the adoption by the UN Human Rights Council of a resolution recognising internet rights, particularly concerning access to the internet and freedom of expression. It also calls for a parliamentary evaluation of policies in the sphere of Civil Liberties, Justice and Home Affairs.

Fundamental Rights Agency (FRA): Parliament considers it unacceptable that it has not been permitted to define, as a co-legislator, the thematic areas for the multi-annual framework (MAF) of the FRA and that police and judicial cooperation in criminal matters, which has become standard EU policy, are still not explicitly included in the mandate of the FRA. It asks more financial means for this Agency and above all a clear widening of its remit. It also calls on EU institutions to ensure that the FRA is consulted on any legislative proposal having an impact on fundamental rights, and to respect the independence and competences of the FRA.

Opt-out: Parliament is concerned about the 'opt-outs' of some Member States, which risk affecting the rights of their citizens, who will suffer more from discrimination than other EU citizens. It recalls that, in accordance with the case-law of the ECJ, the 'opt-outs' are not intended to exempt the Member States from the obligation to comply with the provisions of the Charter or to prevent a court of one of those Member States from ensuring compliance with those provisions.

For better information for citizens on their rights: Parliament calls once again on the Commission to better inform people about the rights conferred upon them by the Charter and to enforce their rights in relevant fora. In particular, it invites the Commission to inform those citizens contacting it in relation to fundamental rights violations of these additional or more appropriate possibilities in detail, to keep record of these indications and to report on this in full detail in its annual reports on fundamental rights in the EU.

State of play on fundamental rights in the EU: the resolution covers all the actions carried out within the framework of the EU in the area of fundamental rights:

- **discrimination:** Parlaiment deplores the current blockage of Council negotiations on the Commission's proposal for a horizontal directive extending comprehensive protection against discrimination on all grounds and calls for its rapid adoption. It also demands a reinforced complaints procedure for wronged citizens and insists on the protection of religious freedom;
- **protection of minorities:** Parliament calls on the Member States to address racial and ethnic discrimination in employment, housing, education, health, access to goods and services but also to fight against the rise of political parties which are openly racist, xenophobic, Islamophobic and anti-Semitic. Whilst no single solution exists for improving the situation of national minorities in all the Member States, it considers that some common and minimum objectives for public authorities in the EU should be developed, taking account of the relevant international legal standards and existing good practices;
- **the Roma question:** Parliament most particularly regrets that **citizens of Roma origin are subjected to collective expulsion procedures by Member States** and deplores the weak reaction of the Commission in certain cases. It calls on Member States to provide an effective response to Roma exclusion by implementing the measures presented in their national Roma integration strategies, eliminating their spatial segregation and providing sufficient means to develop effective actions:

- **equal opportunities:** once again, Parliament calls for measures in favour of women, especially as regards equal pay. It considers that violence against women is the most pervasive violation of girls' and women's human rights worldwide, including in the EU; measures are also sought for migrant women and to fight against the sexual exploitation of women;
- **gender identity:** Parliament invites Member States to adopt the national legislative framework to address discriminations experienced by LGBT (lesbian, gay, bi- or trans-) people and same-sex couples on grounds of their sexual orientation or gender identity; it further calls on Member States to ensure the effective protection of participants in LGBT public events, including "Gay Pride" marches. Parliament calls on Member States which have adopted legislation on same-sex partnerships to recognise provisions with similar effects adopted by other Member States;
- **young people, the elderly and people with disabilities:** several measures are sought to protect these persons both in the Member States and at the EU level, and to combat all forms of discrimination of which they are victims. Among other things, Members call for **people's dignity to be respected at the end of life**, in particular by ensuring that decisions expressed in living wills are recognised and respected;
- **migrants et refugees:** Parliament calls on the Member States to a set up a procedure for more coordinated rules governing asylum seekers. It calls on the Council and Member States to ensure that the Common European Asylum System (CEAS) is implemented by the end of 2012 as planned. It strongly condemns the extensive use by most Member States of detention to facilitate removal of immigrants, including minors;
- **rights of the child:** Parliament calls on all EU institutions to effectively address challenges such as the removal of children from the custody of one or both parents, missing children, sexual exploitation of children and child pornography, protection of unaccompanied migrant children and the situation of institutionalised children with disabilities; it underlines that no unaccompanied minor should be detained. The Plenary is concerned about the recent scandals involving cases of paedophilia, and calls on the EU and the Member States to ensure that **impunity is not tolerated in investigations of paedophilia**.

Measures are again sought to (i) reinforce the rights of victims across the territory of the Union (in particular as regards electoral rights and the protection of non-citizens) and (ii) to improve citizens' rights as regards **data protection**.

It should be noted that an alternative motion for resolution tabled by the EPP group was rejected in plenary.