

Overview of the application of the Charter of Fundamental Rights of the European Union in the Slovak Republic

What is its contribution in practice?

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Introduction

The Slovak National Centre for Human Rights (hereinafter referred to as the “Centre”) is an independent national human rights institution established by Act No. 308/1993 Coll. on the establishment of the Slovak National Centre for Human Rights, as amended. With the adoption of Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection against Discrimination, and on amendments and supplements to certain Acts (the Anti-Discrimination Act), which regulates the application of the principle of equal treatment, the Centre was entrusted with the mandate of the national anti-discrimination body, as a result of which the Centre was granted powers in relation to the application of the principle of equal treatment.

As a part of its mandate as a national human rights institution, the Centre participated in an international project: **Support for national human rights institutions in monitoring fundamental rights and fundamental aspects of the rule of law**, which included the preparation of this publication. One of the objectives of the project was to improve the human rights situation through increased use of the Charter of Fundamental Rights of the European Union (hereinafter referred to as the “Charter”)

The aim of this publication is to guide the reader in a clear way through how the Charter is applied in the Slovak Republic and how it benefits the holders of the fundamental rights it contains.

In the introduction the publication focuses on the theoretical foundations of the application and implementation of the Charter. The contribution of the Charter is illustrated in particular by presenting real examples from practice where the Court of Justice of the European Union (“CJEU”) has granted protection of fundamental rights through direct application of the Charter at the national level. It also introduces a practical set of control questions to assess the compliance of national measures with the Charter. A special space is devoted to the issue of EU funds, since in the current programming period their use is linked to the condition of respecting the fundamental rights in the Charter.

The publication concludes with a summary of the tools available to help the reader learn about the content of the Charter. Particular attention is paid to the tools developed by the Centre and the training activities carried out by the Centre within the framework of the above-mentioned project.

The Charter of Fundamental Rights of the European Union as a modern human rights catalogue

The Charter can be regarded as the fundamental charter of human rights of the European Union (EU). It is a modern human rights catalogue, containing rights that are not expressed in any other document of this nature¹. In terms of structure, it contains fifty articles with substantive rights or principles and four articles with general provisions². The Charter is not the only source of fundamental human rights in the EU legal system. In addition to the Charter, EU recognises general unwritten principles of EU law as a source of fundamental human rights. Both sources are part of EU primary law, intertwined and applied in the application of EU law³. According to the case law of the Court of Justice of the European Union, the general principles include fundamental human rights, including those based on the European Convention for the Protection of Human Rights (“ECHR”)⁴

In terms of the relationship between the Charter and ECHR, the Charter contains rights that go beyond ECHR, but also rights that are identical to those contained in ECHR. It is also important to highlight the terminological difference in the concept of rights. The Charter works with the term fundamental rights, while ECHR works with the term human rights. This is a broader terminological understanding of the addressees of standards. If it is a right governed in the Charter, which is identical to a right contained in ECHR, this right provides a scope of protection at least guaranteed by ECHR. However, the Charter can also provide a broader scope of protection than ECHR. This follows from Article 52 (3) of the Charter, according to which *“In so far as this Charter contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamen-*

1 HANDBOOK. Applying the Charter of Fundamental Rights of the European Union in law and policy-making at the national level, FRA, p. 3, available in English at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-charter-guidance_en.pdf.

2 EU Charter of Fundamental Rights in Slovakia, FRA, available at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-eu-charter-in-slovakia_sk.pdf.

3 HANDBOOK. Applying the Charter of Fundamental Rights of the European Union in law and policy-making at the national level, FRA, available in English at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-charter-guidance_en.pdf

4 Course: Charter e-guidance: Step-by-step guidance, FRA, available in English at: <https://e-learning.fra.europa.eu/course/view.php?id=78#section-2>.

tal Freedoms, the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection.“

The following infographic shows the rights guaranteed by the Charter and a comparison of their scope with the rights guaranteed by ECHR ⁵:

Dignity

1. Human dignity
2. Life
3. Integrity of the person
4. Torture, inhuman, degrading treatment
5. Slavery and forced labour

21. Non-discrimination
22. Cultural, religious and linguistic diversity
23. Equality between women and men
24. Children
25. Elderly
26. Integration of persons with disabilities

Freedoms

6. Liberty and security
7. Private and family life
8. Personal data
9. To marry and found a family
10. Thought, conscience and religion
11. Expression and information
12. Assembly and association
13. Arts and sciences
14. Education
15. Choose an occupation and engage in work
16. Conduct a business
17. Property
18. Asylum
19. Removal, expulsion or extradition

Solidarity

27. Workers' right to information and consultation
28. Collective bargaining and action
29. Access to placement services
30. Unjustified dismissal
31. Fair and just working conditions
32. Prohibition of child labour and protection at work
33. Family and professional life
34. Social security and social assistance
35. Health care
36. Access to services of general economic interest
37. Environmental protection
38. Consumer protection

Equality

20. Equality before the law





5 EU Charter of Fundamental Rights in Slovakia, FRA, available at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-eu-charter-in-slovakia_sk.pdf

Citizenship

- 39. To vote and to stand as a candidate at elections for EP
- 40. To vote and to stand as a candidate at municipal elections
- 41. Good administration
- 42. Access to documents
- 43. Ombudsman
- 44. Right to petition
- 45. Freedom of movement and of residence
- 46. Diplomatic and consular protection

Justice

- 47. An effective remedy and a fair trial
- 48. Presumption of innocence and right of defence
- 49. Legality and proportionality of criminal offences and penalties
- 50. Principle of ne bis in idem

-  No compliance with ECHR
-  Larger scope than ECHR
-  Equal protection as under ECHR
-  Specific to the EU context

Application of the Charter in the national legal order

Status of the Charter at the national level

With the adoption of the Treaty of Lisbon on 13 December 2007 („Lisbon Treaty“), which amended the Treaty on the European Union („TEU“) and the Treaty establishing the European Community („TFEU“), the Charter was given the same legal force as the basic treaties and thus became a part of the EU’s primary law⁶. Pursuant to Article 6 (1) of TEU the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties.⁷ The Charter is therefore not directly incorporated into the Lisbon Treaty, but the Article gives the Charter a legally binding character, namely as from 1 December 2009, when the Lisbon Treaty entered into force.⁸

As the Charter forms part of the EU’s primary law, it takes precedence over national law. The principle of primacy has a limitation based on Article 51 of the Charter, according to which the provisions of this Charter, while respecting the principle of **subsidiarity**, are addressed to the institutions, bodies, offices and agencies of the Union, as well as to the Member States, solely when they are **implementing Union law**. As a result, they respect rights, uphold principles and promote their application in accordance with their respective competences and while respecting the limits of the Union’s powers conferred on it by the Treaties.⁹ It means that implementation of the Charter is linked to implementation of EU law and can only be used to the extent of the exercise of the powers conferred on the EU.

At the national level, the Charter performs several functions in the legislative, executive or judicial activities of the state. National law and policies must be made and interpreted in accordance with the Charter. The Charter is the basic

6 Jánošíková, M., Mazák, J., Penetration of the Charter of Fundamental Rights of the European Union into national law in the example of the Slovak Republic, in: ACTA UNIVERSITATIS CAROLINAE - IURIDICA 2, pp 9-10, available at: https://karolinum.cz/data/clanek/2882/lurid_2_2016_02_Mazak.pdf.

7 Article 6 of TEU.

8 Lisbon Treaty, European Union Fact Sheets – 2023, European Parliament, p.3, available at: https://www.europarl.europa.eu/ftu/pdf/sk/FTU_1.1.5.pdf.

9 Article 51 of the Charter.

test for examining the constitutionality and legality not only of EU law, but also of laws, decisions and actions of national authorities. Courts may refer directly to the Charter when exercising their discretion.

Charter provisions - rights and principles

The Charter contains two types of provisions, namely rights and principles. Both types of provisions are legally binding, the difference being that rights must be «respected» and principles must be „upheld“.¹⁰ According to the Charter, *“the provisions of this Charter which contain principles may be implemented by legislative and executive acts adopted by the institutions, bodies, offices and agencies of the Union, and by acts of the Member States, when implementing Union law, in the exercise of their respective competences. They may be invoked before a court only for the purpose of interpreting and reviewing the legality of those acts.”*

¹¹ Subjects can therefore directly invoke before the court only those provisions of the Charter that we classify as rights, while the principles represent binding interpretive principles.

Whether it is a right or a principle is not always entirely clear. Some provisions are explicitly mentioned as principles in the explanatory notes to the Charter. Some of the explanatory notes state that they have elements of both a right and principle. CJEU plays a key role in determining the nature of the provision.¹²

Explanatory notes to the Charter as an interpretative aid

Along with the Charter, explanatory notes on its provisions were drawn up by the Convention charged with drafting the original Charter. They have subsequently been updated under the guidance of the Presidency of the European Convention, taking into account the developments in the Charter and EU law. Although they do not have the status of a legally binding EU act, they serve as a valuable interpretative tool that can bring clarity to the implementation of the Charter. In the

10 HANDBOOK. Applying the Charter of Fundamental Rights of the European Union in law and policymaking at the national level, FRA, pp. 20-21, available in English at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-charter-guidance_en.pdf.

11 Article 52 (5) of the Charter.

12 HANDBOOK. Applying the Charter of Fundamental Rights of the European Union in law and policymaking at the national level, FRA, pp. 20-21, available in English at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-charter-guidance_en.pdf.

explanatory notes we can find e.g. information on whether the provision has the nature of a right or a principle, whether the provision is also expressed in ECHR, or whether it is an absolute right.¹³

How can the Charter contribute in practice? - selected CJEU cases

CJEU plays a decisive role in the process of implementation of the Charter; through its adjudicatory activity it helps to interpret the individual provisions of the Charter. The case law of CJEU is very extensive, so in this section we present a sample of decisions in different areas to show how the Charter can help an individual.

Charter and discrimination

Judgment in Case C-83/14 - ČEZ Razpredelenie Bălgarija

In this case, a Bulgarian national complained about the placement of electricity meters at inaccessible heights in predominantly Roma-populated areas of the city. The complainant, although not himself of Roma origin, considered that he had been discriminated against because of the questionable practices of the electricity supply company. CJEU held that such practice may constitute discrimination on the grounds of ethnic origin, since the measure disadvantages a group of persons who, although they do not have such origin, share the less favourable treatment resulting from that measure with a directly disadvantaged group of persons.¹⁴

Judgment in Case C-401/11 - Blanka Soukupová

In this case, a Czech national was applying for an early retirement allowance granted under EU law. The condition of granting the allowance was to apply for it before retirement age. Under national law, the applicant had already reached retirement age at the time of her application as a mother of two children and

¹³ Explanatory notes to the Charter of Fundamental Rights, (2007/C 303/02), available at: [https://eur-lex.europa.eu/legal-content/SK/TXT/PDF/?uri=CELEX:32007X1214\(01\)](https://eur-lex.europa.eu/legal-content/SK/TXT/PDF/?uri=CELEX:32007X1214(01))

¹⁴ Judgment of CJEU of 16 July 2015, Case C-83/14 - CEZ Razpredelenie Bălgarija, available at: https://eur-lex.europa.eu/legal-content/sk/TXT/PDF/?uri=uriserv%3AOJ.C_.2015.311.01.0008.01.SLK.

her application for Union support was therefore rejected. If she was a man she would not reach retirement age at the time of her application and would be entitled to this benefit. National legislation allowed early retirement for women who had raised children. According to CJEU, the difference in treatment created by the national legislation is not objectively justifiable. It is thus contrary to the prohibition of discrimination as laid down in the Charter, and it is necessary to place the disadvantaged person in the same situation as another person enjoying the benefit in question.¹⁵

Judgment in Case C-236/09 - Association Belge des Consommateurs Test-Achats ASBL and Others v Conseil des ministres

The case concerned the principle of equal treatment of men and women in access to and supply of goods and services. CJEU considered the practice of EU Member States applying different risk factors based on gender when calculating premiums and benefits in insurance contracts. Women and men paid different levels of contributions under private insurance schemes. On the basis of the Charter, CJEU held that consideration of the gender of the insured person as a risk factor in insurance contracts constitutes discrimination and thus no distinction can be made in the calculation of the premium and the benefit on the basis of factors arising from gender.¹⁶

Charter and labour law

Joined Cases C-569/16 and C-570/16 - Bauer and others

The judgement concerned two cases in which the heirs were not paid a monetary claim for untaken leave of deceased testators because German law precluded such monetary claim from becoming part of the inheritance. Referring to the right to rest regulated by the Charter, CJEU ruled that such claim should be paid to the heirs of the deceased worker. An interpretation of the national legislation which would preclude payment of such claim would defeat the purpose of the right to rest as enshrined in the Charter. CJEU has even recognised that such claim can be

15 Judgment of CJEU of 11 April 2013, Case C-401/11 Blanka Soukupová v Ministry of Agriculture, available at: <https://curia.europa.eu/juris/document/document.jsf?text=&docid=136141&pageIndex=0&doclang=en&mode=en&dir=&occ=first&part=1&cid=6761>.

16 Judgment of CJEU of 1 March 2011, Case C-236/09, Association Belge des Consommateurs Test-Achats ASBL and Others v Conseil des ministres, available at: eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62009CJ0236.

brought against both public and private employers.¹⁷

Charter and asylum and migration

Judgment in Case C-473/16 - F v Immigration and Nationality Authority

In that case, a Nigerian national complained about the conduct of Hungarian national authorities which refused to recognise his asylum application, which he supported by claiming that he had a well-founded fear of persecution in his country of origin on account of his sexual orientation. This allegation was not assessed as credible by the competent Hungarian authority on the basis of an expert's report. In this case, CJEU found that the use of an expert psychological opinion to determine the applicant's sexual orientation constituted an interference with that person's right to respect for his/her private life as provided for by the Charter. Furthermore, CJEU found that the impact of such professional assessment on private life was disproportionate to this objective. In this context, CJEU has in particular noted that such interference is particularly serious as it is intended to reveal the most intimate aspects of the applicant's life.¹⁸

How to determine whether national measures comply with the Charter?

Compliance with the Charter can be checked in three basic stages, namely:

- Phase I: Determination of restrictions of fundamental rights
- Phase II: Assessment of whether the restrictions are permissible
- Phase III: Assessment of whether or not the restrictions can be justified

At each phase of the review process, we ask the following subsidiary questions which, when answered, allow us to assess whether the particular measure

¹⁷ Judgment of CJEU, 6 November 2018, Joined Cases C-569/16 and C-570/16 Bauer and others, available at: eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62016CJ0569.

¹⁸ Judgment of CJEU of 25 January 2018 in Case C-473/16, F v. Immigration and Nationality Authority, available at: <https://curia.europa.eu/juris/documents.jsf?language=SK&critereEcli=ECLI:EU:C:2018:36>.

is consistent with the Charter.¹⁹

Phase I: Determination of restrictions of fundamental rights

1. Does the proposal restrict the fundamental rights of the EU?

The key question we ask during the initial phase of assessing compliance with the Charter is whether the measure in question affects the rights regulated by the Charter. Based on the precise content of the relevant rights in the Charter, we will now define the potential impact of the measure on specific rights. A measure that does not affect fundamental rights in the Charter does not need to be assessed for compliance.

Phase II: Assessment of whether the restrictions are permissible

2. Can the fundamental rights to which the impact would apply to be restricted?

Assuming that the measure affects fundamental rights in the Charter, it is necessary to check whether these rights can be restricted, i.e. whether it is a relative or absolute right. An absolute right cannot be restricted under any circumstances and we must apply the Charter without any limitations or derogations.

The Charter does not explicitly state which rights are absolute in nature. According to the explanatory notes to the Charter, ECHR and the case law of European courts, the following rights may be considered absolute: human dignity (Article 1), the prohibition of torture and inhuman or degrading treatment or punishment (Article 4), the prohibition of slavery and forced labour (Article 5 (1) and (2)), the inherent freedom of thought, conscience and religion (Article 10 (1)), the presumption of innocence and the right of defence (Article 48), the principle of legality (Article 49 (1)) and the right not to be prosecuted or punished twice for the same offence (Article 50).

3. Are the restrictions imposed by law?

The next step is to determine whether the restriction of the rights in the Charter

¹⁹ HANDBOOK. Applying the Charter of Fundamental Rights of the European Union in law and policymaking at the national level, FRA, p.70 ff., available in English at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-charter-guidance_en.pdf.

that the measure could potentially constitute is provided for by law in national regulations or EU acts. A statutory restriction must be accessible and predictable, otherwise it is not passable.

4. Is respecting the substance of the fundamental right in question guaranteed?

In this step, we assess whether the measure interferes with the substance of the right concerned. The right as such need not be jeopardised by the restriction itself, if its exercise is restricted in well-defined and fixed circumstances. In any event, the measure must not restrict the right in such a way as to interfere directly with its substance.

Phase III: Assessment of whether or not the restrictions can be justified

5. Are the restrictions pursuing a legitimate objective?

When restricting rights, it is necessary to pursue a legitimate objective that corresponds to the general interest or the need to protect the rights and freedoms of others. The legitimate objective pursued must be clear from the restriction.

6. Is the restriction appropriate to address the identified problem?

The restriction of rights must have internal coherence, which means that it must be appropriate and capable of fulfilling the identified legitimate objective.

7. Does the restriction go beyond what is necessary to achieve the objective pursued? Are there any measures available that would interfere less with fundamental rights?

If a measure restricts a right, it must also be necessary. It is necessary to check whether the objective pursued cannot be achieved by other, less invasive means. If such means are available, we will naturally use them.

8. Are the restrictions proportionate to the objective pursued?

The measure must always be proportionate to the objective pursued, which means that it should not impose an unreasonable and excessive burden on the persons concerned.

9. Does the Charter right in question correspond to a right guaranteed in ECHR?

Since ECHR sets a minimum standard of guaranteed protection of fundamental rights in relation to the Charter, it is always necessary to check whether the right in question is also expressed in ECHR. The identity of the right can be checked by using the explanatory notes to the Charter.

10. Are the restrictions compatible with ECHR?

Assuming that we are considering a limitation of a right that is also contained in ECHR, it is also necessary to look at the case law of ECHR. The restriction of the right must not be contrary to the standard set by ECHR.

11. Is there an equivalent provision in other human rights instruments to which the Union or all Member States are party for the rights in question guaranteed by the Charter?

When considering the possibility of restricting a right in the Charter, it should be borne in mind that, according to Article 53 of the Charter, the level of protection must be maintained at least to the standard set by the human rights instruments to which the Union or all Member States are party. It is therefore necessary to check whether or not such a right is involved or whether or not the level of protection of this equivalent provision is respected.

The Charter and EU funds - human rights conditionality in the new programming period

Under the Common Provisions Regulation for the programming period 2021 - 2027²⁰, Member States are obliged to respect horizontal principles when implementing EU funds. One of these principles is a condition that EU funds must be spent in accordance with the fundamental rights and the Charter.²¹ This

²⁰ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and laying down budgetary rules for those Funds, as well as for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1060&from=SK>

²¹ Ibid, Art. 9

commitment is enforced at the national level through fulfilment of the so-called basic conditions. Basic conditions are a set of legislative, strategic and conceptual conditions that must be met throughout the programming period.²²

The effective application and implementation of the Charter in the Slovakia 2021 - 2027 programme constitutes one of the four horizontal basic conditions for the use of EU funds set out in the Partnership Agreement between the European Commission and the Slovak Republic. Compliance with the principle of the effective application and implementation of the Charter of Fundamental Rights is enforced through the existence of:

1. Measures to ensure that programmes supported by the funds and their implementation comply with the relevant provisions of the Charter.
2. Mechanisms for reporting to the Monitoring Committee on cases of non-compliance of operations supported by the funds with the Charter and on complaints relating to the Charter.

The Ministry of Labour, Social Affairs and Family of the Slovak Republic is the lead authority (lead agency) responsible for compliance with such criteria.²³ For the purpose of monitoring, it has developed a Core Mechanism to ensure compliance with the horizontal principles in the programming period 2021 - 2027 and the basic horizontal conditions Effective implementation and enforcement of the Charter of Fundamental Rights of the European Union and Implementation and enforcement of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in accordance with Council Decision 2010/48/EC (hereinafter referred to as the “Core Mechanism”), which was adopted on 26 October 2022 in the form of a Government Resolution.²⁴

Under the Core Mechanism, all authorities involved in the process of implement-

22 Method of applying the basic conditions in the preparation of the implementation mechanism

of the EU Cohesion Policy after 2020 in the Slovak Republic, Ministry of Investment, Regional Development and Informatisation of the Slovak Republic, available at: <https://www.mirri.gov.sk/wp-content/uploads/2018/11/Zakladne-podmienky.pdf>.

23 Horizontal Basic Conditions, Ministry of Investment, Regional Development and Informatisation of the Slovak Republic, available at: https://www.eurofondy.gov.sk/wp-content/uploads/2022/11/Z%C3%A1kladn%C3%A9-podmienky_horizont%C3%A1lne.pdf.

24 Government Resolution No. 668/2022 on the draft Core Mechanism to ensure compliance with the horizontal principles in the programming period 2021 - 2027 and the basic horizontal conditions Effective implementation and enforcement of the Charter of Fundamental Rights of the European Union and Implementation and application of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in accordance with Council Decision 2010/48/EC, available at: <https://rokovania.gov.sk/RVL/Resolution/20462/1>.

ing EU funds are obliged to ensure and implement all measures designed to implement the Charter. According to the Partnership Agreement, in order to ensure that operations supported by EU funds comply with the Charter, the mechanism set up to manage, coordinate, implement, evaluate and audit the horizontal principles in the areas of fundamental rights, non-discrimination, gender equality and protection of persons with disabilities is to be coordinated at the national level. This task is entrusted to the Ministry of Labour, Social Affairs and Family of the Slovak Republic through the Horizontal Principles Department. The role of the Horizontal Principles Department is therefore to set up disbursement procedures that are in line with the Charter. Horizontal conditions are applied as a disqualifying criterion which must be applied at the latest during the grant application process. Compliance with horizontal conditions needs to be checked and set at the beginning of the whole process, i.e. in the project plan/call. All projects must therefore comply with the horizontal conditions, or they cannot be funded by EU funds.²⁵



25 The Core Mechanism to ensure compliance with the horizontal principles in the programming period 2021 - 2027 and the basic horizontal conditions Effective implementation and enforcement of the Charter of Fundamental Rights of the European Union and Implementation and application of the United Nations Convention on the Rights of Persons with Disabilities (UNCPRD) in accordance with Council Decision 2010/48/EC is available at: <https://horizontalneprincipy.gov.sk/wp-content/uploads/2022/11/Zakladny-mechanismus-uplatnovania-HP-v-PO-2021-2027.pdf?cs-rt=16614460384458508037>.

European Union Agency for Fundamental Rights and tools to learn more about the Charter

Within the EU, the European Union Agency for Fundamental Rights (FRA) is the main guardian of the Charter. FRA is an independent reference and expert centre for the promotion and protection of human rights in the EU.²⁶ FRA was established by Council Regulation (EC) No 168/2004 of 15 February 2007 establishing a European Union Agency for Fundamental Rights.

FRA's main objective is to provide assistance and expertise in the field of fundamental rights to relevant EU institutions, bodies, offices and agencies and Member States in the implementation of EU law, to help them fully respect fundamental rights when taking action or deciding on action in their respective areas of competence.²⁷

FRA's tasks include:

- collect and analyse legislation and data;
- provide independent, evidence-based advice on fundamental rights;
- identify development trends through the collection and analysis of comparable data;
- help to improve the drafting and implementation of legislation;
- promote policies in line with fundamental rights;
- strengthen the cooperation and links between actors in the field of fundamental rights.²⁸

Within the scope of its powers, FRA constantly develops various tools to bring the content of the Charter to the attention of both the professional and the general public. FRA's instruments are diverse in their nature.

26 About FRA, online, available in English at: <https://fra.europa.eu/en/about-fra>.

27 Article 2 of Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, available at: https://fra.europa.eu/sites/default/files/fra_uploads/CELEX_02007R0168-20220427_SK_TXT.pdf.

28 What We Do, online, available in English at: <https://fra.europa.eu/en/about-fra/what-we-do>.

Online educational courses (e-learning):

Through online training courses, participants are guided step-by-step through the process of implementing the Charter at the national level. The courses are based on specific case studies and are therefore a very practical tool. The advantage of the online training course is that each participant can individually determine the pace and time of the training according to his/her possibilities. Online registration is required to access the online course and it is free of charge.²⁹

Charterpedia

Charterpedia is a practical and single source of information on fundamental rights under EU law. It is a comprehensive database that includes:

- official explanations of each provision of the Charter in all 24 official EU languages;
- CJEU and ECHR cases that refer to one or more articles of the Charter;
- a selection of national case law that makes direct reference to one or more articles of the Charter;
- references to related provisions of national constitutional and international law for each article of the Charter;
- examples of the use of the Charter in parliamentary debates;
- related FRA publications and other literature on the Charter.³⁰

Hlava I: Dôstojnosť	Hlava II: Slobody	Hlava III: Rovnosť	Hlava IV: Solidarita
Hlava V: Občianstvo	Hlava VI: Spravodlivosť	Hlava VII: Všeobecné ustanovenia	Preambula

PRODUCTS VONKAŠIE ZDROJE ODBORNÉ ZDROJE ODKAZY NA PARLAMENTNÉ ROZPRÁVY

29 E-Learning, FRA, available in English at: <https://e-learning.fra.europa.eu/>.


30 Charterpedia, FRA, available in English at: <https://fra.europa.eu/en/charterpedia>.

Charterpedia contains a list of FRA publications, external sources, academic sources and references to parliamentary debates. It also contains references to different titles of the Charter.

Through references to Charter titles, we come to the rights themselves. Subsequently, a link to each individual right contains an official interpretation and a related interactive database of case law, links to national law, EU law, international law and FRA information materials.³¹

Case law database

A specific tool for working with case law is the case law database which FRA constantly updates with relevant case law. It contains case law from CJEU, ECHR and national courts, with direct references to the Charter. The advantage of this database is the possibility to search by a specific article of the Charter, but also by ECHR article. The results can also be filtered by the judicial institution or the Member State to which the decision relates. The database contains over 1,600 decisions. Each decision is accompanied by a brief table summary and relevant paragraphs referring to the Charter in English and in the national language. The decision is always published with a reference to the full text in the original language.³²



The screenshot shows the 'Case Law Database' search interface. At the top, it says 'Case Law Database' with a blue underline. Below that, a descriptive paragraph states: 'Here you can find case law of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECHR) with direct references to the EU Charter of Fundamental Rights, as well as a selection of national case law with direct references to the Charter from all EU Member States.' Below this is a 'FILTER BY' section with four dropdown menus: 'Charter článkov (pre Európske) čísla', 'ECHR Article(s) referenced', 'Deciding bodies', and 'Countries'. Each dropdown menu currently shows 'None selected'. At the bottom, there is a search bar labeled 'Vyhľadávajte podľa kľúčových slov' and a blue button labeled 'VYHĽADÁVAŤ'.

31 Charter of Fundamental Rights of the European Union, FRA, available at: <https://fra.europa.eu/sk/eu-charter>.

32 Case Law Database, FRA, available in English at: <https://fra.europa.eu/en/case-law-database>.

Selected FRA publications

Annual reports

Each year, FRA publishes an annual report on fundamental rights issues that fall within its fields of activity and highlights examples of good practice.³³ The report always reflects the current social situation. The 2023 report e.g. looked inter alia into the impact of the war in Ukraine on the EU's fundamental rights, as Member States had to deal with a mass influx of people fleeing the war.³⁴ In addition to analysing human rights developments, the 2022 report focused on social rights and equity in the light of the recovery from the COVID-19 pandemic in response to the pandemic crisis.³⁵ The reports are published in English as well as in the official EU languages.

Charter case studies - trainer's manual

Proper implementation of the Charter at the national level requires comprehensive expert training which can best be provided through professional training. FRA has prepared a publication for trainers that focuses on guidelines on the organisation and delivery of training, based on a series of case studies. The publication was originally available in English and in selected languages of Member States. It is now also available in Slovak.³⁶

What do fundamental rights mean for people in the EU? summary - Fundamental rights survey

In this publication, FRA for the first time drew on a report based on survey data from around 35,000 people on their experience, perceptions and opinions on a range of issues that relate in different ways to human rights. The summary focuses on respondents' views on human rights, specifically on issues relating to the functioning of democratic societies as a pillar of the enjoyment of fundamental rights, views on public authorities and experience in dealing with public authorities in relation to their duty to enforce human rights legislation. The pub-

33 Article 4 (1) (d) of Council Regulation (EC) No. 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, available at: https://fra.europa.eu/sites/default/files/fra_uploads/CELEX_02007R0168-20220427_SK_TXT.pdf.

34 Fundamental Rights Report - 2023, FRA, p. 3, available in English at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf.

35 Fundamental Rights Report - 2022, FRA, p. 3, available in English at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-fundamental-rights-report-2022_en.pdf.

36 Charter case studies - trainer's manual, FRA, available at <https://fra.europa.eu/sk/publication/2023/pripadove-studie-k-charte-prirucka-pre-skolitelov>.

lication is also available in Slovak.³⁷

Border controls and fundamental rights at external land borders

The publication is a practical guide for staff in charge of border management in EU Member States, to support them in implementing the safeguards for the protection of fundamental rights in their daily work. The guide is published in all official EU languages and contains practical recommendations in each of the following areas:

- treating every person with dignity;
- identifying vulnerable people and referring them on;
- respecting the legal basis, the principle of necessity and the principle of proportionality in the use of force;
- applying safeguards in border detention; and
- respecting procedural safeguards and protecting personal data.³⁸

Applying the Charter of Fundamental Rights of the European Union in law and policymaking at the national level

The publication is a comprehensive guide on how the Charter can be applied at the national level in law and national policy-making. The guide details the whole process of implementing the Charter from the moment of determining whether a particular situation falls within the scope of the Charter, which is linked to the implementation of EU law. The process of determining the scope of implementation requires deep knowledge of EU law as well as of the national law. The guide then focuses on the specific process of using the Charter and on the practical tools usable in its implementation. The guide is translated into all official EU languages.³⁹

37 What do fundamental rights mean for people in the EU? summary - Fundamental Rights Survey, FRA, available at: <https://fra.europa.eu/sk/publication/2021/co-znamenaju-zakladne-prava-pre-ludi-v-eu-zhrnutie-prieskum-o-zakladnych-pravach>.

38 Border controls and fundamental rights at external land borders, FRA, available at: <https://fra.europa.eu/sk/publication/2020/border-controls-and-fundamental-rights-external-land-borders>.

39 Applying the Charter of Fundamental Rights of the European Union in law and policymaking at the national level, FRA, available at: <https://fra.europa.eu/sk/publication/2020/uplatnovanie-charty-zakladnych-prav-europskej-unie-v-prave-pri-tvorbe-politik-na>.

The EU Charter of Fundamental Rights - Use and added value in EU Member States

In order to disseminate examples of good practice among EU Member States, FRA has developed a set of factsheets focusing on the implementation of the Charter in national contexts. The sheets are produced individually for each Member State, in both national and English languages.⁴⁰

40 The EU Charter of Fundamental Rights - Use and added value in EU Member States, European Union Agency for Fundamental Rights, FRA, available at: <https://fra.europa.eu/sk/publication/2020/charta-zakladnych-prav-eu-pouzitie-pridana-hodnota-v-clenskych-statoch-eu>.

Slovak National Centre for Human Rights and the Charter

As mentioned in the introduction to this publication, the Centre holds two mandates, namely:

- the mandate of an independent national human rights institution, which consists mainly of monitoring and investigating the respect of human rights, highlighting human rights violations and raising awareness of the role of human rights in a democratic society;
- the mandate of a national anti-discrimination body whose tasks focus on protecting the rights of victims of discrimination by providing free legal aid, issuing expert opinions and raising awareness of the impact of discrimination.⁴¹

The scope and limits of the application of the Charter by the Centre as a national human rights institution are defined by the Centre's legal mandate. The Centre's current mandate in the field of human rights encompasses a range of supporting competences which the Centre exercises in full. The Centre carries out educational activities, issues recommendations, reports and expert opinions based on human rights monitoring. Through all these activities, the Centre is able to draw attention to the fundamental rights enshrined in the Charter and thereby to strengthen its position at the national level.

On the other hand, the legal protection powers guaranteed by law are not sufficient. The Centre has the power to deal with complaints only in the area of discrimination, within the framework of its mandate as a national anti-discrimination body. The Centre can therefore use the Charter as a protective tool, particularly in matters of applying the principle of equal treatment, but the Charter goes far beyond the principle of non-discrimination. A further limitation can be seen in the fact that the Centre does not take the position of a mandatory commenting body in the adoption of laws. As a national human rights institution, the Centre draws attention to possible violations of fundamental rights in the legislative process by submitting comments. However, public authorities are under no obligation to address such comments. When commenting on draft laws, the Centre can use the Charter as a starting

41 Slovak National Centre for Human Rights and its mandates, Slovak National Centre for Human Rights, available at: <https://www.snslp.sk/en/about-us-2/about-us/>.

point for the protection of fundamental rights. If state authorities were obliged to address such comments, the protection of fundamental rights could be improved through the Charter.

Supporting National Human Rights Institutions in monitoring fundamental rights and the fundamental rights aspects of the rule of law

As a part of its mandate as a national human rights institution, the Centre actively participated in an international project: Supporting National Human Rights Institutions in monitoring fundamental rights and the fundamental rights aspects of the rule of law. T

The project was implemented in three key areas:

- improving the use of the Charter by national human rights institutions and strengthening the role of such institutions in its implementation at the national level;
- strengthening the capacity of national human rights institutions to monitor the respect for fundamental rights and the rule of law by increasing the involvement of such institutions in relevant European mechanisms and promoting national dialogues on fundamental rights and the rule of law;
- developing the skills of national human rights institutions in monitoring the respect for fundamental rights, in the implementation of EU funds.

Through activities in these key areas, the project aimed to strengthen the position of national human rights institutions, their capacity to engage in fundamental rights and rule of law processes, and to increase the level of protection of fundamental rights through more intensive implementation of the Charter. From among the activities carried out, we can highlight in particular the development of professional publications, preparation of educational tools and trainings for various target groups, including students, representatives of civil society, the legal profession, and judges.⁴²

42 Projects, Slovak National Centre for Human Rights, available at: <https://www.snslp.sk/en/projects/>.

Publications prepared within the project

The role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds – Slovakia

The report focuses on the potential role of the Centre in the implementation of the fundamental rights respect condition for the use of EU funds, based on an analysis of the structure of the implementation of EU funds in the Slovak Republic. The report provides an overview of how EU funding works in the national context, identifies challenges and opportunities in the area of fundamental rights, and explores the role and scope for the involvement of national human rights institutions in ensuring that EU funding is in line with fundamental rights.

The report also provides an overview of key stakeholders and professional public at the national level and information (also gathered through expert interviews) aimed at providing an overview of the challenges and opportunities in the area of fundamental rights in the implementation of EU funding.⁴³

Institutional Structure for the Protection of Fundamental Human Rights at the National Level – Slovakia

The study analyses the institutional structure of human rights protection in the Slovak Republic by analysing the mandates of individual national institutions and public authorities. In the Slovak Republic, every public authority is obliged to actually apply human rights. Thus, a comprehensive picture of the structure of fundamental rights protection in the Slovak Republic includes institutions independent of the state whose primary mission is to protect fundamental rights and freedoms, public authorities to which the law explicitly entrusts competences in the field of human rights, public authorities and institutions that ensure the protection of fundamental rights within a specific mandate, and advisory bodies of the government whose task is to promote various policies related to human rights in state policy.

The study also provides information on how an individual can contact such institutions or public authorities. Space is also devoted to a key strategic document in the field of protection of fundamental rights, namely the National Strategy for the Protection and Promotion of Human Rights. The study concludes with an analysis

43 The role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds – Slovakia, Slovak National Centre for Human Rights, available at: <https://www.snslp.sk/en/aktuality/the-role-of-national-bodies-with-a-human-rights-remit-in-ensuring-fundamental-rights-compliance-of-eu-funds/>.

of the nature of the mandate of national institutions within the human rights protection architecture and final recommendations for such institutions.⁴⁴

Baseline report on the possibilities of strengthening the situation of fundamental rights through increased use of the Charter of Fundamental Rights of the European Union – Slovakia

The report focuses on the situation of fundamental rights through an analysis of the implementation of the Charter by the judicial, executive and legislative authorities in Slovakia. It contains information on how the Charter should be used in law-making and how it is actually used in this process. It also analyses the way in which state policies refer to the Charter. In the area of the judiciary, the study specifically examines the use of the Charter by the courts of the general court system and the Constitutional Court of the Slovak Republic. It concludes with examples of good practice from other EU Member States in implementing the Charter.⁴⁵

Collecting Promising Practices on National Human Rights Institutions' Charter Use

The report contains a collection of good practices on the application of the EU Charter of Fundamental Rights by national human rights institutions. National human rights institutions, as independent institutions established for the protection of human rights, have a key potential for strengthening the standards of human rights protection through the implementation of the Charter. The scope of activities of each such institution is defined by their legal mandate, so the activities of these institutions across Europe may vary. However, their mandate derives from common international standards, so certain groups of activities are common to them, namely litigation, legal advice, human rights monitoring, reporting and education and human rights awareness-raising. Examples of good work can serve as inspiration for different national actors, including civil society representatives or state authorities.⁴⁶

44 Institutional Structure of the Protection of Fundamental Human Rights at the National Level, Slovak National Centre for Human Rights, available at: <https://www.snslp.sk/en/aktuality/institucional-na-struktura-ochrany-zakladnych-ludskych-prav-na-vnutrostatnej-urovni/>

45 Baseline report on the possibilities of strengthening the situation of fundamental rights through increased use of the Charter of Fundamental Rights of the European Union – Slovakia, Slovak National Centre for Human Rights, available at: <https://www.snslp.sk/en/aktuality/baseline-report-on-the-potential-for-strengthening-the-fundamental-rights-situation-through-a-stronger-use-of-the-eu-charter-of-fundamental-rights/>

46 Collecting Promising Practices on National Human Rights Institutions' Charter Use, Slovak National Centre for Human Rights, available at: https://www.snslp.sk/wp-content/uploads/Collecting-promising-practices-on-NHRI-Charter-use_online.pdf

The Use of EU Funds While Respecting and Promoting Fundamental Rights: A Guide to Applying the New EU Charter of Fundamental Rights Conditionality

The guideline provides practical recommendations on the application of the new Charter's compliance conditionality in the implementation of EU funds for all relevant stakeholders, namely managing authorities, public authorities, national human rights institutions, civil society organisations and other relevant actors. Regarding the process of implementation of the Charter's compliance conditionality, it provides an overview of the compliance measures for programmes supported by EU funds, measures to implement EU funds in accordance with the Charter, mechanisms for reporting to the Monitoring Committee and complaints to responsible authorities.⁴⁷

Educational workshops performed by the Centre

Workshop on using EU funding

At the workshop which took place on 30 October 2023 in Bratislava the participants were introduced to the application of the new Charter's compliance conditionality in the use of EU funds. The workshop focused on the ways and tools that governing bodies, public authorities, national human rights institutions, civil society organisations or other relevant actors can use to help ensure that the Charter's compliance conditionality is not limited to administrative box-ticking, but instead a funding cycle that fully respects human rights is developed. The training focused on:

- the Charter itself;
- new conditionality legislation;
- the entities responsible for compliance with the conditionality and the coordination between them;
- mechanism for monitoring compliance with the conditionality and the consequences of non-compliance;
- and key points to focus on to ensure that the conditionality is applied.

47 The Use of EU Funds While Respecting and Promoting Fundamental Rights: A Guide to Applying the New EU Charter of Fundamental Rights Conditionality, Slovak National Centre for Human Rights, available at: https://www.snsfp.sk/wp-content/uploads/The-Use-of-EU-Funds_online.pdf

Workshops on the implementation of the Charter

The Centre organised four workshops on the implementation of the Charter, namely a workshop for:

- students of the Faculty of Law, University of Trnava (29 November 2023),
- representatives of civil society (7 December 2023),
- barristers, solicitors and barristers' clerks (17 January 2024), and
- judges and senior judicial officers (30 January 2024).

Each workshop was carefully prepared taking into account the needs of the audience. The workshop was always divided into two parts. The first, theoretical part focused on the position of the Charter in the Slovak legal order and the manner of its application. Next, the participants were introduced to the structure of the Charter and its implementation in theoretical terms. Then the second, practical part of the workshop focused on the verification of the theoretical knowledge and its application in practice. Participants tried out the implementation of the Charter on model cases from practice.



SLOVENSKÉ NÁRODNÉ
STREDISKO
PRE ĽUDSKÉ PRÁVA