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THE USE OF EU FUNDS WHILE RESPECTING AND PROMOTING FUNDAMENTAL RIGHTS

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THE USE OF EU FUNDS WHILE RESPECTING AND PROMOTING FUNDAMENTAL RIGHTS:

A GUIDE TO APPLYING THE NEW EU CHARTER OF FUNDAMENTAL RIGHTS CONDITIONALITY (guidance)

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Supporting national human rights institutions in monitoring fundamental rights and the fundamental rights aspects of the rule of law” has received funding from Iceland, Liechtenstein and Norway through the EEA and Norway Grants Fund for Regional Cooperation in the amount of 194 982,50 €. The aim of the project is to strengthen the role of national human rights institutions and their capacity to engage in the processes of applying fundamental rights and principles of the rule of law within the EU mechanisms.

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INTRODUCTION

The Union's aim is to promote peace, its values, and the well-being of its peoples.¹ The means of achieving this objective include the promotion of economic, social, and territorial cohesion and solidarity between Member States.² The Structural Funds (alongside with other financial measures) are instruments through which the Union seeks to achieve the levelling out of economic and social disparities within regions and within countries.

To ensure the protection of the Union budget, the Union has introduced a system of conditionality. As explained by the Court of Justice already in 2012, "the reason why the grant of financial assistance by the stability mechanism is subject to strict conditionality (...) is in order to ensure that that mechanism will operate in a way that will comply with European Union law, including the measures adopted by the Union in the context of the coordination of the Member States' economic policies."³

In relation to the Structural Funds, the conditionality regime was already applied in the 2014-2020 programming period as ex-ante conditionality.⁴ However, the conditionality regime was only applied at the stage of preparation and approval of the Partnership Agreement and Operational Programmes; the later stages of implementation of support from the Funds remained uncovered as regards to the control of compliance with the conditions set.⁵ Moreover, the control of compliance with con-

ditionality was based on a self-assessment drawn up by the Member State itself, which was subsequently verified by the Commission. The conditionality regime did not address situations where Member States waived compliance with a set conditionality after the approval of the Partnership Agreement.

The 2021-2027 programming period already reacts to this shortcoming with a new conditionality regime. The 2021 Regulation on Common Provisions for EU Funds⁶ ("2021 CPR") introduced requirements to comply with 20 different so-called enabling conditions (of which there are 4 horizontal and 16 thematic enabling conditions). In terms of the focus of this publication, the relevant enabling condition is the requirement to comply with the Charter of Fundamental Rights of the European Union (hereafter "the Charter").

The requirement to respect the Charter constitutes a horizontal enabling condition which Member States and the Commission are obliged to ensure while implementing the Funds, in the preparation, implementation, monitoring of programmes, as well as in the reporting and evaluation of programmes.⁷

In this regard, Member States are obliged to put in place **effective mechanisms to ensure compliance with the Charter**⁸ in the form of **preventive measures**: (1) arrangements to ensure compliance of the programmes supported

1 Article 3 (1) of the Treaty on European Union (Consolidated version), [OJ 2012 C 326/13](#).

2 Article 174 of the Treaty on the Functioning of the European Union (Consolidated version), [OJ 2012 C 326/47](#).

3 Judgement of 27 November 2012 in case Pringle, [C-370/12](#), ECLI:EU:C:2012:756, p. 69

4 Pursuant to the Article 2(33) of the [Regulation No 1303/2013](#) of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 ("2013 CPR") „ex ante conditionality" means a concrete and precisely pre-defined critical factor, which is a prerequisite for and has a direct and genuine link to, and direct impact on, the effective and efficient achievement of a specific objective for an investment priority or a Union priority."

5 Pursuant to the Article 19(2) 2013 if the ex ante conditionalities had not been met at the date of submission of the Partnership Agreement, they had to contain concrete measures to ensure that the ex ante conditionalities were met by the end of 2016 at the latest.

6 [Regulation No. 2021/1060](#), 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 financial rules for those and for the [Asylum, Migration and Integration Fund](#), the [Internal Security Fund](#) and the [Instrument for Financial Support for Border Management and Visa Policy](#).

7 Article 9 of the 2021 CPR.

8 Annex III to the 2021 CPR.

by the Funds with the relevant provisions of the Charter, (2) measures to implement the Funds with the relevant provisions of the Charter; and **follow-up measures:** (3) reporting arrangements to the monitoring committee regarding cases of non-compliance of operations supported by the Funds with the Charter, and (4)

mechanisms to ensure the effective review of complaints relating to the Charter and the Funds.



**MEASURES TO ENSURE
THE CONSISTENCY
OF PROGRAMMES
SUPPORTED BY EU FUNDS**

The implementation of Union funds is carried out through the shared management between the Commission and the Member States.⁹This means that Member States implement Union law when adopting the Partnership Agreement,¹⁰setting up the system for the implementation, management and monitoring of EU Funds, or when carrying out their obligations under the CPR and the individual Fund Regulations. They must therefore comply with the provisions of the Charter in these activities.¹¹

- When preparing individual documents (Partnership Agreement, Operational Programme, Call) we recommend performing a compliance test by means of control questions:

Does the envisaged measure restrict a fundamental right guaranteed by the Charter?

If so, the analysis continues by asking and answering further questions.

If not, it is not a problem, the measure can be carried out.

Further control questions are based on the provision of Article 52 (1) of the Charter, according to which any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject

to the **principle of proportionality**, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.

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CJEU: MR, C-365/21¹²

“As regards the **principle of proportionality**, that principle requires that the limitations which may, in particular, be imposed by acts of EU law on rights and freedoms enshrined in the Charter **do not exceed the limits of what is appropriate and necessary** in order to meet the **legitimate objectives** pursued or the need to protect the rights and freedoms of others; where **there is a choice** between several appropriate measures, recourse must be had to the **least onerous**. In addition, an **objective of general interest** may not be pursued without having regard to the fact that it must be **reconciled with the fundamental rights** affected by the measure, by properly **balancing** the objective of general interest against the rights at issue, in order to ensure that the disadvantages caused by that measure are not disproportionate to the aims pursued.”

9 Article 63 of the [Regulation No. 2018/1046](#) on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012.

10 A model partnership agreement is contained in the Annex II of the CPR.

11 See the Article 52 of the Charter.

12 See for example the Commission’s [Guidance on ensuring the respect for the Charter of Fundamental Rights of the European Union when implementing the European Structural and Investment Funds \(‘ESI Funds’\)](#) (2016/C 269/01), Guidance of the European Union Agency for Fundamental Rights (‘FRA’): [Applying the Charter of Fundamental Rights of the European Union in law and policymaking at national level](#).

Further auxiliary questions¹³ can be therefore formulated:

1. **Which fundamental rights under the Charter are affected??**

- The legal qualification of the specific right under the Charter must follow.
- Familiarity with the content of the identified right is recommended.¹⁴

2. **Have rights concerned a character of absolute rights?**

- The assessment is aimed at determining whether the right in question can be limited at all.
- The absolute rights enshrined in the Charter include: Human dignity - Art.1, Prohibition of torture and inhuman and degrading treatment or punishment - Art.4, Prohibition of slavery and forced labour - Art.5(1-2), Freedom of thought, conscience and religion - Art.10(1), Presumption of innocence and right of defence - Art. 48, Principle of legality of offences and penalties - Art.49(1), Right not to be tried or punished twice in criminal proceedings for the same criminal offence = principle of ne bis in idem - Art.50.¹⁵

✓	✗
If not , the analysis continues by asking and answering further questions.	If so , the measure does not comply with the Charter and must not be implemented.

3. **Is any limitation of the rights guaranteed by the Charter provided in law?**

- The restrictive measure must emanate either from a national law affecting the implementation of a Union right or from Union law.
- The measure must be clear and comprehensible (i.e. the addressee of the measure must be able to understand the content of the restriction or what behaviour is required of him/her) and must be publicly available – e.g. via www.slov-lex.sk, www.eur-lex.eu.

✓	✗
If so , the analysis continues by asking and answering further questions.	If not , the measure does not comply with the Charter and must not be implemented.

4. **What is the impact of the planned measure on the rights guaranteed by the Charter?**

- If positive, the measure is not a problem and can be applied.
- If both positive and negative, there must be a balancing of positive and negative effects to rights concerned and assessing to which right a greater protection is given; the proportionality test is applied.

13 For example, [Explanations relating to the Charter of Fundamental Rights](#) (2007/C 303/02) can be used for this purpose.
 14 For a further explanation, see FRA's Guidance [Applying the Charter of Fundamental Rights of the European Union in law and policymaking at national level](#), pp. 70-71.
 15 Judgement of 9 March 2010, joined cases [ERG and others, C-379/08 a C-380/08](#), ECLI:EU:C:2010:127, p. 80.

- If negative, it must be assessed whether such measure can be justified; the proportionality test is applied.

Proportionality Test

(applicable only in cases where the answer to the control question has led to a further assessment, i.e. it did not lead to a conclusion that the measure was not applicable due to its non-compliance with the Charter)

5. Does the envisaged restriction respect the substance of the rights guaranteed in the Charter?

- According to the CJEU, the exercise of the right may be restricted, provided that those restrictions in fact correspond to objectives of general interest pursued by the European Union and do not constitute disproportionate and intolerable interference, impairing the very substance of the rights guaranteed¹⁶

✓	✗
If so , the analysis continues by asking and answering further questions.	If not , the measure does not comply with the Charter and must not be implemented.

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6. Does the measure pursue an objective of general interest recognised by the Union?

- The question is to find out what is the objective of the measure?
- Is this a legitimate objective?

✓	✗
If so , the analysis continues by asking and answering further questions.	If not , the measure does not comply with the Charter and must not be implemented.

7. Is the measure necessary to achieve the objective?

- Without the adoption of a restrictive measure, the legitimate aim pursued cannot be achieved.

✓	✗
If so , the analysis continues by asking and answering further questions.	If not , the measure does not comply with the Charter and must not be implemented.

8. Can that objective be achieved by other appropriate - less restrictive means?

- If there are disposable other means of achieving the legitimate aim pursued, it is necessary to assess which means is the least restrictive.

✓	✗
If not, and questions 5-7 have been answered in the affirmative , the measure can be implemented.	If so , the measure does not comply with the Charter and must not be implemented.

! In particular, the following Charter rights may be affected in relation to the drafting of documents: equality before the law (Art. 20), non-discrimination (Art. 21), equality between women and men (Art. 23), integration of persons with disabilities (Art. 26), right to property (Art. 17), protection of the environment (Art. 37).¹⁷

17 Para. 12 of the Preamble of the 2021 CPR.



MEASURES TO IMPLEMENT THE EU FUNDS IN ACCORDANCE WITH THE CHARTER

Proper implementation of the Funds requires the establishment of an effective management, control and monitoring system. In view of the shared management of the implementation of EU Funds, Member States are obliged to respect the principles of sound financial management, the principle of transparency and the principle of non-discrimination.¹⁸ The essence of transparency is the establishment of procedures in which the substantive and procedural conditions are clear, predetermined and published. This will ensure that the funds are implemented in a way that is transparent, auditable, and fair, which will ultimately make it easier to verify the system's compliance with the Charter.

• When setting up the system of management and control and monitoring of EU Funds, the organisation of partnerships and deciding on the conditions of membership of the monitoring committee, we recommend in particular to draw up documents ensuring transparency in relation to:

1. system rules and management;¹⁹
2. procedures to combat fraud and effectively protect the Union's financial interests,
3. procedures to support the work of the Monitoring Committee,
4. procedures for a system to collect, record and store in computerised form data on each operation necessary for monitoring, evaluation, financial management, verification, and audit,
5. procedures for the supervision of the functions formally delegated by the managing authority,
6. the procedure for verifying operations and their compliance with the horizontal enabling condition relating to the Charter,
7. procedures for receiving, verifying, and validating requests for reimbursement from

- beneficiaries and procedures for authorising, making and clearing payments,
8. procedures for compiling annual reports, final reports, setting performance criteria,
9. the procedure for detecting and reporting irregularities,
10. the procedure for the recovery of undue payments,
11. the complaints procedure.

! *In particular, the following Charter rights may be affected in relation to the production of documents: Protection of personal data (Article 8), Right to an effective remedy and the right to a fair trial (Article 47).²⁰*

• We recommend respecting the principle of partnership when creating the bodies involved in management, control, and monitoring. This includes also:

1. The involvement of human rights institutions.
2. Definition of transparent and participatory conditions for membership within the Monitoring Committee.
3. Ensuring the participation of the HR focal point in the Monitoring Committee and the assignment of relevant competences in relation to the evaluation of findings on compliance or non-compliance with the Charter in the implementation of Union funds and the proposal of measures to remedy the identified shortcomings, and the establishment of preventive mechanisms.

! *In particular, the following Charter rights may be affected in relation to the creation of bodies: Non-discrimination (Art. 21), Linguistic diversity (Art. 22), Equality between women and men (Art. 23), Integration of persons with disabilities (Art. 26).²¹*

¹⁸ The coordination of the authorities in the use of Union funds in the Slovak Republic in relation to ensuring the compliance of measures with the Charter is described in the document [Návrh koordinácie plnenia základných podmienok politiky súdržnosti Európskej únie a ich uplatňovanie počas programového obdobia 2021-2027 na národnej úrovni](#) [Proposal for coordination of the implementation of the enabling conditions of the European Union cohesion policy and their application during the programming period 2021-2027 at national level].

¹⁹ Annex I to the Commission's Guidance (2016/C 269/01).

²⁰ Príloha I usmernenia Komisie (2016/C 269/01).

²¹ [Základný mechanizmus na zabezpečenie dodržiavania Horizontálnych princípov v Programovom období 2021-2027 a základných horizontálnych podmienok](#): Účinné uplatňovanie a implementácia Charter základných práv Európskej únie a implementácia a uplatňovanie Dohovoru OSN o právach osôb so zdravotným postihnutím (UNCRC) v súlade s rozhodnutím Rady 2010/48/ES.

In the Slovak Republic, the Ministry of Labour, Social Affairs, and Family of the Slovak Republic - Department of Horizontal Principles ("HP Gestor") is the body ensuring the application of the horizontal enabling condition of compliance with the Charter.²²

• In relation to the beneficiary of the non-repayable financial contribution, we recommend to:

1. enshrine the obligation to respect the rights set out in the Charter throughout the implementation of the supported project and

during the sustainability period of the project,

2. set measurable criteria by which the applicant demonstrates compliance with the Charter on a regular (annual) basis,
3. set sanctions for non-compliance with the obligation to implement the project in compliance with the Charter,
4. enshrine the possibility to withdraw from the contract for the provision of the non-reimbursable financial contribution in the event of non-performance of the supported project in accordance with the Charter.



**MECHANISMS
FOR REPORTING
TO THE MONITORING
COMMITTEE
AND FOR COMPLAINTS**

The aim is to establish a functional system for collecting, evaluating, and processing information on the compliance or non-compliance of implemented programmes and supported projects with the Charter.

• In relation to the Monitoring Committee, we recommend to:

1. ensure the participation of the HP focal point in the Monitoring Committee and the assignment of relevant competences in relation to the evaluation of findings on compliance or non-compliance with the Charter in the implementation of Union funds and the proposal of measures to remedy the identified shortcomings,
2. establish working groups involving human rights institutions,
3. establish a system for data collection, submission, processing and archiving,

4. regular submission of the reports of the working groups to the Monitoring Committee,
5. the creation of a mailing list generally accessible on the website concerning the use of the funds,
6. allowing complaints about violations of the Charter to be sent to other relevant institutions.

In the Slovak Republic, cases of non-compliance can be reported to podnetyastaznostighp@employment.gov.sk. Anyone can be the subject of a complaint.²³ Complaints regarding to possible violations of the Charter can also be submitted to institutions independent from public and state administration bodies, such as the Office of the Commissioner for Persons with Disabilities, the Office of the Commissioner for Children, the Public Defender of Rights and the Slovak National Centre for Human Rights.²⁴

²³ [Základný mechanizmus na zabezpečenie dodržiavania Horizontálnych princípov v Programovom období 2021-2027 a základných horizontálnych podmienok](#), [The key mechanism to ensure compliance with the Horizontal Principles in the Programme period 2021-2027 and the Horizontal Enabling Conditions, p. 8]

²⁴ OJ C 202, 7. 6. 2016, pp. 389-405



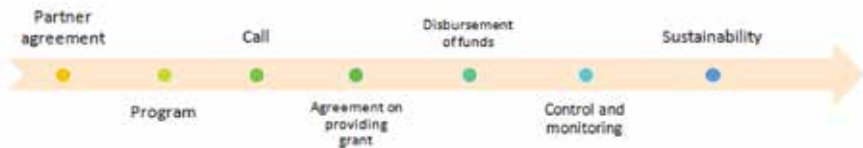
KEY INFORMATION - SUMMARY

The Charter of Fundamental Rights of the European Union²⁵ is based on the indivisible and universal values of human dignity, freedom, equality, and solidarity. It forms part of the founding Treaties of the Union and is legally binding for the institutions of the Union and for the Member States exercising their tasks under Union law.

In relation to EU Funds, the Charter constitutes one of the horizontal enabling conditions to be respected both by the authorities involved in the system of management, control and moni-

toring of Union funds and by the beneficiaries of financial support from the Union budget.

Compliance with the Charter must be implemented at all stages of the programming cycle (preparation and approval of the Partnership Agreement and programmes, preparation, and publication of calls for proposals, contracting of the beneficiary, disbursement of support and implementation of the supported project, control and monitoring of project implementation, sustainability of the project).



Where is it established?

- Article 9 (1), Article 15, Annex III of the CPR,
- Act No. 121/2022 Coll. contributions from European Union funds and on amendments and supplements to certain acts,
- The key mechanism to ensure compliance with the Horizontal Principles in the Programme period 2021-2027 and the Horizontal Enabling Conditions. Effective application and implementation 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,
- Proposal for the coordination of the implementation of the enabling conditions of the Cohesion policy of the European Union and their application at national level during the programming period 2021-2027,

- System of implementation of the horizontal principles – Programme period 2021-2027,
- Communication from the Commission (2016/C 269/01) Guidance on ensuring compliance with the Charter of Fundamental Rights of the European Union in the implementation of the European Structural and Investment Funds ('ESIF').

Are there other useful sources?

- European Agency for Human Rights (FRA): Applying the Charter of Fundamental Rights of the European Union in law and policymaking at national level,²⁶
- Slovak National Centre for Human Rights: The role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds -Slovakia.²⁷

Who is responsible for ensuring the compliance with the Charter?

²⁵ Available at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-charter-guidance_en.pdf.

²⁶ Available at:...

²⁷ For more details, see [Návrh koordinácie plnenia základných podmienok politiky súdržnosti Európskej únie a ich uplatňovanie počas programového obdobia 2021-2027 na národnej úrovni](#). [Proposal for the coordination of the implementation of the basic conditions of the European Union cohesion policy and their application at national level during the programming period 2021-2027]

- **Central Coordination Body (CCB)**–Ministerstvo investícií, regionálneho rozvoja a informatizácie Slovenskej republiky [Ministry of Investment, Regional Development and Informatics of the Slovak Republic]. CCB coordinates the process of evaluating the fulfilment of the enabling conditions (compliance with the Charter) in connection with the implementation of the Partnership Agreement and the programmes.
- **Managing authorities**–they shall establish and apply criteria and procedures for the selection of operations that are non-discriminatory, transparent, ensure accessibility for persons with disabilities, ensure gender equality, consider the Charter and the principles of sustainable development and Union environmental policies.
- **HP Gestor** – Ministry of Labour, Social Affairs, and Family of the Slovak Republic - Department of Horizontal Principles. It methodologically guides the subjects of implementation of the EU Funds, enters into the processes of implementation, monitoring, evaluation, and control. Moreover, it provides continuous training of managing authorities in the field of application of the Charter. It defines the requirements for demonstrating how to ensure compliance with the Charter when preparing calls for proposals. It also defines the conditions for the granting of a non-repayable financial contribution in relation to ensuring compliance with the Charter, how compliance with the Charter is verified and how compliance with the Charter is monitored.
- **Monitoring Committee**–it has participatory composition (36 members, 17 permanent observers), including institutions active in the field of fundamental rights. It monitors the implementation of the Slovakia 2021-2027 programme, evaluates performance, and reports on the programmes. It examines the fulfilment of the enabling condition of the compliance with the Charter and its application within the programming period. Submits reports to the CCB.

How does the coordination work?²⁸

- **CCB** keeps records, evaluates the fulfilment of the enabling conditions, publishes basic information on the current status of compliance with the Charter on the website www.eurofondy.gov.sk. It shall cooperate with the HP Gestor to remove obstacles and ensure re-compliance with this horizontal condition. It provides information on the status of compliance with the Charter condition to national authorities and to the Commission. It informs the managing authorities and intermediate bodies on changes in the state of compliance with the Charter condition. It prepares documents for the Monitoring Committee's meetings. It processes updates from the HP Gestor as an input to the Commission for the annual review of programme performance. Annually, it submits information on the status and process of compliance with the Charter condition to the Government of the Slovak Republic.
- **HP Gestors** submit a regular annual update report on the current status of compliance with the Charter. If the Charter compliance condition is met, the report shall include information on changes in compliance since the last report and identification of any possible risks. If the Charter compliance condition is not met, the report shall include information on the necessary measures and timetable for compliance with the essential condition, on communication with the Commission and its requirements regarding compliance with the essential condition, on the obstacles identified together with a proposal for their removal, on the expected date of compliance with the essential condition. In addition, at the request of the CCB, the HP Gestor shall provide a special information on the current status of compliance with the Charter condition if there is a risk or threat of non-compliance. The HP Gestor is obliged to inform the other authorities without delay in case of a change that affects the fulfilment of the Charter condition and its criteria. It also

provides assistance to the Managing Authorities/Intermediate Bodies - at their request, verifies and confirms the compliance of the measures and activities of the call with the Charter.

Preparation of the call

- HP Gestor will determine the conditions by mutual agreement with the Managing Authority/Intermediate Body.
- The conditions of the call are individually formulated according to the goal of the call, the expected results and outputs of the implemented projects, the eligible activities, and the target groups.
- HP Gestor provides, through a seminar/general information on the application, information on the obligation and the way how to apply and comply with the Charter and the specific conditions for doing so.
- HP Gestor requires the inclusion of compliance with the Charter both during implementation and during the sustainability period as a condition for the grant agreement.
- The information in the grant application serves as an indicator to assess the compliance of the submitted project with the Charter.
- HP Gestor will identify the annexes (including the affidavit) through which the evaluators will assess the compliance of the submitted application and project with the Charter.

Disqualification

- Measures, requests, and appeals not in conformity with the Charter are not applicable.

- The assessment of compliance with the Charter will be carried out by trained persons of the Managing Authority/Intermediate Body, and in special cases it may also be carried out by the HP Gestor.
- The beneficiary's application shall be considered in the application procedure. Being an administrative procedure, the applicant's right to an effective remedy and to a fair trial must be guaranteed (Article 47 of the Charter).
- Non-compliance of an application with the Charter is a disqualifying criterion for further proceedings.

How is the compliance with the Charter monitored?

- The compliance of the measure/project with the Charter must be monitored. The HP Gestor is always a member of the Monitoring Committee.
- Through proposals and complaints. The HP Gestor will forward proposals and complaints to the relevant Managing Authority for handling. It shall inform the Monitoring Committee of the complaints and how they have been dealt with.
- The HP Gestor may participate in controls/inspections carried out by the Managing Authority/Intermediate Body.
- The HP Gestor comments on the finding, confirmation/rejection of noncompliance with the Charter, consults on the possibility of remedy, sanctions against the beneficiary in case of detected violation of the Charter.



**A PRACTICAL TOOL
TO DETERMINE WHETHER
A MEASURE COMPLIES
WITH THE CHARTER**

Annex III of the Commission’s Guidance (2016/C 269/01) provides a practical guide for assessing individual measures against the Charter.

Fundamental rights impacts	Key questions
General	<ul style="list-style-type: none"> - What fundamental rights are affected? - Are the rights in question absolute? - Does the measure have both positive and negative impact depending on the fundamental rights concerned?
Dignity	<ul style="list-style-type: none"> - Does the measure affect human dignity, the right to life or the integrity of the person? - Does the measure raise (bio)ethical questions? - Is the measure associated with risks in terms of torture and inhuman or degrading treatment or punishment? - Does the measure have an impact in terms of forced labour or trafficking in human beings?
Individuals, private and family life, freedom of conscience and expression	<ul style="list-style-type: none"> - Does it affect individuals’ right to liberty? - Does it affect the right to private life privacy (including home and communication)? - Does it affect an individual’s right to move freely within the EU? - Does it affect the right to marry and found a family or the legal, economic, or social protection of the family? - Does it affect freedom of thought, conscience, and religion? - Does it affect freedom of expression and information? - Does it affect freedom of assembly and of association? - Does it affect the freedom of arts and science?

<p>Personal data</p>	<ul style="list-style-type: none"> - Does it involve the processing of personal data? - Who processes personal data and for which purpose? - Are the individual's rights of access, objection and rectification guaranteed? - Has the competent authority been informed of the processing activity? - Do data processing/transfer chains include international transfers and, if so, are there sufficient safeguards? - Is the security of data processing activities ensured from a technical and organisational point of view? - Are there safeguards in place to ensure that interferences with the right to data protection are proportionate and necessary? - Are there appropriate/specific review and oversight mechanisms at place?
<p>Asylum and protection in the event of eviction, expulsion or extradition</p>	<ul style="list-style-type: none"> - Does the measure affect the right to asylum, and does it guarantee a prohibition on collective expulsions and extraditions to states where they risk being subjected to the death penalty, torture, or degrading treatment?
<p>Property rights and freedom of establishment</p>	<ul style="list-style-type: none"> - Are property rights affected? - If so, will there be a total loss of property? - If so, what are the justifications and compensation mechanism? - Does the measure affect the freedom of establishment, or does it impose additional requirements that increase transaction costs for the economic operator concerned?

<p>Gender equality, equal treatment and opportunities, non-discrimination and disability rights</p>	<ul style="list-style-type: none"> - Does the measure guarantee the principle of equality before the law and would it affect non/directly the principle of non-discrimination, equal treatment, gender equality and equal opportunities for all? - Does the measure affect men and women differently? - How does the measure promote gender equality? - How is the measure linked to the differential treatment of groups or individuals directly on the basis of gender, origin, religion, disability, age, sexual orientation? - Could it lead to indirect discrimination? - Is respect for the rights of persons with disabilities guaranteed? How?
<p>Rights of the child</p>	<ul style="list-style-type: none"> - Does the measure strengthen or restrict the rights of the child? - How is any possible restriction justified? - Does the measure consider the best interests of the child? - Does the measure help to promote the protection of children's rights? - Is the UN Convention on the Rights of the Child (UNCRC) taken into account? Which articles? - How does the measure support the guiding principles of the UNCRC? - Does the measure hinder the application of some of the main principles of the UNCRC? - What steps have been taken to improve or compensate any adverse effects of the measure? - Has the child's right to be heard in all matter-affecting him or her been respected? - Does the measure contribute to the promotion of child-friendly justice systems that are adapted to the needs, age, and maturity of the child?

<p>Good governance / effective remedy / justice</p>	<ul style="list-style-type: none"> - Will the administrative procedures in place become more burdensome? - Will they guarantee the right to be heard, the right of access to the file, taking due account of the protection of professional and business secrecy as well as the obligation of administrative authorities to give reasons for their decisions? - Is the individual's access to justice affected? - Does the individual have guaranteed the right to an effective remedy count? - Have the guarantees of the presumption of innocence and ne bis in idem been provided?
<p>Solidarity and workers' rights</p>	<p>Does the measure respect worker ' s right to:</p> <ul style="list-style-type: none"> - information and consultation within the company, - collective bargaining and collective action, - access to employment services, - protection in the event of unfair dismissal and reasonable working conditions, - prohibition of child labour and protection of minors at work, - the right to social security benefits and social services?
<p>Environmental protection</p>	<ul style="list-style-type: none"> - Does the measure contribute to a high level of protection of the environment and improvement of the quality of the environment in accordance with the principle of sustainable development?



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