

Viviane Reding

Vice-President of the European Commission responsible for Justice,
Fundamental Rights and Citizenship

Marking the coming of age of the Charter of
Fundamental Rights: Ensuring Justice and
Protection for all children

Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort

FRA 2010 FR Conference - 10th Anniversary of the Charter

Brussels, 7 December 2010

Ladies and Gentlemen,

It is a great pleasure to address this conference on this very special day: today marks the tenth anniversary of the proclamation of the Charter of Fundamental Rights of the EU! I thank the organisers, the Belgian Presidency of the European Union and the Fundamental Rights Agency for organising such a timely event on a subject as important as that of ensuring child-friendly justice.

It was ten years ago - on 7 December 2000 - that the Charter was solemnly proclaimed by the European Parliament, the Council and the European Commission.

While the Charter was, at the time, not yet legally binding on the EU institutions and the Member States, its proclamation sent out a strong signal. Today, thanks to the entry into force of the Lisbon Treaty, we have a legally binding Charter which is part of European primary legislation, the EU's own ambitious bill of fundamental rights.

The unique richness of the Charter is primarily due to the innovative process that brought it into being. It was the result of a joint effort of Members of the European Parliament, members of national parliaments, delegates appointed by each Head of State or Government and a Commission representative.

The inclusion of such a large number of members of national and supranational parliaments showed from the outset how important the Charter is for the process of bringing the European Union closer to the people.

Yet almost nine years elapsed before the historic breakthrough of the entry into force of the Lisbon Treaty made the Charter a legally binding part of European primary legislation. Since 1 December last year, the EU has new foundations and the Charter of Fundamental Rights is one of the core elements of these new foundations. One year on, we can say that the Charter has come of age.

The Charter is one of the most modern codifications of fundamental rights in the world. It builds on the classic guarantees of fundamental rights enshrined in the European Convention on Human Rights by also guaranteeing rights and principles, including economic and social rights, which stem from the constitutional traditions common to the Member States, European Court of Justice case law and other international agreements.

Now we need to put the Charter into practice! My key objective is to render as effective as possible the rights enshrined in the Charter, for the benefit of all people living in the EU. That is why the European Commission presented last month a Communication which sets out a Strategy for the effective implementation of the Charter.

The priority of the Strategy is to ensure that the Union is beyond reproach in upholding fundamental rights. Underlying this is the objective of embedding a fundamental rights culture in our daily activities. The Charter must be the compass for all EU policies and for their implementation at national level. No EU legislation should be adopted that conflicts with the rights and principles guaranteed by the Charter.

That is why the Commission must verify that all EU laws are in compliance with the Charter at each stage of the legislative process – from the internal preparatory work in the Commission to the adoption of draft laws by the European Parliament and the Council, and then in their application by the Member States.

It is important to get on the right track at the very beginning of the EU legislative process, namely when the Commission is preparing legislative proposals.

This means in particular that rigorous and systematic assessment of the fundamental rights impact of new legislative proposals is crucial. For this purpose, the Commission has developed a special methodology, which is reinforced now by a "*fundamental rights check list*," which the Commission services will use to identify and evaluate the effect of policy options on fundamental rights. This analysis can therefore better inform policy makers throughout the EU legislative process of the way fundamental rights can be affected and lead to a stronger legal grounding of the final act.

But that also presupposes a common responsibility shared with both the European Parliament and the Council to ensure that the Charter is promoted throughout the legislative process. To help in the raising of awareness, the Commission also announced in its Strategy that it will present both Parliament and the Council with an Annual Report on the application of the Charter, with the first report foreseen for next spring. It is our shared responsibility to keep a watchful eye on the whole process, to ensure that the final legal texts, as adopted by Parliament and the Council under the co-decision procedure, continue to comply with the Charter.

Indeed, we should not lose sight of the fact that the Charter's core function is that of instructing the EU's institutions. It is not primarily addressed to the Member States which after all have their own constitutional systems and their own national arrangements for protecting fundamental rights. The real impetus for the development of the Charter was to remedy the absence of a clearly identifiable similar set of fundamental rights for the EU institutions.

The co-organisers of today's conference also have an important role to play in the Strategy for implementing the Charter. The Fundamental Rights Agency plays a very important role in gathering concrete information on the situation of fundamental rights on the ground. These objective facts need to be fed into the policy-making at an early stage so as to better inform the appraisal of the fundamental rights impacts. Indeed, I found very interesting the Agency's paper on the fundamental rights implications of body scanners. It would also be helpful if the debate on the important criminal law proposal for a European Investigation Order were better informed by objective elements gathered by the Agency concerning the fundamental rights affected, notably the rights of defendants, data protection and freedom of the press.

In other words, the Agency can play a key role by providing us with comparable and reliable data on the situation in the 27 Member States in the areas where the EU can act. That is why I have also asked the Fundamental Rights Agency to contribute to the work of the Roma Task Force.

The future accession of the EU to the European Convention on Human Rights is a further incentive to develop an ambitious European fundamental rights policy: the European Court of Human Rights is likely to have fewer occasions to intervene on matters linked to EU law if the EU is leading by example.

Indeed, the requirement that the EU accede to the European Convention of Human Rights is a further signal of the importance attached by those drawing up the Lisbon Treaty to the protection of fundamental rights. A speedy accession of the European Union to the Convention is therefore a high priority for the European Commission. As early as March the Commission submitted a Recommendation to that effect to the Council. The Council has also treated this matter as a high priority: on 4 June 2010 the Council adopted a decision authorising the Commission to negotiate the Accession Agreement of the European Union to the Convention. And as we speak, the third round of negotiations between the EU and the Council of Europe' States is taking place in Brussels. So far, negotiations have been conducted in a swift and constructive

manner and I hope that we will reach a final agreement in the first half of 2011.

Let me now turn more specifically to the theme of this conference: "ensuring justice and protection for all children".

Children's Rights are firmly part of the Charter. Article 24 explicitly stipulates that all children have the right to protection and care as is necessary for their well-being. It also requires that children can express their views freely and that, most importantly, such views shall be taken into consideration on matters which concern them in accordance with their age and maturity. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.

The Charter explicitly recognises children as citizens with their own rights. This recognition is essential towards seeing children not just as in need of protection but also as independent and autonomous holders of rights. The Lisbon Treaty is a remarkable step forward in this respect.

I am currently preparing a new Communication on the Rights of the Child. My objective is to put forward a number of concrete actions to better protect and promote the rights of children.

When children get involved in the justice system, their rights can be limited or overlooked in various ways. An issue dear to my heart is to ensure child-friendly justice for all children involved in court proceedings, be they victims, defendants or witnesses. We need to make sure that children have effective access to justice. That means that we have to look closely at the modes of their participation, the way they are represented and also ensure that they receive relevant information in an appropriate way. We can also improve services for children by training professionals dealing with children, and by promoting the exchange of best practice.

In this context I wish to congratulate the Council of Europe on the recent adoption of its Guidelines on Child-Friendly justice. I firmly believe this is an important step towards removing obstacles for children in the justice systems in Europe.

The Commission recently consulted children. Let me share with you one child's testimony which highlights the types of constraints children are faced with in the justice system: *“When my parents got divorced, there were many people who took the decision ‘in my interest’. No-one asked about my opinion. They put before me faits accomplis and I had to accept the decisions that were taken on my behalf. I am not incapable of having my own opinions about the situation”*.

This quote is especially meaningful in light of a case brought before the European Court of Justice. Shortly after the Charter became legally binding, the court was asked for clarification in a case where Italian and Slovenian courts had to rule on the consequences of divorce in a bi-national marriage, the law applicable and, above all, the rights of custody of the couple's child. In its ruling on how the relevant EU Regulation was to be interpreted and applied the Court attached particular importance to Article 24 of the Charter and the right of the child to regular and personal contact with both parents.

I think that this case neatly illustrates the essential contribution that the Charter brings when issues of Union law are in play. It illuminates and reinforces the application of fundamental rights in the laws we create here in Brussels. Its impact is then felt in cases of the utmost importance to the individuals concerned.

Ladies and Gentlemen, I see from the conference agenda that you have many important matters to discuss. I wish you a successful conference and look forward to integrating your contributions into our on-going work on ensuring child-friendly justice.

Ladies and Gentlemen,

I wish you a very successful conference today. And I hope you will join me in wishing a happy birthday to the Charter of Fundamental Rights of the European Union.