

How is the EU Charter of Fundamental Rights used at national level?

*“Member States [...] shall therefore **respect** the rights, **observe** the principles and **promote** the application thereof in accordance with their respective powers.”*

Article 51, EU Charter of Fundamental Rights





How can national courts use the Charter?

- To interpret EU or national legislation.
- To check the legality of EU or national law.
- To give individuals direct access to a right.

For relevant national and European judgements, see FRA's Charterpedia: <http://fra.europa.eu/charterpedia>.

"[N]ational authorities (judicial authorities, law enforcement bodies and administrations) are key actors in giving concrete effect to the rights and freedoms enshrined in the Charter."

European Parliament Resolution on the fundamental rights situation in the EU (2013-2014), 8 September 2015.

How can national parliaments and governments use the Charter?

- To assess potential impacts legislative proposals might have on fundamental rights.
- To scrutinise the legality of draft legislation in terms of fundamental rights standards.
- To mainstream fundamental rights in national legislation and policy making.
- To promote awareness about human rights.

"[It is] necessary to continue promoting training and best practice sharing in the field of judiciary at national and EU level thus enhancing mutual trust."

Council of the European Union Council conclusions on the Commission 2013 report on the application of the EU Charter on Fundamental Rights in 2014, 5-6 June 2014.

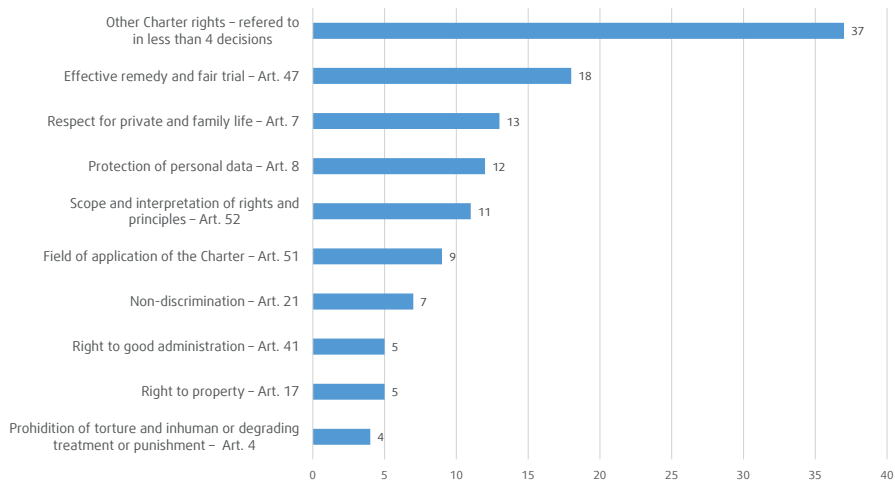
How did national courts use the Charter in 2015?

- In almost all Member States, national courts used the Charter in some of their judgements.
- In 1/3 of the cases analysed, the judges (and not the parties) took the initiative to refer to the Charter.
- Judges often used the Charter when issuing judgments related to policy fields such as: freedom, security and justice; employment and social policy; data protection; asylum and migration.
- Often the references were superficial and lacking a detailed assessment whether the Charter applies. Sometimes the Charter was also referred to outside EU law contexts.
- The Charter was most commonly referred to in combination with the European Convention of Human Rights and/or national provisions.

How did national parliaments and governments use the Charter in 2015?

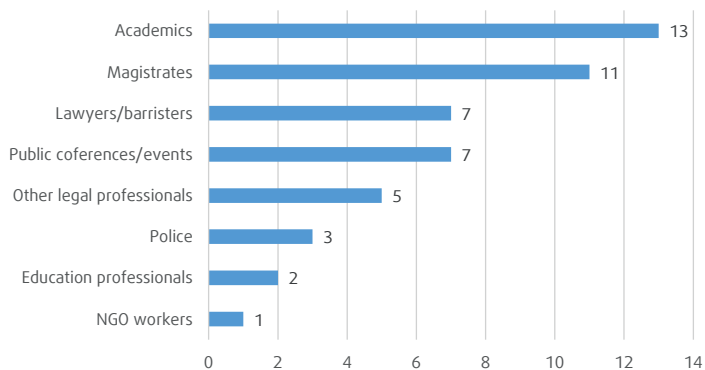
- The Charter was occasionally used in impact assessments as well as in the legal scrutiny of upcoming legislation in at least 2/3 of Member States.
- Criminal law and data protection were the areas where the Charter was most often referred to when scrutinising legality and impact of upcoming legislation.
- The Charter was occasionally referred to in parliamentary debates in over 2/3 of Member States.
- Charter references in policy initiatives were identified in 1/2 of Member States. But there are hardly any national policies that specifically and proactively promoted the Charter.
- There were training activities focusing on the Charter in 2/3 of Member States but the scope of these activities was limited. Many trainings were for academia rather than legal practitioners.

Most frequently Charter rights referred to by national courts



Note: This chart shows the total number of references made to the Charter in 2015 in 68 national court decisions analysed by FRA (for two Member States no decisions were communicated).

Who did the Charter training target?



Note: The counting is based on 49 trainings issued in 21 EU Member States in 2015 for which trainings were reported.



What is the Charter for?

- It protects the fundamental rights of everyone in the EU: both EU and non-EU citizens.
- It binds the EU institutions in all contexts.
- It binds EU Member States when they act within the scope of EU law.
- It is one of the world's most modern and comprehensive legally-binding human rights documents, covering political as well as social rights.

“Member States should use untapped potential for the exchange of promising practices and mutual learning with regard to Charter checks and Charter impact assessments. Building on earlier discussions in the Council Working Group dealing with fundamental rights (FREMP), FREMP could provide a forum [in this regard].”

FRA *Fundamental rights: challenges and achievements in 2014*, Annual report, p. 179.

Interested in case law by national and European courts using the Charter?



EU Charter app
EU Charter rights anytime,
anywhere
fra.europa.eu/charterapp



Interested in learning
more about FRA's work?
Visit our website
fra.europa.eu



FRA - EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

Schwarzenbergplatz 11 - 1040 Vienna - Austria

T +43 (1) 580 30-0 - F +43 (1) 580 30-699

fra.europa.eu - info@fra.europa.eu

facebook.com/fundamentalrights

linkedin.com/company/eu-fundamental-rights-agency

twitter.com/EURightsAgency