



Committee on Petitions

2016/2009(INI)

12.10.2016

OPINION

of the Committee on Petitions

for the Committee on Civil Liberties, Justice and Home Affairs

on the situation of fundamental rights in the European Union in 2015
(2016/2009(INI))

Rapporteur: Jude Kirton-Darling

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SUGGESTIONS

The Committee on Petitions calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas petitions to Parliament serve as an important instrument for citizens to report alleged breaches of fundamental rights which they may have experienced in Member States where they reside;
- B. whereas the inclusion of the Charter of Fundamental Rights as a binding core element within the scope of the Lisbon Treaty generated high expectations among EU citizens of a high level of civic and social protection;
- C. whereas almost a hundred petitions received by Parliament in 2015 directly concerned alleged breaches of fundamental rights referred to in the Charter of Fundamental Rights of the European Union; whereas during the processing of petitions further problems relating to effective protection by the Charter may also emerge;
- D. whereas breaches of fundamental rights do not always take place directly, but are also, in some cases, contextually caused by environmental degradation; whereas Article 37 of the Charter provides for the right to environmental protection; whereas a significant proportion of the petitions received deal with actual or potential environmental aggressions;
- E. whereas the right to vote and stand as a candidate in municipal and European Parliament elections in the state of residence is recognised in Articles 39 and 40 of the Charter; whereas exercising the right of free movement should not hamper this right;
- F. whereas Article 34 of the Charter establishes the fundamental right to social security and assistance; whereas universal quality public health coverage is an essential pillar of social security; whereas social housing ensuring a decent existence falls within the scope of this article; whereas access to an affordable energy supply is an essential part of a life of dignity;
- G. having regard to the European Convention on Human Rights (ECHR);
- H. whereas there is still a gender gap as regards the full enjoyment of fundamental rights, particularly when it comes to the effective implementation in the daily lives of men and women of the provisions contained in the 'Equality' and 'Solidarity' sections of the Charter;
- I. whereas Article 24 of the Charter lays down the fundamental rights of children; whereas hundreds of petitions were received in 2015 concerning child custody matters, with cross-border implications in most cases; whereas a specific working group was created to deal more effectively with the bulk of these matters;
- J. whereas the joint report of its Committee on Petitions and its Committee on Civil Liberties, Justice and Home Affairs on the Special Report of the European Ombudsman in own-initiative inquiry OI/5/2012/BEH-MHZ concerning Frontex acknowledged Frontex's

efforts to enhance respect for fundamental rights and called on the agency to deal with individual complaints regarding infringements of fundamental rights in the course of its operations; whereas this includes, but is not limited to, setting up an incident reporting system and devising codes of conduct; whereas the obligation to respect and safeguard fundamental rights applies to all EU institutions, agencies and bodies;

- K. whereas the current narrow interpretation of Article 51 of the Charter represents a real obstacle to the effectiveness of its previous provisions, which can fall short of the expectations and eventually lead to an increasing disaffection among citizens; whereas its Committee on Petitions recently organised a specific hearing to debate about the need of broadening the scope of the Charter;
- L. whereas the Union cannot afford to allow the suppression or undermining of fundamental civil rights, such as freedom of information, or to tolerate abuse of power and institutional racism and xenophobia within its borders, as highlighted on some petitions;
1. Considers that citizens expect the Charter to ensure the protection of their fundamental rights by the institutions, bodies and agencies of the Union and by the Member States when they are implementing EU law; notes that a lack of protection and awareness of their rights under the Charter could aggravate citizens' disenchantment with the European project; notes that the general public has a limited grasp of the scope of the Charter; believes that the Commission and the Member States could do more to promote knowledge of the Charter, in particular the effect of Article 51 thereof, by means of targeted campaigns using both traditional and online media, and of the procedures for obtaining redress when citizens' fundamental rights are violated; calls on the Commission to be vigilant regarding full and consistent implementation of the Charter by the Member States; considers that consideration should be given to broadening the interpretation of Article 51 beyond the exclusive competences of the Union and that the pertinence of the article should be reassessed in an upcoming Treaty revision;
 2. Considers that a genuine reform of the European Citizens' Initiative and the effective operation of this instrument could do much to improve the Union's image;
 3. Is deeply convinced that austerity measures have led to a continuous deterioration in fundamental rights protection in the EU, causing, among other, things, alarming youth unemployment rates, a huge increase in the number of poor workers and higher levels of poverty and social marginalisation; calls for an immediate stop to all austerity measures and calls for both the EU and its Member States to deliver targeted policies aimed at securing high-quality and decent jobs and social protection measures, primarily focusing on citizens that are facing poverty and social exclusion;
 4. Notes the increase in the number of petitions concerning the economic and social crisis in Europe, which has resulted in many infringements of fundamental rights;
 5. Stresses that all Union institutions, including each of its agencies and bodies, and the Member States are bound by the provisions of the Charter of Fundamental Rights;
 6. Points out that, although freedom of movement and residence is a fundamental right conferred on citizens in the internal market and by the Charter, many citizens still encounter problems in asserting this right, which includes portability of social security

benefits, pensions, health care and recognition of professional qualifications and civil status documents; calls on the Member States to act, in accordance with the Charter, to ensure that citizens receive universal access to quality healthcare (including medicines and treatments) justice, education and social and housing assistance;

7. Stresses the need to guarantee the fundamental rights of women in all areas of public life, particularly with regard to social and political participation; calls on the Commission and the Member States to implement policies to actively uphold these rights, in line with UN General Assembly Resolution 66/130 of 19 December 2011 on women and political participation;
8. Highlights the right of people with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community, as set out in Article 26 of the Charter; calls on the Commission, the Member States and their local and regional authorities to ensure that these rights, notably those enshrined in the UN Convention on the Rights of Persons with Disabilities and the Marrakesh Treaty – are properly respected, applied and monitored in a transparent manner; takes the view that no EU funds should go to projects that are in breach of these fundamental rights, for instance projects which segregate people with disabilities from the community;
9. Calls on the EU to ratify the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities and to conduct, as soon as possible, an effective cross-cutting and comprehensive review of EU legislation in order to ensure its full harmonisation with the provisions enshrined in the convention, triggering a truly democratic and participatory process aimed at guaranteeing direct and full involvement of representative organisations of persons with disabilities;
10. Highlights the fact that, in its Concluding Observations on the initial report of the European Union, the UN Committee on the Rights of Persons with Disabilities has critically observed that austerity measures adopted by the EU and its Member States have worsened the living standards of persons with disabilities and undermined the enjoyment of fundamental rights;
11. Underlines that asylum seekers who come into contact with Frontex should have their fundamental rights respected and should be offered full recourse to uphold those rights via an established complaints mechanism; welcomes the inclusion of an independent complaints mechanism in the Regulation on the European Border and Coast Guard with a view to monitoring and ensuring respect for fundamental rights in all the activities of that Agency;
12. Welcomes the European Ombudsman's investigation which led to the establishment of this mechanism and her ongoing work of ensuring that EU institutions respect fundamental rights; welcomes her inquiry into whether the Charter of Fundamental Rights is being respected when Member States spend money using the EU Cohesion Fund on projects that institutionalise people with disabilities instead of integrating them into society;
13. Stresses the importance of protection by the EU and the Member States of indigenous ethnic, national, linguistic and religious communities and endangered languages;

14. Deplores all instances of discrimination; calls on the EU and the Member States to pay particular attention to and effectively address discrimination against minorities and migrants, as well as restrictions on the freedom of the media, which are regularly denounced in petitions and by international organisations such as Reporters Without Borders; calls on the EU and the Member States to take appropriate measures to improve the existing situation in the media sector with a view to fully ensuring freedom and pluralism of the media as enshrined in the Charter of Fundamental Rights of the European Union; recalls that cultural and linguistic diversity is a distinctive feature of the European Union and that the rights of cultural and linguistic minorities are protected under the Charter; calls for the proposal for a directive on implementation of the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation to be unblocked in the Council;
15. Calls on the Member States and their local and regional authorities to guarantee the fundamental rights, including the right to engage in work in accordance with applicable EU and national legislation, of all citizens from non-EU countries in the EU and to facilitate their social inclusion; expresses its concern about infringements of fundamental rights in migrant reception and detention centres;
16. Highlights the fact that, in certain Member States, the management and financing mechanisms currently used by reception centres for migrants could give rise to major legal infringements, corruption, abuses and violations of fundamental rights;
17. Asks the Commission to act without hesitation and to make full use of its powers and prerogatives in order to sanction Member States which fail to uphold the fundamental rights of freedom of expression and information, and freedom of assembly and association, or which perpetrate forms of power abuse such as institutional racism and xenophobia;
18. Believes that the EU and the Member States must consistently respect the principle of solidarity and make the necessary efforts to share responsibilities in order to ensure full protection of the lives of migrants and refugees and to combat cross-border crime, in full compliance with the principle of non-refoulement and fundamental rights;
19. Notes the frequent recurrence of petitions about problems encountered by legally resident third-country spouses of EU citizens and non-EU permanent residents, particularly stateless persons, in exercising their rights;
20. Considers that the introduction of national legislation undermining the investment climate on renewables not only constitutes in some cases an attack on legal security, as outlined in some of the petitions received but may also be considered a breach of the Charter where those responsible fail to transpose or implement legislation relating to the Union's energy and climate strategy;
21. Highlights the problems which arise from non-recognition of official documents in different Member States, especially marriage and adoption certificates, and which make it impossible to guarantee the 'best interests of the child';
22. Calls for special attention to be given to the rights of children, in particular in the context of cross-border custody disputes, adoptions without parental consent and visitation rights,

as outlined in the opinion of its Committee on Petitions concerning cross-border aspects of adoption; calls on the Commission to provide clear guidance on the concept of ‘the best interests of the child’ in the context of the revision of the Brussels IIA Regulation; considers that existing disparities within the Union regarding custody and parental responsibility make it impossible to guarantee ‘the best interests of the child’ and the child’s right to maintain contact with both parents;

23. Urges the adoption of new legislation aimed at combating energy poverty and welcomes previous initiatives at any administrative level in the direction of guaranteeing universal access to energy; considers that taking specific measures to ensure affordable energy for every household falls within the scope of social security and social assistance, provided for in Article 34 of the Charter; criticises decisions that may prevent that this right from being safeguarded merely because of competence disputes between authorities;
24. Regrets that child poverty remains at a very high level and children continue to be at higher risk of poverty than adults; calls for the EU and the Member States to strengthen their action on adopting a holistic strategy aimed at successfully addressing all root causes of child poverty;
25. Stresses the need to strengthen the role of its Committee on Petitions in upholding fundamental rights protected by the Charter;
26. Welcomes the advances made in LGBTI rights in 2015; remains concerned about ongoing discrimination on the grounds of sexual orientation, gender identity and limits to the freedom of speech, assembly and association of LGBTI people; notes that the problem of discrimination against LGBTI families must be addressed immediately and urges the Member States to recognise their legal status, thereby ensuring their freedom of movement throughout the EU;
27. Stresses that many stateless persons are disenfranchised in European Parliament elections while seats are allocated at their expense; calls on the Commission to investigate the issue;
28. Notes the infringement of the fundamental rights of intersex people in the European Union, who enjoy only limited entitlement to even their own identity;
29. Encourages the Commission to take up the issue of national voting rights as effectively as possible, particularly in cases where citizens are disenfranchised in national elections when they exercise their fundamental right to free movement and residence, as well as in cases of disenfranchisement in European and local elections or where they are banned from political party membership;
30. Recalls that, under Article 46(1) of the European Convention on Human Rights, the High Contracting Parties have without qualification made a solemn and binding commitment under the rule of law to ‘abide by the final judgement of the court in any case’ to which they are parties; deplores the delays in implementation and the lack of political will in certain circumstances to implement certain judgments of the Court; encourages stronger measures in cases of dilatory or continuous non-execution of judgments;
31. Calls on the institutions and bodies of the Union and the Member States when they are implementing Union law, to ensure a high level of environmental protection and to adhere

to the principle of sustainable development; regrets the over-development that is taking place in parts of the EU and which is having harmful effects on the environment and the lives of European citizens and residents living in the areas affected;

32. Highlights the fundamental right to good administration; calls on the Member States to lead by example by ensuring, among other things, that their administrative processes are open, accountable, fair, transparent and proportionate.

RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

Date adopted	11.10.2016
Result of final vote	+ : 26 - : 4 0 : 0
Members present for the final vote	Marina Albiol Guzmán, Margrete Auken, Heinz K. Becker, Soledad Cabezón Ruiz, Pál Csáky, Miriam Dalli, Rosa Estaràs Ferragut, Eleonora Evi, Lidia Joanna Geringer de Oedenberg, Sylvie Goddyn, Rikke Karlsson, Jude Kirton-Darling, Svetoslav Hristov Malinov, Notis Marias, Edouard Martin, Roberta Metsola, Marlene Mizzi, Julia Pitera, Gabriele Preuß, Laurențiu Rebega, Sofia Sakorafa, Yana Toom, Ángela Vallina, Cecilia Wikström, Tatjana Ždanoka
Substitutes present for the final vote	Carlos Iturgaiz, Urszula Krupa, Miltiadis Kyrkos, Josep-Maria Terricabras, Axel Voss