

New strategy to reinforce application of the Charter of Fundamental Rights

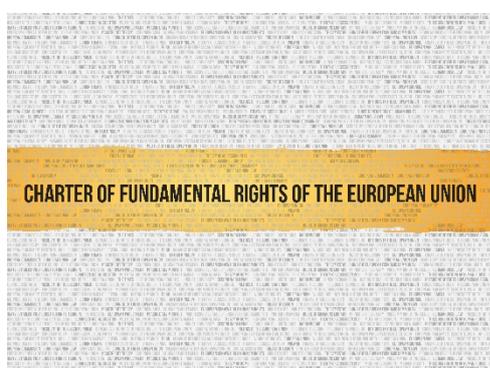
Local and regional perspective

SUMMARY

The Charter of Fundamental Rights of the European Union (EU) enshrines the civil, political, economic and social rights and principles of everyone covered by its scope. Despite evidence of it having resulted in positive outcomes since it became legally binding in 2009, European Commission reports and findings by the Fundamental Rights Agency show that the Charter has not been used to its full potential at national level. Furthermore, according to a Eurobarometer survey, there is lack of awareness of the Charter among EU citizens.

The debate around how to promote awareness of the Charter, and of citizens' rights more broadly, in the EU has been going on for a number of years. In this context, a new strategy for effective application of the Charter has been adopted and will guide action for the next 10 years, to raise awareness and promote its effective use. Furthermore, in 2020 the European Commission launched a public consultation to collect input from a wide range of stakeholders on the subject, including actors at local level. The basic idea was that as local and regional authorities represent the tiers of government closest to the public, they are well placed to make the Charter known to citizens.

This briefing provides guidance and tools to help local and regional authorities inform citizens of their rights under the Charter. It also presents best practice from selected EU Member States on promoting the principles underpinning the Charter at regional and local level.



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Introduction

The [Charter of Fundamental Rights of the EU](#) enshrines the civil, political, economic and social rights and principles of all EU citizens. It is founded on the core values of human dignity, freedom, equality, solidarity, citizens' rights and justice. The Charter marked a crucial milestone in the history of the European Union, improving the promotion and protection of citizens' fundamental rights in all actions of the EU institutions and Member States when implementing EU law. 2020 marked 20 years since the Charter was first proclaimed in Nice by the European Parliament, the Commission and the Council (7 December 2000) and 11 years since it became legally binding with the entry into force of the [Lisbon Treaty \(1 December 2009\)](#). According to Article 6(1) of the Treaty on European Union (TEU), the Charter has the same legal value as EU primary law.

Every year since the entry into force of the Lisbon Treaty, the European Commission publishes an [annual report](#) on the Charter's application. The annual reports monitor progress in areas where the EU has power to act, showing how the Charter is taken into account when new EU legislation is proposed. The reports address the role that EU institutions and Member States' authorities play in making fundamental rights a reality in peoples' lives. However, despite evidence of positive outcomes, research suggests that the Charter has not been used to its full potential at national level.

Awareness of the Charter

The [Commission's 2018 report](#), published in June 2019, shows that EU policymakers are increasingly aware of the need to ensure that initiatives are Charter-compliant, and that the EU has taken many initiatives to protect and promote fundamental rights. The report also refers to recent EU legislation directly strengthening certain key Charter rights, such as the new rules on [data protection](#), [gender equality](#), [whistle-blower protection](#), [fair trial and defence rights](#) and [victims of crime](#), and refers to important initiatives [promoting electoral rights](#) and [fighting illegal hate speech online](#).

Nevertheless, the report also shows that the Charter is not used to its full potential at national level. National courts play a key role in upholding fundamental rights, but a lack of awareness on the part of judges and lawyers means that references to the Charter in court decisions, and requests for guidance from the Court of Justice of the EU through preliminary references (Article 267 Treaty on the Functioning of the European Union, TFEU), remain rare – 84 in 2018, up from 19 in 2010. The [findings](#) from the Fundamental Rights Agency (FRA) have repeatedly raised similar issues of awareness, particularly among national legislators, judges and rights defenders. The FRA further notes the lack of policies to promote and implement the Charter in the Member States.

The consequences of this shortfall are well illustrated by the 2019 [Eurobarometer survey on Charter awareness](#). Despite the slight increase in overall awareness compared with 2012 (+3 percentage points), in 2019, as it celebrated its 10th anniversary, roughly 42 % of respondents stated that they were aware of the Charter. Within this 42 %, 12 % were aware and knew what it was, while 30 % had heard of it but did not really know what it was. The majority of respondents (57 %) had never heard of it. Around 16 % of respondents considered themselves well informed about the Charter, 2 % 'very well informed' and 14 % 'fairly well informed'. However, the vast majority (72 %) considered themselves not well informed, with 38 % considering themselves 'not at all informed'. As then Commission First Vice-President Frans Timmermans said: 'Ten years on, the Charter of Fundamental Rights is living up to its promise. It is the buttress of our Union of values and sets out our rights, freedoms, and principles. For the Charter to be most effective in people's lives they must know about their rights and where to turn to when these are violated. This is why it is important to continue to spread the word about the Charter and let people know what is truly theirs as Europeans'.¹

A new strategy

In the context of low public awareness of the Charter, in its [conclusions of 7 October 2019](#), the Council called on the Commission to consider revising the [2010 strategy](#) for the effective

implementation of the Charter of Fundamental Rights, echoing Parliament's numerous resolutions on this matter.² On 12 November 2019, the Commission, the Finnish Presidency of the Council and the FRA held a [10-year anniversary conference](#) to celebrate the Charter. The conference identified best practice, challenges and areas on which the new strategy should focus in order to strengthen the Charter's application.

In its 2020 [work programme](#), published on 29 January 2020, the Commission, under the presidency of Ursula von der Leyen, announced its intention to put forward a new strategy for implementation of the Charter, under the sixth priority – A new push for European democracy. The Charter is most effective in impacting everyone's lives when the entire enforcement chain applies it. For this purpose, a [new strategy to strengthen application of the Charter of Fundamental Rights](#) was adopted on 2 December 2020. It will guide action for the next 10 years, to raise awareness and promote effective use of the Charter.

The strategy aims to address the main shortcomings relating to the Charter's use and profile, and also tailors action to the new challenges the EU is facing. These include, for instance, restrictions of fundamental rights and freedoms and the wider inequality gap in the context of the pandemic, the multiple challenges to democracy and the [rule of law](#) affecting the Member States, and new opportunities and challenges for fundamental rights stemming from the green transition and digital transformation.

The strategy also complements the [European democracy action plan](#) and the [2020 rule of law report](#). The aim of the action plan is to empower citizens and build democracies that are more resilient across the EU by setting out measures to promote free and fair elections, strengthen media freedom and counter disinformation. The rule of law report focuses on the justice system, the anti-corruption framework, media pluralism, and other institutional issues relating to checks and balances in EU Member States. The aim of the report is to identify possible problems in relation to the rule of law as early as possible, as well as best practice.

The strategy also looks at how to support the work of governments, administrations, legislators, courts, law enforcement bodies, lawyers and rights defenders.

In light of the above, the strategy focuses on four pillars for action:

- Member States are invited to nominate a **Charter focal point** to facilitate coordination and information sharing on the implementation of the Charter.
- The Commission will closely monitor and take action against national measures contrary to EU law that are affecting the **activities of civil society**. Member States are invited to establish **functioning national human rights institutions** and to ensure that they have the means to work in full independence.
- The Commission will boost **internal capacity** on Charter compliance through e-learning, updated guidance for staff and training plans and is ready to provide Parliament and Council with support to ensure that they apply the Charter effectively in their work.
- A Commission **information campaign to raise awareness** about the Charter and encourage Member States to develop their own awareness-raising initiatives.

Raising awareness of the Charter at local and regional levels

The debate on how best to raise awareness of the Charter and of citizens' rights more generally in the EU has been going on for a number of years, including at regional and local level.

In 2011, the European Committee of the Regions (CoR) [opinion](#) on the strategy for the effective implementation of the Charter of Fundamental Rights by the European Union stressed that:

- there were still deficiencies in the way the Charter was guaranteed in practice, and that a more strategic approach was therefore needed to implement it. This would require the involvement of all local and regional authorities;

- there were differences at national, local and regional levels, and the strategy should be based on partnership between individuals and governments, and between various parts of society;
- many of the rights recognised by the Charter were applied at regional and local levels, for example: healthcare (Article 35 of the Charter), education (Article 14), property rights (Article 17), social security and social assistance (Article 34), consumer protection (Article 38), and democratic participation (Articles 39 and 40).

The same opinion also mentioned the FRA project on '[Joined-up governance](#): connecting fundamental rights' as a good example to provide policymakers with practical tools to promote effective multi-level cooperation in implementing fundamental rights.

In 2012, a study commissioned by the CoR [examined](#) the main obstacles citizens are confronted with when exercising their rights under EU law. Although the study did not look specifically at the Charter, it identified some relevant patterns:

- **local and regional authorities play a key role** in promoting EU citizenship and citizens' rights, precisely because they operate at the level of governance closest to the target groups;
- there is a need to adopt measures to secure '**information and training on EU citizenship** to overcome various obstacles (geographical, cultural, linguistic and technological) and information gaps, and to enable all EU citizens to fully enjoy their rights';
- local and regional authorities should use **e-platforms** to provide information on best practice in promoting citizens' rights, to address the proven lack of easily accessible public information;
- certain EU funds play a key role in increasing awareness and citizens' understanding of their rights, there is therefore a need to cut red tape for local and regional authorities that are willing to make use of these funds.

In 2014, FRA published a [guide](#) for local and regional authorities on raising awareness of the Charter. The guide was the result of a joint effort between FRA and the CoR to do more to implement fundamental rights at all levels of governance.

Commission consultation

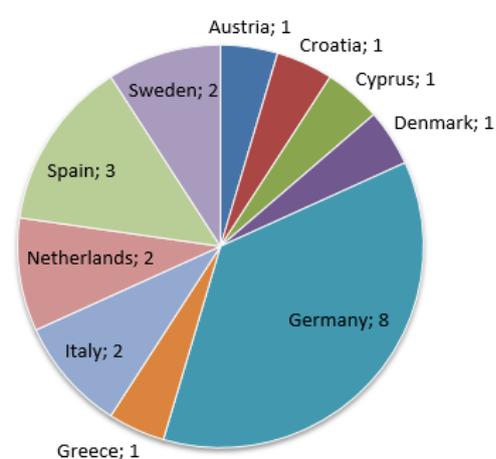
From 16 April to 6 May 2020, the Commission launched a public consultation to collect input from a wide range of stakeholders on this subject, including local-level actors. The underlying principle behind was precisely the fact that local and regional authorities, representing the levels of government closest to citizens, are well placed to make the Charter known to citizens.

The responses from 22 regional and local authorities from 10 Member States are presented in the [analysis](#) prepared by the Fundamental Rights Agency (FRA), which accompanies the strategy. FRA's main conclusion is that there is a general lack of awareness and understanding of the Charter among local and regional authorities.

More specifically, FRA pointed out that:

- More guidance is required at national level as findings suggest that national governments do not sufficiently promote proactive policies to raise awareness of the Charter. Ideally, any action in that sense should be accompanied by specific guidance for local and regional authorities, coupled with concrete examples.
- Specific guidance on how to use the Charter when applying for and using EU funds is a major concern for local and regional administrations.

Figure 1 – Participating authorities from Member States



Source: [Fundamental Rights Agency](#).

- Cross-national exchange and mutual learning through formal and informal platforms (such as the CoR) and various city networks (such as the informal [Human Rights Cities Network](#)), were suggested by FRA as particularly relevant. In this regard it is worth mentioning the [Eurocities initiative](#), which invites members to make pledges in relation to specific articles of the [European Pillar of Social Rights](#).
- Another option mentioned by FRA would be to select local and regional authorities that could act as a group of 'Charter champions' assisting EU institutions and bodies with finding ways to link the EU Charter to local and regional work.
- FRA also suggested exploring synergies between local and regional authorities and national human rights bodies and the [European Network of National Human Rights Institutions](#).

During an informal meeting on 16 December 2020, the Commission and FRA acknowledged the limited evidence on best practice at regional and local level. They stressed the important role that the CoR and city networks can play in creating links between national and EU levels in order to strengthen application of the Charter. For the Commission, key measures in this regard could include creating a Charter focal point at national level, as proposed in the new strategy, and using both EU funds, through the [rights and values programme](#), and national funds for capacity- building, town twinning and e-learning.

EU tools for raising awareness at local and regional level

It is essential to explain the rights enshrined in the Charter and what they mean for people, especially for the most vulnerable members of society. The EU institutions and agencies can cooperate with and support local and regional actors in developing targeted tools to make the Charter better known. Below is a non-exhaustive list of Charter dissemination tools that could potentially be used.

Fund for European Aid to the Most Deprived (FEAD)

The overarching objective of the [FEAD](#) is to promote and enhance social inclusion. It seeks to alleviate the worst forms of poverty by providing non-financial assistance to the most deprived, in conjunction with other EU funds, such as the European Social Fund, and with Member States' national poverty eradication and social inclusion policies. The actions undertaken under the FEAD range from food support and material assistance to **social inclusion activities**, such as improving access to existing support and social services, psychological support, training in self-reliance, and language courses. As the FEAD is implemented under shared management, each Member State is free to adapt the assistance it provides, focusing on food aid, basic consumer goods or social inclusion activities, depending on local needs. FEAD assistance is delivered via partner organisations (public bodies or non-governmental organisations – NGOs), selected by the Member States based on objective and transparent criteria.

It could be useful to make sure that **the volunteers** who provide assistance through the FEAD for the most deprived are better informed about the Charter and the rights it affords to the most vulnerable.

European Social Fund +

The main funding instrument fighting social exclusion remains the broader [European Social Fund](#) (ESF). Although the ESF was originally set up to promote employment, it has evolved into a tool to reduce the risk of poverty by **empowering people** (equipping them with skills and knowledge to be able to earn a living), improving their quality of life, and fighting poverty and marginalisation. The Commission's proposal for a [European Social Fund+](#), first issued in May 2018 and then amended in May 2020, states that financial resources will be attributed to key political priorities and citizens' concerns, including measures to foster social inclusion, focusing on **those most in need**.

The national programmes for the 2021-2027 period could include references to raising awareness of the Charter. The **partner organisations** that deliver assistance at regional and local level could relay and put this objective into practice by providing training, or disseminating information, etc.

Youth Guarantee

The [Youth Guarantee](#) (YG) is a commitment by all Member States to ensure that all young people under the age of 25 receive a good quality offer of employment, continued education, an apprenticeship or a traineeship within a period of four months of becoming unemployed or leaving formal education. Since 2014, each year more than 3.5 million young people registered in the YG have accepted an offer of employment, continued education, a traineeship or an apprenticeship. Local **public employment services** can be a good relay of information on the Charter to the young people most in difficulty.

People with disabilities

The [EU network of public employment services](#), established in 2014, provides a platform for cooperation and exchange of good practices, in particular, on disability. All projects relating to public employment services receiving funding from the European Social Fund have to comply with accessibility and non-discrimination requirements. Here too, local **public employment services** can be a good vector for information on the Charter and the rights it confers to people with disabilities.

Best local and regional-level practice in selected countries

An initial country review of Austria, France, Germany and Italy was carried out to seek examples of best practice in promoting the rights and principles embedded in the Charter at regional and local level, including cities belonging to the [Human Rights Cities Network](#).

Germany

There are various local and regional initiatives that can serve as best practice in upholding and actively promoting human rights in Germany. All German federal states (*Länder*) have [designated human rights' representatives](#), and some cities, such as [Mannheim](#), [Marburg](#), [Osnabrück](#) and [Cologne](#), have enacted action plans to anchor equality (gender and/or LGBTI) commitments firmly in all policy, economic, societal and cultural aspects of city administration. The city of [Nürnberg](#) already established a human rights office back in 1997. It acts as a 'moral compass' and implements human rights protection as part of municipal policy across all departments. In 2000, it was the first municipality worldwide to be honoured with the Unesco award for human rights education. Another case in point is the [Living Democracy!](#) programme, which spearheads more than 500 projects in cities, municipalities and rural districts. They bring together a variety of stakeholders to develop local strategies to strengthen democracy and diversity and to counter any form of group-related enmity. German authorities also protect human rights by testing the human rights adherence of private actors. For example, Dortmund's integration council and renters' association has developed a [certificate](#) (*Siegel*) for equal and fair housing agencies.

Despite all this activity, it is striking that while the EU Charter of Fundamental Rights is occasionally referred to in regional court [judgments](#), mainly in relation to asylum or data privacy rights, the Charter remains largely unused outside the courtroom. Research across the on-line presence of all *Länder* and major cities revealed just occasional mention of the Charter, such as in Hesse's ['report from Brussels'](#) and a Dortmund [information leaflet](#). There is also a clear focus on the Universal Declaration of Human Rights, other UN conventions, for instance on the rights of the child and persons with a disability, and the European Convention on Human Rights (ECHR). German responses to the [Commission consultation](#) further highlight this fact, with one submission explaining that 'the EU Charter corresponds to the fundamental rights in the German constitution we always obey'. However, according to the FRA, this stance [poses the risk of a gap in protective standards](#), since the Charter guarantees certain rights that are not explicitly contained in the German constitution or in the ECHR (notably economic, social and cultural rights and principles).

France

The EU Charter of Fundamental Rights is rarely promoted by local and regional authorities in France. The [national consultative commission on human rights](#) is a French independent administrative authority but bases its actions mainly on UN treaties and the ECHR. Since 1947, it has been providing independent advice, and it makes proposals to the government and parliament concerning human rights, humanitarian law and activities, and respect for the fundamental guarantees accorded to citizens for the exercise of civil liberties. In 2018, the French authority nevertheless produced a [video](#) in cooperation with FRA to explain the EU Charter.

Following a constitutional amendment adopted in July 2008, another independent authority was established: the 'defender of rights' (*Défenseur des droits*). According to [Article 71-1](#), he or she must 'ensure the due respect of rights and freedoms by state administrations, territorial communities, public legal entities, as well as by all bodies carrying out a public service mission'. He or she is responsible for defending the individual rights and freedoms of public service users, defending children's rights, fighting discrimination and promoting equality, and ensuring compliance with ethics by security personnel (Article 4 of the March 2011 [institutional law](#)). The defender of rights and FRA have [discussed](#) their common aim 'to make the rights and principles guaranteed by the EU Charter of Fundamental Rights effective and accessible for all', especially concerning education about children's rights, and training legal professionals on the Charter. To promote action at local level, the defender of rights [has signed](#) a partnership agreement with ministries in charge of cities, youth and sport, and [tested](#) an intervention strategy in cooperation with local governmental organisations and actors in some specific neighbourhoods. It involved nominating delegates to support the implementation of plans to combat discrimination, promote equality and inform the public about the existence of the defender of rights. No French city currently belongs to the Human Rights Cities Network. At local level, FRA has cooperated with the cities of Toulouse and Bordeaux to hold workshops on how local officials can implement and protect fundamental rights.

Italy

Italy has yet to appoint a national human rights institution in accordance with the 1993 UN Paris Principles. In 2019, this led to 45 recommendations being issued by the UN Human Rights Council for the establishment of such an institution in Italy. On 29 October 2020, the competent committee of the Italian Chamber of Deputies adopted a report (*testo unificato*) as the first step towards the establishment of such an institution in Italy. Most, but not all, of the 20 Italian regions and two autonomous provinces have a [national coordination office](#) of [regional ombudsmen](#). Among its duties the national coordination office includes the promotion of the EU Charter. It [supports](#) the creation of a national ombudsman and of regional ombudsmen in those regions that do not have one already. Finally, in Italy, the national authority for the rights of persons deprived of liberty (*Garante nazionale dei diritti delle persone private della libertà personale*) operates through a network active at regional, sub-regional and local levels, comprising between 1 and 13 offices in each of the 20 Italian regions. Between January 2019 and April 2020, the national authority visited 70 structures, ranging from prisons to immigration centres, psychiatric hospitals and police stations, including at the country's borders.³ The national authority supports the creation of a national human rights institution.⁴ No Italian city belongs to the Human Rights Cities Network as yet, but FRA analysis of the Commission consultation mentions the LGBT office opened by the City of Turin in 2001.

Austria

The Austrian Ombudsman Board, together with its six regional commissions, forms a '[national preventive mechanism](#)' responsible for protecting and promoting human rights in Austria. These regional commissions monitor institutions such as prisons, nursing homes and institutions for persons with disabilities, where human rights violations may occur. Specific instruments have been developed to prevent the deprivation or restriction of freedoms at regional and local level, such as unannounced inspections of institutions, the issuing of recommendations and the preparation of

audit reports by the regional commissions in cooperation with the Ombudsman Board. However, rather than the EU Charter of Fundamental Rights, it is the UN Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the UN Convention on the Rights of Persons with Disabilities that are mentioned as the legal constitutional bases for the work of the regional commissions and the Ombudsman Board.

At local level, the cities of Graz and Vienna carry the title '[human rights city](#)'. [Graz](#) adopted a human rights declaration in 2001, and established a human rights advisory council in the following years and a 10-point action programme, developing specific instruments for the implementation of human rights. Although Article 21(1) of the EU Charter is mentioned explicitly in relation to an [age-friendly city](#), the Charter is not named by the human rights advisory council in its 2020 [human rights report on the city of Graz](#) under the section 'most important regional human rights documents (Council of Europe and EU)'. The report merely points out that the Treaty on European Union binds Austria to the Charter. The city of Vienna, on the other hand, explicitly recognises the Charter as a [starting point for the 'human rights city' declaration](#) and acknowledges its importance for [human rights protection in the urban sphere](#). Finally, the Austrian capital city has established a [Human Rights Office](#) to develop a plan of action through dialogue with other institutions and NGOs.

MAIN REFERENCES

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[The Implementation of the Charter of Fundamental Rights in the EU institutional Framework](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, 2016.

ENDNOTES

- ¹ European Commission [reports on the EU Charter of Fundamental Rights](#), 10 years on, 5 June 2019, Brussels.
- ² European Parliament resolution of 12 February 2019 on implementation of the Charter of Fundamental Rights of the EU ([2017/2089\(INI\)](#)); European Parliament resolution of 25 October 2016 on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights ([2015/2254\(INL\)](#)); European Parliament resolution of 1 March 2018 on the fundamental rights situation in the EU in 2016 ([2017/2125\(INI\)](#)); European Parliament resolution on the fundamental rights situation in the EU – Annual Report for the years 2018 – 2019 ([2019/2199\(INI\)](#)); European Parliament resolution on the establishment of an EU mechanism to protect democracy, the rule of law and fundamental rights ([2020/2072\(INI\)](#)).
- ³ [Report to the Italian Parliament](#) (in Italian).
- ⁴ Idem.

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