



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR JUSTICE AND CONSUMERS

Directorate C – Rule of Law, Fundamental Rights and Democracy  
Unit C.2 – Fundamental Rights Policy

## 2023 REPORT ON THE APPLICATION OF THE EU CHARTER OF FUNDAMENTAL RIGHTS

### EFFECTIVE LEGAL PROTECTION AS A PRECONDITION OF FULL APPLICATION OF FUNDAMENTAL RIGHTS

#### BACKGROUND NOTE

## 1. Introduction

As set out in the Strategy to strengthen the application of the Charter of Fundamental Rights in the EU <sup>(1)</sup> (Charter Strategy), the European Commission presents a thematic approach to its annual report on the application of the Charter in the EU. The report should focus on areas of strategic relevance governed by EU law and look more closely at the Charter’s application in the Member States. The annual Charter reports provide a qualitative assessment of significant developments in the Member States in respect of the implementation of relevant EU legislation and policies. The assessment will present both challenges and positive aspects, including good practices.

## 2. Scope

The 2023 Charter report will focus on the role of **effective legal protection**, enshrined in Article 19(1) second subparagraph of the Treaty on the European Union (TEU) <sup>(2)</sup>, as a precondition for the full application of the EU Charter of Fundamental Rights. It will provide insights into the concept of access to justice, defined as the ability of everyone to seek and obtain a just resolution of legal problems through a range of legal and justice services, in a manner that complies with fundamental rights <sup>(3)</sup>.

Based on targeted consultations of the Member States, the Charter focal points and other stakeholders, the report will highlight recent developments regarding the implementation of the relevant EU law at the national level. The report will describe best practices from the Member States on ensuring the implementation of the Charter in the field of effective legal protection, as well as highlight concerns observed in this area. The report would complement the analysis of the annual Rule of Law reports by focusing on a fundamental rights perspective and broadening the perspective to cover both judicial and non-judicial remedies.

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<sup>(1)</sup> COM/2020/711 final.

<sup>(2)</sup> “Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law”.

<sup>(3)</sup> [Access to justice | Government at a Glance 2021 | OECD iLibrary \(oecd-ilibrary.org\)](#).

## Themes that could be explored include:

- **EU law on effective legal protection**

The report will describe EU legislation and policies from the justice portfolio and other policy areas (environment, anti-racism, non-discrimination etc.). It will describe the key legal instruments in the justice policy area (such as directives on procedural safeguards for suspects and accused persons, mutual recognition instruments and victims' rights legislation). In addition, it will describe the progress made in the area of procedural rights of suspect and accused persons, and the complementarity of EU and Member State actions in ensuring effective access to justice through the implementation of the relevant EU law with attention to the related six directives<sup>(4)</sup>, the 2012 Victims' Rights Directive<sup>(5)</sup>, the European Protection Order Directive in criminal matters<sup>(6)</sup> and the Regulation on protection measures in civil law<sup>(7)</sup> and the 2004 Compensation Directive<sup>(8)</sup>.

- **The work of EU institutions and the Member States to ensure effective legal protection**

The report will also describe recent case-law regarding effective legal protection from national courts and the CJEU, the recent enforcement action taken by the Commission against measures deemed contrary to EU law, as well as challenges and best practices identified from judicial and non-judicial remedies (decisions by domestic courts in the application of the relevant *acquis* or decisions of ombudspersons and equality bodies, or outcomes from strategic litigation undertaken by civil society actors).

- **International dimension of legal protection**

The report will cover points of complementarity with the relevant work of international organisations, such as the Council of Europe, the United Nations, the OECD, World Bank and the IMF, as well as the support of EU external action to right to access to justice (CFSP missions).

- **Funding for strengthened legal protection across the EU**

This part of the report will cover the relevant funding programmes of the EU, the Member States and international partners in the field of effective legal protection, i.e. the Justice programme, CERV, Norway grants and other regional, national or local mechanisms. It will describe the types of funding provided to strengthen access to justice, the target groups of the funding, as well as highlight best practices and challenges identified in that area.

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<sup>(4)</sup>Directive 2010/64/EU of 20 October 2010, OJ L 280 of 26.10.2010, p. 1–7.

Directive 2012/13/EU of 22 May 2012, OJ L 142 of 1.6.2012, p. 1–10.

Directive 2013/48/EU of 22 October 2013, OJ L 294, 6.11.2013, p. 1-12.

Directive (EU) 2016/343 of 9 March 2016, OJ L 65 of 11.3.2016, p. 1-11.

Directive (EU) 2016/800 of 11 May 2016, OJ L 132 of 21.5.2016, p. 1-20.

Directive (EU) 2016/1919 of 26 October 2016, OJ L 297, 4.11.2016, p. 1-8; Corrigendum: OJ L91, 5.4.2017

<sup>(5)</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ L 315, 14.11.2012, p. 57 - 73.

<sup>(6)</sup> Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order, OJ L 338, 21.12.2011, p. 2 – 18.

<sup>(7)</sup> Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters, OJ L 181, 29.6.2013, p. 4 – 12.

<sup>(8)</sup> Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims

- **The role of the Charter in guaranteeing legal protection in the EU**

The final part of the report will give an overview of the role the Charter has played in the post-third pillar JHA reality, as shown by increasing Charter-related case-law, and EU legislative and policy action.

### **3. Time horizon**

Because of the thematic approach, the report is not strictly limited to the previous calendar year's developments. This means that the 2023 report will cover, inter alia, the three first years of the current mandate: 2020-2023.