



DELIVERABLE 2.1

Comparative analysis of gaps in the implementation of the EU Charter of Fundamental Rights



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Mapping the EU Fundamental Rights Charter Across Nine European Countries: A Study on the Implementation, Use and Recommendations for Improved Domestication

**Work Package 2
Deliverable 2.1**



Mapping the EU Fundamental Rights Charter Across Nine European Countries: A Study on the Implementation, Use and Recommendations for Improved Domestication

Introduction

The purpose of this report is to develop a mapping of state implementation of the European Union’s Charter of Fundamental Rights within Member States. This report, and the CERV project generally, responds to the obligation on Member States to “respect rights, observe the principles and promote the application of the Charter¹.” The analysis contained in this report provides a comprehensive and evidence-based overview of the gaps and needs in the use, implementation and awareness of the EU Charter in each of the nine countries participating¹. In particular, this report analyses the extent to which the EU Charter is being used domestically by policy makers, lawyers and judges, legislators and civil society organisations. More broadly, the report provides a macro - snapshot as to the extent of domestication of the EU Charter within national jurisdictions and highlights both the limitations of the use but also good practices and ways forward. This report concludes with possible pathways to foster better and more habitual use of this legal instrument so that the Charter is used as a tool to empower the protection of fundamental rights across the European Union. It also creates a baseline document that the project partners will use while undertaking the CERV FAIR project's subsequent work packages to strengthen implementation of the Charter. The European Charter of Fundamental Rights is a crucial tool as it ensures comprehensive protection of human rights, establishes common standards, reinforces the rule of law, guides legislation and jurisprudence, reflects shared values, and addresses contemporary challenges within the EU. The ultimate goal of this report, and the project generally, is to contribute to improved usage of the Charter in member countries and ensure that everyone’s rights are protected.

Methodology and Structure of Report

This report is based on individual reports carried out by each of the nine consortium partners, all of whom are FRANET contractors, and who responded to the questions listed below². In doing so, the partners primarily drew from the research outputs produced in the context of the FRANET research network over the last 5 years (2023, 2022, 2021, 2020, 2019). The country reports also rely, though to a lesser extent, on other research and fieldwork of relevance for the FAIR project, such as country thematic reports produced during these years for the Fundamental Rights Agency as part of the FRANET. The individual reports also draw from other government research reports, case law, and academic publications focusing and highlighting the use of the EU Charter at country levels.

While only nine of the twenty-seven EU countries participate in this study, it nevertheless provides a representative sample amongst nations of different geographic and population sizes, varying levels of

¹ EU Charter, Article 51 (1)

² Belgium, Bulgaria, Croatia, Cyprus, Greece, Italy, Portugal, Slovenia, and Spain

economic development and democracy, to be able to extrapolate conclusions and offer recommendations towards improved domestication of the EU Fundamental Rights Charter.

The partners analysed usage and implementation in their national jurisdictions and developed individual country reports which addressed four points:

1. Analyse the extent of implementation of the Charter with respect to the topic category. Consider the extent to which legislation, jurisprudence and policies and other measures protect citizens against inequality and discrimination. Consider gaps and other obstacles towards domestication and implementation.
2. Analyse the extent to which CSOs, legal professionals, the general population and human rights defenders were aware of and made use of the Charter.
3. Identify pathways for better domestication of the Charter in national jurisdictions, including in courts, legislation and other in general use and implementation.
4. Other relevant aspects or issues to highlight concerning gaps in the use of the Charter within national jurisdictions.

Each of these questions was analysed in the context of nine thematic areas: 1) Equality and Non-Discrimination; 2) Racism, Xenophobia; 3) Roma Equality and Inclusion; 4) Asylum and Immigration; 5) Information Society and Privacy; 6) Rights of the Child; 7) Access to justice (and rule of law); 8) Convention on the Rights of People with Disabilities; 9) Gender Based Violence Against Women and the LGBTQIA+ Community. This permitted an intersectional analysis of the use of the Charter within priority fundamental rights thematic areas.

Participants

Italy	Fondazione Giacomo Brodolini
Bulgaria	CENTER FOR THE STUDY OF DEMOCRACY
Belgium	VUB - VRIJE UNIVERSITEIT BRUSSEL
Croatia	CENTRE FOR PEACE STUDIES
Cyprus	SYMFILIOSI
Greece	CECL - CENTRE FOR EUROPEAN CONSTITUTIONAL LAW
Portugal	CES - CENTRO DE ESTUDOS SOCIAIS
Spain	COMILLAS
Slovenia	MIROVNI INŠTITUT / Peace Institute

CERV Report Part I

Analyse the extent of implementation of the Charter with respect to the topic category. Consider the extent to which legislation, jurisprudence and policies and other measures ensure compliance.

Overview

The purpose of this section is to provide an initial mapping of the use of the Charter within national legal frameworks. Partners were asked to analyse the extent to which laws, jurisprudence, policies and other measures reflect, both directly and indirectly, a utilization of, and reliance on, the Charter. The sections below provide a synthesis of the relevant aspects of the country reports and conclude that while there is some evidence of use, overall the utilization is limited to a handful of thematic areas.

Analysis

Analysis of each country's use of the Charter reveals that there are significant gaps in its implementation through legislation, jurisprudence, policies, and other measures. This first section of the mapping report seeks to provide a broad analysis of the overall patterns of use identified in the country reports and then highlights in each of the thematic areas ways in which the Charter is or is not used within national jurisdictions.

As demonstrated by the country reports, the instances in which the Charter has been explicitly cited as a tool for the development of law have been few. However, at the same time, there is evidence that national legislatures and court systems are becoming more aware of and learning to utilize the Charter. One area where there appears to be greater usage is amongst judges, who sometimes cite the Charter in their decisions.

Nevertheless, the way in which the Charter is being used is still highly limited. One major concern addressed in reports is that in cases where the Charter has been referenced or discussed, it is usually brief and supplementary³. There are few, if any cases, where it can be argued that the Charter was a driving force in the implementation of a new law or policy. Additionally, while all the countries cited examples that align with the rights outlined in the Charter, it is unclear from the reports whether these initiatives were enacted with the Charter in mind or if they were following other legal frameworks that align with the Charter. This suggests that while some level of awareness exists, there is limited direct reference to explicit use of the Charter in legislation, jurisprudence, and policies, and it is often difficult to ascertain whether rights legislation is the product of the Charter or other human rights instruments.

In regard to the nine key topics covered in the Charter, implementation was not equal across the board. Based on the reports, there appear to be areas where the Charter has been utilized to a greater extent than others. Information, Society, and Privacy, for one, appears to be an area in which there are higher levels of engagement with the Charter, especially in reference to data protection laws. This potentially reveals a gap in national legislation that the Charter has been successfully able to fill, suggesting the

³ See Comillas Institute Report (Spain), Peace Institute Report (Slovenia), VUB Report (Belgium)

potential of the Charter to engrain itself in national frameworks and influence the development of legal frameworks.

There are also, however, areas in which the Charter has made very little progress, such as (b) Racism and Xenophobia and (h) Rights of People with Disabilities. This may be due to the fact that there are already concrete domestic laws in those areas, suggesting that increased implementation of the Charter will require blending it into existing legislation. It may also be due to existing legal conflicts with the Charter in those areas, in which case, more extensive measures may be necessary.

This next sections analyse the extent of implementation in each of the different areas of the Charter. In particular, it considers the Charter is present in national legislation, jurisprudence and policies and other measures, either because it is directly cited or because it has in some other way influenced national law.

a. Equality and Non Discrimination

Use of the Charter in the topic category of Equality and Non Discrimination is limited, but provides more examples of explicit citation than most other topic categories. In Spain, a few key pieces of legislation refer to the Charter in their preamble, including Law 15/2022 on Equal Treatment and Non-Discrimination, the Trans Law, and the Organic Law for the Protection of Children and Adolescents against Violence.⁴ Another example is Slovenia's Annual Reports of the Advocate of the Principle of Equality, which use the Charter to discuss the context of non-discrimination.⁵ However, the example of the most effective use of the Charter is Croatia's Action Plan for Human Rights, which specifically sets out to "...promote effective implementation of the Charter' and to raise awareness and knowledge of state officials that work on the design of public policies and legislative proposals, lawyers, representatives of the judiciary, members of parliament, lawyers working in civil society organisations and local administration."⁶ This plan also outlines a measure to strengthen implementation of the Charter through European Union Funds and special training in the implementation of non-discrimination legislation. Croatia's use of the Charter in this field is one of the most effective examples across all categories in that it goes beyond merely citing the Charter, but actually proposes a plan to increase its awareness, use, and legislative power. Croatia's use of the Charter in this topic category is a prime example of good practice and demonstrates significant growth.

However, with just three examples and Croatia being the only one that goes beyond mere citation, this topic category demonstrates a need for further improvement of the Charter's use. Future developments in this category should focus on going beyond merely citing the Charter and instead using it as an instrument for the advocacy and grounding of rights. They should also focus more on use of the Charter among judges and within courts.

b. Racism and Xenophobia

Among all nine topic categories analysed, Racism and Xenophobia demonstrated the least effective use of the Charter, with no evidence of direct citation. While every country has demonstrated progress that aligns with the Charter's provisions on Racism and Xenophobia, there is no evidence that the Charter was a factor in motivating that progress. Without explicit examples, there is no way to gauge what role, if any, the Charter played in this topic category. The need for increased and improved use

⁴ Comillas Report, p. 2 (Spain)

⁵ Peace Institute Report, p. 2 (Slovenia)

⁶ Center for Peace Studies Report, p. 1 (Croatia)

of the Charter in this topic category is urgent in legislation, jurisprudence, and policy, especially taking into account the current situation in the EU related to the increased support to the far right

c. Roma Equality and Inclusion

Use of the Charter in the topic category of Roma equality and inclusion is limited but provides two strong examples of effective use. They are among the few examples across all the reports where an initiative not only references the Charter but utilizes it as a guiding framework. In Greece, the Ministry of Employment and Social Affairs published the National Strategy and Action Plan for the Social Integration of Roma 2021-2030, which not only references, but actively uses the Charter as a guiding framework for promoting equality, socio-economic integration, and participation within the Roma community.⁷ Similarly, in Croatia, The National Roma Inclusion Plan 2021–2027 has utilized the Articles 20 and 21 of the Charter to guide its key principles and directives in protecting Roma equality.⁸ Both of these initiatives demonstrate good practice by using the Charter actively rather than merely citing it. Also, because these action plans involve practices in all fields at different levels of government, they help expand the use of the Charter by showing its effectiveness as a tool in several different areas. However, because there are only two examples of explicit Charter use in this area, this topic category demonstrates a need for further expansion and country mapping. Future developments in this category should focus on expanding use of the Charter beyond these action plans and into other legislation, policy, and judicial decisions.

d. Asylum and Immigration

Asylum and Immigration is a highly limited topic category with respect to effective use of the Charter. The only example of explicit citation of the Charter in this area comes from Italy. Italy's Law No. 173/2020 directly refers to the EU Charter to assert that the push-back and forced return of migrants should be forbidden if there is good reason to believe that there would be a violation of the right to private and personal life, except for circumstances where there is a threat to public order, security, or health.⁹ This instance shows the Charter being used to provide concrete support for immigration reform and to drive policymaking, examples of which were rare across the reports. While this example is strong, it is the only concrete one provided in the reports, indicating that use of the Charter is relatively weak and demonstrates a need for improvement and expansion. Future developments in this category should focus on use of the Charter among judges and within courts as a tool for supporting the development of jurisprudence that is grounded in the Charter. Moreover, regarding this topic, the Charter is a more relevant than ever essential now that Member States must implement the EU Pact on Migration and Asylum, approved in May 2024 and that which will enter into force in June 2026.

e. Information, Society, and Privacy

Use of the Charter in the topic category of Information, Society, and Privacy has shown to be greater than others. Implementation of data protections, specifically, has been an area in which most countries have considered and utilized the Charter effectively. Bulgaria, for example, explicitly cites the Charter in Article 5a of its Electronic Communications Act, stating that restrictions on access to electronic communications must refrain from limiting the exercise of

⁷ CECL Report p. 4-5 (Greece)

⁸ Center for Peace Studies Report, p. 5 (Croatia)

⁹ FGB Report, p. 7 (Italy)

rights and freedoms outlined in the Charter.¹⁰ Similarly, in Slovenia, a proposal of the Act on the protection of personal data in the area of treatment of criminal offenses states that any limitations on an individual's right to access to their personal data as it relates to criminal proceedings are to be applied in conformity with the Charter.¹¹ The Charter has also been used as a tool in crafting legislation and evaluating concerns in the field of data protection. In Belgium, the Charter was utilized by the Brussels Parliament in the drafting of new bills as well as the evaluation of bills by the Council of State.¹² Additionally, in Greece, the Data Protection Agency has highlighted inconsistencies with the EU Charter in response to a Presidential Decree draft for cross-border cooperation in combatting terrorism and crime.¹³ These examples are strong in that they demonstrate effective use of the Charter in a wide variety of circumstances related to legislation and policymaking, though there seem to be no specific examples of its use in judicial practices. Overall, this is the category where use of the Charter has seen the most growth and effectiveness, demonstrating that with further awareness trainings, the Charter can be used more frequently in domestic contexts. Future developments in this category should focus on the development of tools to foster a greater use and understanding of the Charter among judges and within courts.

f. Rights of the Child

Rights of the Child is a highly limited topic category with respect to effective use of the Charter. The only example of explicit citation of the Charter in this area comes from Italy. Italy's EU Child Guarantee, which aims to combat child poverty and social exclusion by promising to provide key services, cites Articles 24 and 33 of the Charter as grounds for the adoption of this legislation.¹⁴ The explicit citation of the Charter to provide foundation for the adoption of a new law is a great example of effective use. However, this is the only example of use in this category, demonstrating a significant need for expansion and improvement of Charter use. Future developments in this category should focus on expanding use of the Charter in policymaking and among judges and courts. It is likely that national jurisdictions lean more on the United Nations Convention on the Rights of the Child and European Court of Human Rights rulings, rather than the EU Charter.

g. Access to Justice and Rule of Law

Access to Justice and Rule of Law is a highly limited topic category with respect to effective use of the Charter. The only example comes from Bulgaria's jurisprudence, where the Charter has proven to be a significant driving force. In regard to the right to an effective remedy and a fair trial, 1,575 of the country's judicial acts have referenced the Charter explicitly, demonstrating that judges have been made aware of and made use of the Charter to improve access to justice. However, this is the only example in this area, and it does not provide evidence of use of the Charter to support legislation or drive policymaking. This demonstrates a significant need for expansion and improvement of Charter use in this topic category. Future developments in this category should focus on use of the Charter in legislation and driving policymaking.

h. Rights of People with Disabilities

Among all nine topic categories, Rights of People with Disabilities demonstrated the least effective use of the Charter, with no evidence of direct citation. While every country has demonstrated

¹⁰ CSD Report, p. 8-9 (Bulgaria)

¹¹ Peace Institute Report, p. 14 (Slovenia)

¹² VUB Report, p. 8-9 (Belgium)

¹³ CECL Report, p. 7 (Greece)

¹⁴ FGB Report, p. 10 (Italy)

progress that aligns with the rights of people with disabilities outlined in the Charter, there is no evidence that the Charter was a factor in motivating that progress. Without explicit examples, there is no way to gauge what role, if any, the Charter played in this topic category. The need for increased and improved use of the Charter in this topic category is urgent in legislation, jurisprudence, and policy.

i. Gender-Based Violence Against Women and the LGBTQIA+ Community

Gender-Based Violence Against Women and the LGBTQIA+ Community is a highly limited topic category with respect to effective use of the Charter. The only example comes from Belgium, where we can see the Charter being used in courts and among judges. In Belgium, an important court case utilized Articles 20 and 21 of the Charter to partially annul a law which differentiated between men who have had sexual contacts with other men and the rest of the population with regard to the possibility to donate blood.¹⁵ This demonstrates judges' increasing awareness and use of the Charter, as well as the effectiveness of the Charter in conjunction with domestic law as an empowering tool of rights protection. However, this area provides no examples of the Charter being used in legislation and policymaking. With Belgium being the only concrete example, there is a significant need for increased and improved use of the Charter in this topic category. Future developments in this category should focus on use of the Charter in legislation and driving policymaking.

Good and Bad Practices

There are several legislative and judicial practices that demonstrate inadequate use of the Charter. One of these practices is the incorporation of the Charter into foundational legal frameworks. Bulgaria, for example, has demonstrated use of the Charter in many judicial acts related to rule of law. However, it is important to consider that Bulgaria's Constitution does not explicitly refer to the Charter or any other international convention.¹⁶ While use of the Charter in judicial decisions is notable, proper implementation should aim to increase its legitimacy and legal effectiveness by engraining it into key frameworks such as the Constitution.

Another concerning practice occurs when the Charter is invoked together with national legislation. While these two frameworks should ideally work alongside each other, the tendency is that national law supersedes the authority of the Charter due to enforceability. For instance, in the case of Belgium, when the Charter is invoked without articles of national law, arguments related to a violation of the Charter in court are typically rejected.¹⁷ Bulgaria cites this issue in its own report, suggesting that the use of the Charter, in such cases, is more a form of "namedropping" than actual legal support.¹⁸ Ideally, the Charter should be blended with national legislation and other weight-bearing frameworks in such a way that it provides more active support.

Some legislative and judicial practices did demonstrate good use of the Charter. The most effective uses of the Charter in legislative and judicial processes are those where it was explicitly referenced in support of a key Charter principle, rather than a brief mention. Examples include Croatia under Roma Equality and Inclusion and Belgium under Gender-Based Violence Against Women and the LGBTQIA+ Community. Additionally, when the Charter served alongside national legislation, good practice

¹⁵ VUB Report, p. 13 (Belgium)

¹⁶ CSD Report, p.2 (Bulgaria)

¹⁷ VUB Report, p. 6-7 (Belgium)

¹⁸ CSD Report, p.2 (Bulgaria)

constitutes that where the Charter went beyond a supplementary role and served as a primary reference and cited specific articles, as with the EU Child Guarantee in Italy. Furthermore, the use of the Charter in key judicial decisions to enhance legal reasoning and provide comprehensive support is a great example of good practice, demonstrating increased awareness and strategic utilization in the judicial system, as with Bulgaria under Access to Justice and Rule of Law. Finally, the use of the Charter as an evaluative tool to assist in the development and improvement of legislation by bodies such as Belgium's Brussels Parliament and Greece's Data Protection Agency under Information, Society, and Privacy is a great example of good practice.

Conclusion

Overall, implementation of the Charter through legislation, jurisprudence, policies, and other measures remains limited. Although there have been notable instances of explicit citation of the Charter, these cases are relatively few. Even fewer are the cases where the Charter goes beyond a brief mention and serves as an active support, a driving force, or a foundational framework. Among the key topic categories covered by the Charter, application is not even across the board. While topics like Information, Society, and Privacy have shown high levels of improvement and engagement, areas such as Racism and Xenophobia and Rights of People with Disabilities have demonstrated very minimal progress. Some examples have demonstrated strong use of the Charter in legislative texts, judicial decisions, and policy initiatives, highlighting the potential for the Charter to support such processes if implementation were to increase. Other examples have demonstrated much weaker practices, where use of the Charter appears superficial and is overshadowed by domestic practices. In short, use of the Charter is not uniform across all thematic areas.

Ultimately, these findings demonstrate that a general awareness and use of the Charter is severely lacking. At the same time, however, each country presents varied use in different areas, highlighting the importance of not only teaching about the existence of the Charter, generally, but also working in different sectors to show how the different subject of the areas of the Charter inform human rights making at the national level. In broader terms, the findings of these reports emphasize a need for greater awareness, training, and integration of the Charter into domestic practices to ensure that its principles are effectively upheld across the EU. The Charter could be used more explicitly, taking into account that many of the fundamental rights that are protected by different national legislations or that are cited by judicial decisions or that are included in political actions overlap with the Charter.

The Charter is a good tool to use in the framework of the defense of human rights, such as in cases of strategic litigation - something that civil society organisations must necessarily incorporate into their work. There is limited evidence of its use in such contexts and overall, this first section of the report demonstrates that the Charter is still in a very limited phase in terms of usage in domestic legal contexts, yet at the same time, trainings, knowledge campaigns and other forms of outreach have the potential to augment the use of the Charter in legislation, courts and other legal forum.

CERV Report Part II

Analyse the extent to which CSOs, legal professionals, the general population and human rights defenders were aware of and made use of the Charter.

Overview

Analysis of each report demonstrates that there are significant gaps in the awareness and use of the Charter among CSOs, legal professionals, the general population, and human rights defenders. The instances in which the Charter has been utilized by these stakeholders is limited but still more common when compared to its use in the context of Part I of this report. The examples highlighted in this report demonstrate initiatives that focus primarily on increasing awareness of the Charter, typically through training programmes. Across the reports, examples of CSOs, legal professionals, the general population, and human rights defenders actively using the Charter are scarce. One of the key concerns echoed through this section is that without data or examples of these groups making use of the Charter, it is difficult to gauge whether awareness initiatives are effective. Accordingly, the overall conclusion is that awareness of the Charter is highly limited, and while examples do exist (and will be discussed below) by and large there is limited understanding by stakeholders of the existence of the Charter and its applicability and use in national jurisdiction.

Analysis

Having analysed the nine thematic areas covered in the Charter, the broad conclusion is that awareness is limited and not uniformly equal. There appears to be thematic areas where there is more engagement with the Charter than others. (a) Equality and Non-Discrimination, for example, is the area that provides the greatest number of examples and the most comprehensive body of evidence. (g) Access to Justice and Rule of Law also provides many examples, although they seem to be limited to increasing awareness among legal professionals. However, many of the thematic areas provide very few examples or examples without specific details, as in the case of (b) Racism and Xenophobia and (e) Information, Society, and Privacy.

Portugal's report pointed out that its own national legal framework is much in line with the Charter's principles and values, and has its own plans, programmes, and strategies in place. This could suggest that, in some cases, actors are favoring the use of other existing frameworks over the Charter because they advocate the same principles and already have mechanisms in place for implementation.¹⁹ This could suggest that increasing awareness and use of the Charter will require more extensive awareness campaigns and being able to blend the Charter with more commonly used laws and doctrines.

a. Equality and Non-Discrimination

¹⁹ Center for Social Studies Report, p. 34 (Portugal)

Among all thematic areas, equality and non-discrimination is the one that demonstrates the most widespread and effective use of the Charter. Use of the Charter still requires improvement, but several examples are available. For example, in Portugal, several CSO's have started initiatives citing the Charter, including ILGA Portugal's LGBTI+ History Project and Observatory on Crimes Against LGBTI+ People, as well as CIS-IUL's "kNOWHATE" project.²⁰ This is also the case in Spain, where the Spanish Commission for Refugee Aid published a report entitled "Combating Discrimination in the Workplace on Grounds of Sexual Orientation and Gender Identity" where the Charter was mentioned as a fundamental rights standard to adhere to.²¹ There are also initiatives that raise awareness about the Charter among legal professionals and provide training on effective use. In 2022, the Advocate of the Principle of Equality published the Slovenian translation of the FRA Handbook on European non-discrimination law (2018 Edition), an important part of which is proper interpretation and application of the Charter. When issuing the Slovenian edition, the Advocate also organized an online round table to promote the publication among professionals in Slovenia.²² Also in Slovenia, the Academy of European Law (ERA), organized a seminar in Ljubljana dedicated to the EU gender equality law where a lecture was presented on the EU Charter of Fundamental Rights, its legal value, and its applicability to case law.²³

Furthermore, there are excellent examples in the reports of campaigns to increase awareness of the Charter among the general population. In Cyprus, the Cypriot Ombudsman collaborated with the National Equality Body to create a media campaign aimed at increasing public awareness of the equality and non-discrimination rights enshrined in the Charter. The Ombudsman then compiled reports about the level of public awareness that were used to inform trainings²⁴. Unia, Belgium's equality body, issued a press release calling for the protection of fundamental rights of the elderly on the International Day of Older persons. The press release explicitly referred to the Charter, with specific focus on Article 25.²⁵ Strong examples are highlighted of awareness campaigns conducted by CSOs, legal professionals, the general population, and human rights defenders. However, while there is evidence of the Charter being used among CSOs, it is unclear whether this is a result of the awareness campaigns. Moreover, it is unclear from these examples whether awareness campaigns have led to legal professionals, the general population, or human rights defenders making use of the Charter. Overall, this thematic area is lacking in examples of the Charter being actively utilized.

b. Racism, Xenophobia

Racism and Xenophobia is a highly limited thematic area with respect to effective use of the Charter, according to the reports presented. However, there are some examples. One comes from Spain, which reported that several NGOs have worked to improve reporting mechanisms for Islamophobic incidents by increasing awareness of Charter protections.²⁶ Additionally, Croatia's report claims that legal professionals are inclined to use the Charter in legal proceedings concerning racism and discrimination, especially to contest discriminatory laws or practices and advocate for safeguarding fundamental rights.²⁷ However, specifics were not provided for either of these examples, suggesting that in this thematic area, there is perhaps very limited use or awareness of the Charter.

c. Roma Equality and Inclusion

²⁰ Center for Social Studies Report, p. 7 (Portugal)

²¹ Comillas Report, p. 3 (Spain)

²² Peace Institute Report, p.2 (Slovenia)

²³ Peace Institute Report, p. 3 (Slovenia)

²⁴ Symfiliosi Report, p. 7 (Cyprus)

²⁵ VUB Report, p. 3 (Belgium)

²⁶ Comillas Report, p. 8 (Spain)

²⁷ Center for Peace Studies Report, p. 3 (Croatia)

Use of the Charter in the thematic area of Roma Equality and inclusion is limited but provides some strong examples. In 2023, a group of human rights actors in Belgium wrote a shadow report to the European Committee for Social Rights, noting that the evictions of Roma travelers were a possible infringement of Articles 7 and 31 of the Charter.²⁸ Unia, Belgium’s human rights body, advised the Walloon Minister of Housing to include a reference to the wish of caravan residents to have their ancestral way of life recognized in line with the provisions of the Charter.²⁹ Moreover, Italy’s National Strategy for Equality, Inclusion, and Participation of Roma People works closely with CSO’s representing Roma and Sinti communities, explicitly referring to the Charter as a key commitment and obligation.³⁰ There are also examples of increasing awareness within Spain, where CSO campaigns like #PanParaMañana have promoted job opportunities for Roma youth, addressing high unemployment rates and raising awareness about their rights under the Charter. The Spanish General Council of the Judiciary also organized training sessions on the Charter, to ensure that legal decisions align with the principles of equality and non-discrimination with special emphasis on the Roma population.³¹ These examples demonstrate that CSOs and human rights defenders are both aware of and making use of the Charter. However, there are no examples of legal professionals or the general population engaging with the Charter, suggesting that there is limited awareness or strategic use among them.

d. Asylum and Immigration

Use of the Charter in the thematic area of Asylum and Immigration is limited, but provides some strong examples, such as increased awareness through informative publications. In 2023, the first comprehensive Slovenian monograph on migration and international protection law was published. The author of the publication heavily refers the EU Charter, noting that asylum authorities and courts must observe, in addition to other sources of law, the relevant provisions of the Charter and related case law of the ECJ when dealing with international protection cases.³² In Belgium, Myria, the Federal Migration Centre, releases publications and writes third-party interventions for courts where it explicitly mentions the Charter.³³ Additionally, in Belgium, a group of human rights actors wrote a letter to European Commissioners claiming that Belgium’s reception crisis, concerning the basic rights of asylum seekers, raised serious concerns regarding compliance with the Charter, demonstrating that there is some use of the Charter among human rights defenders.³⁴ What is absent from this category is evidence of the extent to which the publications cited increase use of the Charter. While there is evidence of the Charter being used among human rights defenders, it is unclear whether this is a result of the awareness campaigns. This thematic area is lacking in examples of the Charter being actively utilized as a result of awareness initiatives.

e. Information Society and Privacy

Information, society, and privacy is a highly limited thematic area concerning examples of use of the Charter. The only example is in the report by Portugal, which states that its CSOs have filed complaints to the Ombudsperson about compliance with the Charter’s data protection provisions and

²⁸ VUB Report, p. 5 (Belgium)

²⁹ VUB Report, p. 6 (Belgium)

³⁰ FGB Report, p. 5 (Italy)

³¹ Comillas Report, p. 8 (Spain)

³² Peace Institute Report, p. 11 (Slovenia)

³³ VUB Report, p. 7 (Belgium)

³⁴ VUB Report, p. 7 (Belgium)

that legal professionals have played key advocacy roles in this thematic area. Because specifics were not provided, it is difficult to gauge the extent of participation.³⁵ Overall, this thematic area is weak with respect to Charter engagement.

f. Rights of the Child

Rights of the child is a highly limited thematic area with respect to effective use of the Charter. The only example is from Bulgaria, where the CSO-driven SUN project focuses on protecting the rights of unaccompanied and separated refugee children as outlined by the Charter. This project works on improving effective implementation of the Charter and providing training for front-line workers.³⁶ Additionally, in Spain, the CSO Plataforma de Infancia held multiple workshops in 2022 to educate parents and educators about children's rights, emphasizing the Charter's role in safeguarding these rights.³⁷ Overall, this thematic area is lacking evidence of awareness or use of the Charter among legal professionals, human rights defenders, and the general population.

g. Access to Justice and Rule of Law

Use of the Charter regarding access to justice and rule of law is limited but provides more examples than in other thematic area. Specifically, this thematic area demonstrates strong examples of increased awareness among legal professionals through training on effective use of the Charter. In 2021, the Judicial Training Centre in Slovenia collaborated with the Academy of European Law to organize a two-day seminar for judges and prosecutors on the use of the EU Charter, with an emphasis on the right to fair trial.³⁸ In 2023, the Slovenian Human Rights Ombudsman carried out a survey among staff of its Expert Service about their knowledge and use of the EU Charter, as well as organized a short internal training on the use of the Charter aimed at staff.³⁹ In Italy, the Magistratura Democratica organized an online event to enhance judges' understanding of the Charter's role in protecting social rights. Also in Italy, the University of Campania's 2022 training program aimed to educate 300 judges on applying the Charter, and a specialized two-year course launched in 2023 for lawyers includes modules on the EU Charter and its practical application in protecting human rights.⁴⁰ Furthermore, The Judicial Academy in Croatia conducts training on the use of the Charter in the Programme of Lifelong Professional Development for Judicial Officers and Other Judiciary Staff and participated in EU-financed projects dedicated to learning about the Charter.⁴¹ However, because these training initiatives are targeted towards legal professionals and human rights defenders, it is unclear whether they have raised awareness among CSOs or the general population. Additionally, it is unclear to what extent the increased awareness of the Charter has led to its increased use. While this thematic area demonstrates notable progress in increasing awareness, it is lacking in examples of active use of the Charter.

h. Rights of People with Disabilities

Rights of people with disabilities is a highly limited thematic area with respect to effective use of the Charter, according to the reports presented. However, there are some examples. One example comes from Slovenia's office of the Human Rights Ombudsman, which organized a training on the importance of the Charter at the national level targeted toward public servants and placing specific

³⁵ Center for Social Studies Report, p. 22 (Portugal)

³⁶ CSD Report, p. 7-8 (Bulgaria)

³⁷ Comillas Report, p. 14 (Spain)

³⁸ Peace Institute Report, p. 20 (Slovenia)

³⁹ Peace Institute Report, p. 20 (Slovenia)

⁴⁰ FGB Report, p. 12-13 (Italy)

⁴¹ Center for Peace Studies Report, p. 13-14 (Croatia)

emphasis on the rights of people with disabilities⁴²]. These examples show increasing awareness of the Charter among legal professionals. However, this thematic area is lacking in examples of active use of the Charter as well as engagement with CSOs and the general population.

i. Gender Based Violence Against Women and the LGBTQIA+ Community

Gender-based violence against women and the LGBTQIA+ community is a highly limited thematic area with respect to effective use of the Charter. The only example comes from Croatia. In 2019, the NHRI and FRA in Croatia organized training sessions on the Charter for civil servants and NGOs, focusing on the use of the Charter in legislative procedure and strategic litigation with a strong emphasis on victims' reparation and women's rights.⁴³ This shows increasing awareness of the Charter among legal professionals and CSOs, though the impact of these trainings and whether they increase usage is unclear. Overall, this thematic area is lacking in examples of active use of the Charter.

Good and Bad Practices Identified in Promoting Awareness of the Charter

While the reports demonstrate that engagement with the Charter is limited, there are examples of good practices to highlight.

An example of good practice that was commonly cited was the use of practical training programmes for legal professionals, CSOs, and human rights defenders, especially in the thematic area of access to justice and rule of law. This is good practice because it goes beyond informing the stakeholders about the content of the Charter; it teaches participants how to use the Charter effectively and incorporate it into their work. In its report, Greece noted that its existing training programmes were failing to facilitate the Charter's practical application because they have a predominantly theoretical focus.⁴⁴ For this reason, it's important to note that training programmes to raise awareness are best when they advocate practical applications of the Charter.

Another notable practice is gathering data at national levels about the extent to which legal professionals, CSOs, the general population, and human rights defenders are being made aware of and utilizing the Charter. We see this in the Cyprus report, where the Cypriot Ombudsman compiled reports based on engagement with a media campaign about the level of Charter awareness amongst the public.⁴⁵ This is good practice because it tackles a key issue that was observed across all reports, which is that there is no clear measure of the extent to which awareness campaigns are increasing the use of the Charter. Gathering data about engagement helps to understand the effectiveness of awareness campaigns and can serve as a baseline measurement for further capacity building exercises.

The primary limitations identified in the examples outlined above are related to examples of active use of the Charter. A very commonly cited example was the use of training programmes to increase awareness of the Charter among legal professionals and human rights defenders. However, there were no cited examples of the Charter being used in strategic litigation. So, while there is evidence that legal professionals are being taught how to use the Charter, there is no evidence of them actually utilizing it. It is unclear whether this is due to a lack of reporting or a lack of evidence. Regardless, it is an example of bad practice because without this information, there is no way of evaluating the effectiveness of awareness initiatives. This is also a concern for awareness initiatives targeted at the general population.

⁴² Peace Institute Report, p. 23 (Slovenia)

⁴³ Center for Peace Studies Report, p. 17 (Croatia)

⁴⁴ CECL Report, p. 1 (Greece)

⁴⁵ Symfiliosi Report, p. 7 (Cyprus)

Apart from Spain and Greece, specific statistics on the general population's awareness of their rights under Charter were scarce across the reports, making it difficult to know if these public awareness initiatives are reaching the intended audience.⁴⁶

Another example of bad practice occurs when it is reported that the Charter was merely cited rather than used as an important tool. Several reports claim that CSOs and legal professionals "mentioned" the Charter in relation to the fundamental rights in question.⁴⁷ While this a good first step in helping to increase awareness of the Charter, the Charter should ideally be used as a legal basis or foundational framework to actively uphold human rights. As highlighted in Part 1 of this report, merely citing the Charter could be considered a form of "namedropping", which downplays its use as an active tool.

In addition to general observations about bad practices, the reports also highlighted some individual examples of obstacles getting in the way of the increased awareness and use of the Charter. In Slovenia, for example, Advocate of the Principle of Equality has not been able to obtain an expert translation of the FRA's manual "Getting the Future Right - Artificial Intelligence and Fundamental Rights in the EU," which is not currently available in Slovenian. The goal was to enhance legal protection against AI-related discrimination in Slovenia by increasing knowledge of Charter's application to this field.⁴⁸ Any texts or documents that provide critical information about implementation of the Charter should be made as available and accessible to all countries in the EU, especially with regard to language, if awareness of the Charter is to be adequately domesticized. Additionally, Belgium's report cited that there has been an interest in using the Charter to discuss children rights in schools, but that it's considered too specific to fit into such efforts. Talking about the Charter in schools could be an effective way to increase awareness of the Charter among the general population, but for this to occur, there need to be mechanisms in place to help adapt the use of the Charter to various contexts.

Conclusion

Overall, awareness and use of the Charter among CSOs, legal professionals, the general population, and human rights defenders remains scarce. There are some strong examples of effective engagement with the Charter, but these remain few. Even fewer are the cases where the Charter is being actively utilized, as most of the examples provided are about awareness initiatives. Among the key thematic areas, application is uneven across the board. While topics like Equality and (a) Non-Discrimination and (g) Access to Justice have shown high levels of improvement and engagement, areas such as (b) Racism and Xenophobia and (e) Information, Society, and Privacy have demonstrated very minimal progress. Most of the examples highlighted the use of training initiatives for legal professionals and human rights defenders as an awareness-increasing mechanism but there is limited clarity about whether these trainings foster greater usage of the Charter. When those initiatives teach practical approaches for utilizing the Charter, they are excellent examples of good practice. Despite these good examples, however, there were also several examples of bad practices and lack of reporting, highlighting a need for more effective approaches to implementing the Charter. The findings of these reports emphasize a need for greater awareness and use of the Charter within civil society to ensure that its principles are effectively upheld across the EU.

⁴⁶ See Comillas Report (Spain) and CECL Report (Greece)

⁴⁷ See Comillas Report, p. 3 (Spain) and VUB Report, p. 7 (Belgium)

⁴⁸ Peace Institute Report, p. 15 (Slovenia)

CERV Report Part III

Identify pathways for better domestication of the Charter in national jurisdictions, including in courts legislation and other in general use and implementation.

Overview

This section provides an analysis of potential pathways to improve the implementation and general use in domestic legal systems. Drawing from both the conclusions found in this report and from the country reports submitted, this part highlights both the good and bad practices currently being employed in partner countries in order to extrapolate examples that can be replicated in other countries towards better domestication of the Charter.

Analysis

The country reports generally confirm that an improved and more effective usage of the Charter in their national legal systems is needed. The reports highlight the overwhelming need to raise awareness and promote the benefits of the implementation of the European Charter of Fundamental Rights in the jurisdictions of the Member States, especially in the face of growing threats to the cohesion of the European Union and vulnerable populations.

The reports highlight several overarching pathways that should be implemented in states to improve implementation. The general observation is that effective ways for promotion of the use of the Charter should be undertaken to raise awareness of the possibilities for the use of the Charter in the daily work among legal practitioners by organizing training focusing on the practical use of the Charter. Another level of dissemination of the Charter should be carried out among the staff of civil society organisations and human rights defenders, with an emphasis on promoting strategic litigation. It would also be useful to examine the extent to which information on the Charter is present in the curricula of law faculties, faculties of public administration/political science, faculties of social work, which educate young people who work to protect against violations of human rights.

Civil society organisations also have a very important role to play in improving the implementation of the Charter in the legal systems of the Member States. On the one hand, civil society organisations and human rights defenders should meet with affected persons in vulnerable situations to identify the needs of these groups and communicate their rights to them. A better dissemination of the Charter in the various organisations working with vulnerable groups is essential for most vulnerable groups to be aware of their rights and professionals to be able to promote them. The organisations working with groups protected by the Charter have a greater responsibility to raise awareness by promoting training on the subject or by publicizing the Charter.

Some pathways for better domestication of the Charter in national jurisdictions that further strengthen victims' rights, include: (a) the creation of specific financial and legal support programmes for victims of different forms of violence; (b) the implementation of amendments to existing laws to expand the access of victims to legal aid, especially in cases of domestic violence and human trafficking; (c) the promotion of awareness and ongoing training for judges, public prosecutors, and other legal and judicial professionals about victims' rights, ensuring that they are treated with empathy and fairness throughout the judicial process; (d) the establishment of clear and effective protocols for identifying and referring

victims to appropriate support services, such as victim's support organisations and emergency housing programmes; and (e) the development and increase of the resources and educational materials to help victims understand their legal rights and navigate the judicial system, ensuring that they are fully informed and empowered among judicial authorities, law enforcement agencies, victim's support organisations, and other institutions to ensure a coordinated and effective response to victims' needs.

In addition to the promotion of awareness and legal education among legal and judicial professionals, including judges, lawyers, and prosecutors, to ensure more effective enforcement of existing legislation, several pathways can be identified, namely: (a) the elaboration and dissemination of training programmes, workshops, and specific educational materials; (b) the attribution to law enforcement agencies of the necessary resources and adequate training to handle cases of discrimination based on sexual orientation and gender identity rights; (c) the establishment of specialized units within police forces and the promotion of zero-tolerance policies against discrimination; (d) the launching of media campaigns, community events, and education programmes in schools and universities to help combating prejudice and discrimination in society at large; and (e) the involvement of CSOs in policy development and implementation to ensure that the needs and concerns of the communities are adequately addressed.

To highlight how some of these measures can be implemented at the state level, examples are drawn from the reports to highlight with greater specificity good practices that could be replicated within states to improve domestication of the Charter. The results are summarized in table 3.1 at the end of this part.

The pathways for better domestication of the Charter in national jurisdictions involve several broad measures. These can be divided up into 7 categories: (1) a consistent training of legal professionals (2) the training of public servants as well as professionals working in the public sector, (3) the strengthening of legal literacy of the population; (4) the promotion of training for public employees; (5) the continuous training for teachers on issues related to transversally integrate in school contents; or (6) the continuous effort to promote a network for sharing practices between public education and teaching institutions and private and cooperative schools, aimed at intercultural education and (7) working with the civil society and the vulnerable communities. A chart at the end of this section summarizes the main findings.

Good Practices for Improved Domestication of the Charter

1. Pathway 1: Training of legal professionals

The examples below highlight efforts by states to enhance the know-how and use of the Charter in national jurisdictions. This is done by enhancing the capacity of judges, lawyers and prosecutors in all the Member States to apply the EU Fundamental Charter of Human Rights in their daily work. Legal professionals, who are at the forefront of the protection of fundamental rights, including those of victims, should benefit from high-quality training that teaches use of the Charter.

a. Portugal

Good practice #1: In the last five years, Portugal implemented the initial of the judicial training for judges and public prosecutors held by the Centre for Judicial Studies on issues of racism, xenophobia and intolerance, to combat hate speech and hate crimes, within the disciplinary area of criminal law. Especially in terms of child protection, there are several paths to improve the domestication of the EU Charter into the national children's legislation.⁴⁹

⁴⁹ Center for Social Studies Report, p. 7 (Portugal).

Good practice #2: The Portuguese Council for Refugees (CPR) organised a free training on "The Charter of Fundamental Rights and International Protection", for legal professionals working in the field of asylum and/or providing legal assistance to asylum seekers. The main objectives of the training were to promote knowledge of the relevance and value of the EU Charter of Fundamental Rights, in the field of international protection, to identify ways of using this instrument and to encourage networking between legal professionals. This training is part of the Rooting for Rights project funded by the European Union.⁵⁰

Good practice #3: The National Data Protection Commission (CNPD), which have the role of supervising and ensuring compliance with data protection laws and regulations, the creation and implementation of educational programmes and awareness campaigns to inform citizens about their rights regarding data protection and privacy in the information society and the provision of legal education to legal and judicial professionals, including judges, lawyers, and prosecutors, among other, on the principles and rights established in the Charter for digital rights, contributing to a more solid understanding of these rights and their consistent use in courts.⁵¹

b. Spain

Good practice #4: In 2022, the Spanish General Council of the Judiciary emphasized the importance of continuous education for judges and lawyers to keep them updated on children's rights and the Charter's provisions. In 2022, the General Council of the Spanish Bar began offering training to lawyers, prosecutors, and members of the judiciary on proper use of the Charter within the judicial system, helping to establish the Charter as a tool for increasing access to justice. In 2021, the Spanish Data Protection Agency launched an initiative allowing people to report the publication of sexual or violent content for the protection of women, children, and the LGBTIQ+ community, with a removal effectiveness of approximately 86%. One of the laws launched under this initiative, Organic Law 7/2021, explicitly cited Article 8.1 of the Charter as protecting people's right to have their data protected. That same year, Spain published a resolution called Punto Violeta, which provides tools for companies, institutions, and entities to prevent cases of sexual violence by providing information on how to identify, act against, and report such cases.⁵²

2. Pathway 2: Judicial Knowledge of the Charter

Representatives of the judiciary have an important role to play in upholding the fundamental rights of vulnerable groups and deciding in accordance with European law. In particular, the judiciary contributes to influencing the understanding of rights in a specific domestic context, addressing gaps in legislative guarantees of these rights and ensuring accountability for violations of these rights. Though legal systems and judicial practices vary across countries and regions, the role of the courts in enforcement of human rights is fundamental.⁵³ When judges fully understand the Charter, it can become used as a binding source of law in courtrooms.

a. Slovenia

Good Practice #1: An example of use by judges is when the Slovenian Supreme Court refers to Article 4 and 24 of the EU Charter in its judgment *VSRŠ Sodba / Up 241/2023* referring to a case where the State

⁵⁰ Center for Social Studies Report, p. 19-20 (Portugal).

⁵¹ Center for Social Studies Report, p. 23 (Portugal).

⁵² Comillas Report, p. 25 (Spain).

⁵³ Guide for the Judiciary on Applying a Human Rights-Based Approach to Health. OHCHR. Available at: <https://www.ohchr.org/sites/default/files/JudiciaryGuide.pdf>

(Ministry of the Interior) appealed the judgment of the Administrative Court (I U 1195/2023-9 of 1 September 2023) that claimed that the defendant failed to comply with Article 24(2)(a) of the Charter of Fundamental Rights of the European Union ("the EU Charter") in its application of Article 33(2)(a) of Directive 2013/32 (the "Procedural Directive") under which the authority has the discretion whether or not to reject the application. The Supreme Court in the case mentioned ruled that the appeal is upheld and the judgment under appeal is amended by dismissing the action.⁵⁴

b. Portugal

Good practice #2: The reviewing of judicial decisions in higher courts that may violate these rights and impose corrective measures when necessary through jurisprudence, strengthening oversight mechanisms to ensure compliance with data protection laws and digital rights and the promotion of public consultation and citizen participation in the drafting and revision of legislation, with the realm of adoption of more comprehensive laws and the effective integration of digital rights into the existing legislation.⁵⁵

3. Pathway 3: Legal literacy and outreach

Legal literacy and outreach are becoming increasingly important. Understanding the basics of the legal system and our legal rights and responsibilities not only empowers us as informed citizens, but also gives us the ability to protect ourselves, actively participate in society and promote a fairer environment for all. Legal literacy enables us to know and understand our fundamental rights, both individually and collectively. This can be done by public legal education campaigns, translation of legal material for marginalized groups or the creation of simplified guides to support understanding of specific areas of law.

a. Spain

Good practice #1: The 2020 Public Prosecutor's Annual Report highlighted significant discrepancies in the understanding and application of the Charter between legal professionals and the public. This mapping of the discrepancies highlights the need for greater information amongst professionals about the Charter itself and how to make use of it as a legal mechanism in national jurisdictions.⁵⁶

b. Slovenia

Good practice #2: Slovenia promoted the implementation of training programmes for public officials at all levels to ensure they understand their obligations under the EU Charter and the CRPD and are equipped to implement these in their daily work.⁵⁷

4. Pathway 4: Training for public employees

Pathway 4 studies good practices on training and educational programmes on the EU Charter of Human Rights for government officials, including government agencies and intergovernmental organisations (IGOs) or security forces.

a. Slovenia

Good practice #1: Slovenian report highlights that one of the most effective ways of popularizing the use and designated reference of the EU Charter for the specified topic in national jurisdiction is mainly by

⁵⁴ Peace Institute Report p. 17 (Slovenia).

⁵⁵ Center for Social Studies Report, p. 7 (Portugal).

⁵⁶ Comillas Report, p. 17 (Spain).

⁵⁷ Peace Institute Report p. 22 (Slovenia).

organizing trainings and consultative meetings for the employees in the juvenile justice system. Especially when it comes to children, we may believe that a broader professional public can be approached while promoting the use of the Charter. In this spot we list some of the institutions and affiliations actively involved in protecting children rights such as: employees at educational and health institutions, centers for social work, child's advocates appointed by the Human Rights Ombudsman, legal guardians of unaccompanied minors, refugee counsellors representing the interests of the unaccompanied minors in international protection procedures etc.⁵⁸

Good practice #2: The achievements on the implementation of the Charter in Slovenia are mostly related to the high level of awareness to the protection of Personal Data, as the DPA estimated. In this context, although the right is constitutionally protected in the country, more efforts are needed to raise public awareness that it is also protected by the Charter as a fundamental right. Another avenue for domestication of the Charter is involving the DPA itself and explore how it can introduce the Charter in its awareness-raising activities as well as in its monitoring and communication with the Government and the National Assembly when they are responding to legislative changes that have personal data protection implications. The provision of conditions for the Working Group, created by Dispatch 12853/2022, to propose potential legislative amendments to improve the system of training initiatives offered by the police forces, on procedures for child victims, witnesses, or suspects/accused in criminal proceedings, or the Centre for Judicial Studies, on the protection and promotion of children's rights in danger is essential for the training of judges, public prosecutors, and other professionals in the legal system.⁵⁹

b. Portugal

Good practice #3: The country conducted the "Discriminatory Prevention Plan for the police forces of the General of Internal Affairs". In this regard, it has been implemented the execution of several online training courses for police forces on racial discrimination and human rights, aimed at 107 members of the Republican National Guard (Guarda Nacional Republicana – GNR), within the scope of a protocol with the High Commission for Migration, and 571 for police officers of the Public Security Police (Polícia de Segurança Pública – PSP), held by the Police Training School (Escola Prática de Polícia). Also, the Prison Guard Corps and security forces are being trained in human rights, namely on anti-racism issues. Also with regard to relevant measures to combat racism, hate speech and hate crime, the PSP national director's Order of 22 September 2020, on the norms of uprightness, presentation and uniform use, prohibited police officers from wearing tattoos that contain party, extremist, racist symbols, or designs that encourage violence (agents who have these types of tattoos must remove them within 180 days). Finally, the approval of the decision to create an Independent Observatory on Hate Speech, Racism and Xenophobia and the institutional autonomy of matters relating to the fight against racial discrimination and the treatment of migration issues on the Law 24- D/2022 of 30 December, as a pathway for better domestication of the Charter in national jurisdictions. Nevertheless, this Observatory still needs to be set in place.⁶⁰

5. Pathway 5: Training of teachers

The training of teachers and educators means the implementation of the Charter through building the competences of trainers to develop and apply quality human rights education activities with young people at national/local levels and to advocate for the further mainstreaming of human rights education in youth policy and youth work.

⁵⁸ Peace Institute Report, p. 17 (Slovenia).

⁵⁹ Peace Institute Report, p. 14 (Slovenia).

⁶⁰ Center for Social Studies Report, p. 12 (Portugal).

a. Bulgaria

Good practice #1: There is significant room for the improvement of the domestication of the Charter in children rights protection, such as awareness raising by training professionals working with children (teachers, social workers, and law enforcement), child-friendly information campaigns to educate children about their rights under the Charter, public awareness campaigns aimed at parents, caregivers, and the general population to foster a culture of respect for children's rights. Also, it is needed more support NGOs and lawyers in using the Charter to challenge violations of child rights in Bulgarian courts.⁶¹

b. Spain

Good practice #2: The Spanish Ministry of Education's 2023 initiative to incorporate anti-discrimination principles into school curricula models how broader educational efforts can promote understanding and reduce prejudice from an early age. The Spanish Ministry of Education's 2023 initiative to incorporate children's rights into school curricula aims to improve awareness and respect for children's rights from an early age. Additionally, professional training programmes for educators, social workers, and legal professionals should be expanded.⁶²

6. Pathway 6: Sharing of practices

This pathway promotes information-sharing among all relevant stakeholders, including through the identification, collection and dissemination of good practices as well as information about available materials and programmes on human rights education and training.⁶³

a. Portugal

Good practice #1: An example of practice sharing is the creation of handbooks on the use of the Charter. For example, the *Coletânea de jurisprudência e guia prático sobre Asilo e Migração* is part of a collection of handbooks whose main objective is to provide a sample of national case law, illustrating the nature of the challenges facing the implementation of European Union law in the field of fundamental rights at national level, the use of the Charter of Fundamental Rights of the European Union ('the Charter') to address those challenges and the dissemination of good practices in the dialogue between courts. It should be noted that the two examples mentioned above were promoted and financed by the European Union, as part of a strategy to publicise the Charter of Fundamental Rights.⁶⁴

b. Italy

Good practice #2: In 2022, during a parliamentary debate concerning a Draft Law governing again the issue of children's surnames, the Italian Senate issued a Dossier to guide the debate and inform the MPs where the Charter (more specifically Articles 21 and 23) were used – together with other international legislative dispositions and with the jurisprudence of the Italian Constitutional Court, of the ECHR and of

⁶¹ CSD Report, p. 11 (Bulgaria).

⁶² Comillas Report, p. 14 (Spain).

⁶³ Good practices in the area of Human Rights education and training. OHCHR. Available at: <https://www.ohchr.org/en/resources/educators/human-rights-education-training/world-programme-human-rights-education/good-practice-area-human-rights-education-and-training>

⁶⁴ Center for Social Studies Report, p. 19 (Portugal).

the CJEU – to sustain the necessity of allowing children to be registered at the civil registry with the surnames of both parents. According to the Dossier this legislative reform would contribute to the implementation of the principle of non-discrimination on grounds of gender, as enshrined also by the EU Charter of Fundamental Rights. Similarly, the Chamber of Deputies issued another Dossier in 2022 analysing the impact of several Draft Laws aimed at introducing in Italy a legislative regulation of medically assisted voluntary death procedures. According to the Dossier, introducing such a possibility contributes to the implementation of the fundamental principles provided for by the Italian Constitution, the European Convention of Human Rights, and the EU Charter of Fundamental Rights, which was therefore considered a binding obligation and a goal to achieve for Italian policymakers.⁶⁵

7. Pathway 7: Domestication into national legal frameworks

Domestication of the EU Charter of Fundamental Rights aims to incorporate the provisions of a treaty into the extant laws of a country to give it force of law in that country. The appropriation and domestication of the EU law requires that the national legal framework be brought into line with the ratified regional instruments.

a. Belgium

Good practice #1: The Charter is very scarcely used to protect the rights of women and of the LGBTQIA+ Community. A better understanding of why relevant actors do not use the Charter is needed to identify appropriate pathways to empower them to rely on the Charter in their work. Belgium's equality body, Unia, has called attention to the fact that the Belgian anti-racism and anti-discrimination legislation is still not fully implemented, despite detailed recommendations to enhance the legislation's implementation and effectiveness both in 2017 and 2022. Unia notes that victims of racism and discrimination are not effectively protected and do often not have access to justice due to several hurdles such as financial difficulties, difficulties in finding evidence, and the limited flat-rate compensation. While Unia's remarks relate to Belgian law, their lack of implementation likely corresponds to a lack of implementation of the Charter. Thus, it would be important to promote the use of the Charter with Unia.⁶⁶

b. Bulgaria

Good practice #2: Since the 2021-2027 funding cycle, the Common Provision Regulation has added the horizontal enabling condition of the effective application and implementation of the Charter in all stages of the EU Funds spending nationally. That in practice means that Bulgaria (such as every other EU Member State) should make sure its funding programmes are compliant with the relevant provisions of the Charter as well as that there are visible complaint mechanisms for reporting cases of non-compliance. This requirement found the Bulgarian administration managing the EU finances unprepared as the EU funding cycle is closely related to the national policymaking process. The Government developed guidelines to assist the authorities responsible for the programming, management, monitoring, and control of EU funds in the practical implementation of and respect for the rights and principles enshrined in the Charter and to provide a checklist of fundamental rights to be incorporated into the management and control systems of these bodies. The Ombudsman, together with the FRA, further prepared an Action plan on improving the application of the EU Charter and CRPD in the use of EU funds setting goals for trainings of public authorities, civil society and the public on the application of the Charter in EU funding.⁶⁷

⁶⁵ FGB Report, p. 9-10 (Italy).

⁶⁶ VUB Report, p. 13 (Belgium).

⁶⁷ CSD Report, p. 12 (Bulgaria).

c. Italy

Good practice #3: The role of the EU Charter in Italian judicial proceedings – especially those of Supreme Courts (i.e., the Italian Constitutional Court and the Court of Cassation) – continues being secondary compared to domestic legislative, constitutional dispositions and to the ECHR. The EU Charter is often mentioned by the parties when presenting the case before the Courts: however, Courts base their decisions on the parameters specified above. It is worth recalling that Art. 117 of the Italian Constitution is often used by the Court to decide: this legislative disposition binds Italian authorities to comply with international and EU obligations, including the respect of the Charter. In this way, the parameter of the EU Charter is absorbed in favor of a domestic constitutional disposition. The primacy of domestic legislation is exemplified by the Decision of the Constitutional Court No. 32 of 2020. Several Italian judicial authorities challenged the constitutional legality of Art. 1.6(b) of the Law No. 3 of 9 January 2019 on “Measures to counter criminal offences against the public administration, as well as on time-barring and transparency of political parties and movements”.⁶⁸

d. Croatia

Good practice #4: Despite legislative reforms aimed at recognising and protecting LGBTQIA+ rights, significant gaps and inconsistencies remain, hindering the full realisation of these rights. The Charter is rarely utilised to protect the rights of women and the LGBTQIA+ community. The absence of comprehensive data, inadequate support for victims, and persistent discriminatory practices indicate that considerable efforts are still needed to achieve true equality and protection. Understanding why relevant actors hesitate to use the Charter is essential for identifying effective ways to empower them to incorporate it into their work.⁶⁹

e. Portugal

Good practice #5: In terms of legislation and legal mechanisms, one can emphasize: (a) the continuing of the transposition of European directives, such as Directive (EU) 2016/800, which has already been partially implemented with Circular 8/2022, issued by the Directorate General of Reintegration and Prison Services; (b) the necessary continuous reviews of laws to ensure they are aligned with international child protection standards; (c) the provision of conditions for the Working Group, created by Dispatch 12853/2022, to propose potential legislative amendments to improve the system of training initiatives offered by the police forces, on procedures for child victims, witnesses, or suspects/accused in criminal proceedings, or the Centre for Judicial Studies, on the protection and promotion of children's rights in danger is essential for the training of judges, public prosecutors, and other professionals in the legal system; and (d) the continuing funding to support phone lines like the "Safe Internet Line" and the telephone hotline for children in danger.⁷⁰

8. Pathway 8: Enhancing civil society and public awareness

This pathway involves the capacities of civil society organisations, for instance through training and exchange platforms, so that they can apply the use of the EU Charter of fundamental Rights consistently in their advisory services and action.

a. Bulgaria

⁶⁸ FGB Report p. 11-12 (Italy).

⁶⁹ Center for Peace Studies Report, p. 20-21 (Croatia).

⁷⁰ Center for Social Studies Report, p. 25 (Portugal).

Good practice #1: In Bulgaria, the Charter remains an “abstract” document both the administrative branch which must apply it and accept complaints for non-compliance and the general population in Bulgaria as a rights holder. While 52% of the Bulgarians have never heard of it and other 34% have but don’t know what it is, only 12% of the Bulgarians feel well informed about it. This suggests that an awareness pathway is necessary to achieve greater knowledge and know-how in use of the Charter. Civil society organisations and rights defenders who seem to be better acquainted with the Charter are not well integrated into the legislative and policymaking processes but rather rely on rights monitoring and reporting in several of the topic areas.⁷¹

Good practice #2: Bulgaria has adopted a National Strategy of the Republic of Bulgaria for Roma Equality, Inclusion and Participation (2021-2030) with a separate priority of “Rule of law and non-discrimination. Within it, the Government has placed the focus on the effective implementation of the existing legal framework for combating anti-Roma attitudes and discrimination by enhancing institutional culture and expertise of public institutions, the credibility of their work with emphasis on law enforcement and justice, enhancing raising awareness among representatives of Roma communities of their rights and their protection mechanisms to overcome obstacles and barriers to access to justice, raising public awareness of human rights and the history of Roma to understand the causes of social exclusion and poverty, raising public awareness of incidents of racism and their negative consequences for society; changing social attitudes and stereotypes. In this context, the link to the Charter is a series of training courses for law enforcement and magistrates.⁷²

b. Spain

Good practice #3: Enhanced coordination among government bodies, civil society organisations (CSOs), and legal professionals is essential for effective implementation. Creating specialized units or task forces within law enforcement agencies to handle hate crimes and discrimination cases can improve accountability and transparency. The Spanish General Council of the Judiciary recommended the establishment of such units to ensure a coordinated response to hate crimes. Ultimately, fostering partnerships between schools, healthcare providers, and social services can facilitate a more integrated approach to addressing the needs of marginalized groups. Despite these efforts, awareness and usage of the Charter were not uniform across all groups. While legal professionals and CSOs showed higher engagement, the general population exhibited gaps in knowledge and utilization of the Charter’s provisions.⁷³

c. Greece

Good practice #4: To address underreporting of discrimination cases against Roma, the “ROM” initiative was launched in March 2021. Led by the Equal Society Organisation in partnership with Ellan Passe (Panhellenic Confederation of Greek Roma) and the Union of Greek Roma Mediators, this project established the first “Roma Human Rights Advocacy and Defence Observatory.” The observatory collects and processes complaints from Roma for resolution by relevant authorities and educates communities and local associations on human rights. While this activity is not planned specifically around the Charter, it provides an example of the types of activities that could strengthen use of the Charter. By collecting

⁷¹ CSD Report, p. 4 (Bulgaria).

⁷² CSD Report, p. 7 (Bulgaria).

⁷³ Comillas Report, p. 6 (Spain).

information and creating an observatory, this is an empowering tool for civil society to monitor implementation and draw on data and other information when filing complaints under the Charter.⁷⁴

Summary of Pathways for Better Use of the Charter

	Pathway 1: Training of legal professionals	Pathway 2: Judicial Knowledge	Pathway 3: Legal literacy and outreach	Pathway 4: Training for public employees	Pathway 5: Training of teachers	Pathway 6: Sharing of practices	Pathway 7: Domestication into national legal frameworks	Pathway 8: Enhancing civil society and public awareness
Slovenia		x	x	x				
Portugal	x	x		x			x	
Belgium					x		x	
Bulgaria						x	x	x
Italy						x	x	
Spain	x		x		x			x
Greece								x
Cyprus								
Croatia							x	

Table 3.1

⁷⁴ CECL Report, p. 4-5 (Greece).

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Other relevant aspects or issues to highlight concerning gaps in the use of the Charter within national jurisdictions.

While this report has largely focused on the positive use of the Charter, it is also important to emphasize an obvious conclusion: that the Charter is not widely used as an instrument to protect human rights amongst Member States. The purpose of this part is to highlight the so called “bad practices” and identify the lapses of Charter use in countries in order to be able to target and correct these deficiencies. The results are summarized in table 4.1

This section concludes by identifying where the Charter has potential to be an important instrument for the protection of human rights and to cure many of the deficiencies identified in this report.

Overview

There are common challenges among all the countries involved in this project in the implementation of the European Charter of Fundamental Rights. Many of them agree on the lack of integration of the European standard into national law, and in many countries national interests still predominate over EU law. In these cases, national law and the interests of the Member State predominate. The added value of the Charter is not widely recognised, and its interaction with national law is not yet clear to key stakeholders such as legislators, judges, civil servants, legal professionals, and civil society. Courts tend to rely more on national laws or the European Convention on Human Rights, using the Charter without uniform consistency. This is mainly due to limited awareness and training among legal professionals.

There is also a lack of updating and reform of existing national laws in line with European standards. As a result, there is a lack of implementation of public policies, strategies or action plans with respect to the rights enshrined in the EU Charter. And, in those cases where there is integration of European legislation in the State, it is not applied homogeneously and equally in the protection of the rights of all vulnerable groups. For example, we can see great progress in the defense of the fundamental rights of people with disabilities, minors or LGTBQIA+ groups. However, the Roma population continues to be one of the most invisible, and access to justice is still limited for some communities. There continues to be problems in the domestication of the Charter, there is a common problem of a lack of training for legislators and professionals in the application of the Charter, as well as a lack of knowledge among the vulnerable groups and the civil society professionals.

A problem that is reported by all the participants which involves all the different vulnerable groups is the issue of Hate Speech. Countries should put more effort on combating certain forms of expressions of racism and xenophobia. This requires the criminalization of public incitement to violence or hatred based on race, colour, religion, descent or national or ethnic origin.

Analysis

This section provides an analysis of both the bad practices undertaken by states but more importantly highlights the potential where the use of the Charter could be strengthened and better domesticated. This section draws on the state reports and seeks to provide additional commentary on ways to ensure that the Charter becomes a reality in European Union Member States.

Topic 1: Equality and Non-Discrimination.

Integrating the Charter into national legislation is an important first step in giving the Charter life within national jurisdictions. In Greece for example, the use of the EU Charter of Fundamental Rights in Greek law, it's not widely recognised or utilised. According to the 2023 FRANET reports, "Experiences of the Fundamental Rights Situation in Greece" and "Public Authorities' Use of the EU Charter Concerning Greece," the overall use of the Charter in the Greek legal system is limited.⁷⁵ In the case of some countries such as Portugal, it exists a domestication of the EU Charter in the national legislation. However, there are still significant challenges in the effective implementation of the Charter and its principles in practice. The slow and complicated bureaucratic processes can also delay the implementation of policies and measures in the legislation, as well as the resistance to change within institutions, where traditional practices and policies are deeply ingrained, which can create significant barriers to the implementation of new measures related with the fulfilment of the Charter. The lack of implementation of the Charter can be hampered by financial and human resources for the creation and maintenance of necessary services and initiatives to support the implementation of the Charter, such as support centres, awareness campaigns, and training programmes. For example, the results of study FREE Project (School Experiences) indicate that schools may not be adequately responding to the needs of LGBTQI+ students, raising concerns about the effective implementation of the principles of equality and non-discrimination from the Charter in the educational context, with high rates of cyberbullying and bullying.⁷⁶ Bulgaria highlights that institutional strengthening which can combine strengthening the capacities of key institutions, such as the Commission for Protection against Discrimination and enhancing coordination between various government agencies, NGOs, and international bodies to create a unified and effective approach to combating discrimination. In this case, it also highlights the importance of improving data collection.⁷⁷

There is a need for more robust training programmes, awareness campaigns that specifically target professionals in the judiciary, law enforcement, and public administration in Spain to enhance their understanding and application of the Charter's rights in their daily duties. Cyprus joins Spain by pointing that additional systemic gaps include the barriers for NGOs and rights defenders to represent victims in Court, due to lack of expertise, legal aid limitations, right to appear in court and 'legitimate interest' in judicial review cases. These weaknesses could have been partly addressed if there was a properly functioning equality body which would use its mandate to issue binding recommendations and impose fines until the recommendations are complied with.⁷⁸ In Bulgaria public awareness and education in the form of educational programmes and awareness campaigns. targeted support to vulnerable groups and engagement to understand their needs and challenges. This can help ensure that policies and programmes are responsive and effective. A policy coordination mechanism would need to be developed to support all aspects of equality through inclusive equality plans and policies, and an EU network dedicated to their implementation. Thus, in Belgium, stronger coordination and interaction between existing mechanisms would be needed to promote the application of the Charter.⁷⁹

Topic 2: Racism, Xenophobia.

⁷⁵ CECL Report, p. 1-2 (Greece).

⁷⁶ Center for Social Studies Report, p. 9 (Portugal).

⁷⁷ CSD Report, p. 5 (Bulgaria).

⁷⁸ Symfiliosi Report, p. 11 (Cyprus).

⁷⁹ VUB Report, p. 4 (Belgium).

The charter is not well integrated in the legislation in Greece and fails to provide a cover of protection against racism and xenophobia. The Greek National Commission for Human Rights (GNCHR) emphasises the importance of extending legal protections against discrimination beyond employment to cover education, healthcare, and access to goods and services. Efforts to combat Islamophobia require a dedicated observatory mechanism to monitor and record incidents, strengthen legal mechanisms. The need of ongoing collaboration between government institutions, civil society, and international organisations is essential to achieve lasting change and foster a more tolerant and equitable society.⁸⁰ In terms of hate crime, Bulgaria's legislation has not defined this term. The Penal Code criminalizes incitement and several acts of discrimination and violence based on several grounds (race, colour, descent, national or ethnic origin or sexual orientation) and it reports a small number of cases each year. As the authorities acknowledge, no distinction is made between the motivational characteristics of the crime. Hate crimes are presented without considering the criminal motives. The data on xenophobic and racist crimes are not collected and analysed separately. Neither the public debate nor the available research links the problem to the Charter. Nor case law was found fitting this thematic area. The national judicial school has organized trainings for magistrates on how to tackle hate crime, such as the Burgas-based "Hate crime: protecting citizens against racism, homophobia, transphobia and sexism", which, however, do not refer to the Charter but rather to ECtHR case law. The Italian non-discrimination and anti-racism legislation does not specifically cover discriminations, hate crimes and racism perpetrated by law enforcement agencies; it does not explicitly exclude it either.⁸¹⁸²

In Spain, improved data collection on hate crimes and discrimination incidents is needed to provide a clearer picture and inform better strategies, directly supporting the Charter's commitment to evidence-based policymaking. For instance, the Spanish Ministry of Interior emphasized the need for better data collection practices to monitor and respond to hate crimes accurately. Also, Spain highlights the need to enhanced coordination among government bodies, civil society organisations (CSOs), and legal professionals is essential for effective implementation. Creating specialized units or task forces within law enforcement agencies to handle hate crimes and discrimination cases can improve accountability and transparency.⁸³

Slovenia, Portugal and Spain share the need to examine the extent to which information on the Charter is present in the curricula of law faculties, faculties of public administration, faculties of social work, which primarily educate young people who could make a positive difference in the future by applying and recalling to the EU Charter in their work. The importance of a more inclusive school that aims to contribute to integrate immigrants and build a more inclusive school, namely, to overcome prejudice, discrimination and racism that affect particularly immigrants, refugees and ethnic minorities. This denotes, above all, that there is still a lot of work to be done to implement the Charter, especially in schools. Educational efforts should focus on increasing public and professional awareness of the Charter and its provisions.⁸⁴⁸⁵

Topic 3: Roma Equality and Inclusion.

An important consideration is how the Charter can be used to advance Roma equality and inclusion. A major obstacle in Portugal towards strengthening the necessary changes in favour of Roma community and overcoming the gaps in the use of the Charter within national jurisdiction is the lack of information

⁸⁰ CECL Report, p. 4 (Greece).

⁸¹ CSD Report, p. 6 (Bulgaria).

⁸² FGB Report, p. 2 (Italy).

⁸³ Comillas Report, p. 4 (Spain).

⁸⁴ Center for Social Studies Report, p. 12-13 (Portugal).

⁸⁵ Peace Institute Report, p. 3 (Slovenia).

and data collection on the exact number of gypsies living in Portugal. By collecting sound data, this could reinforce the importance of the Charter and give it greater prominence in national jurisdictions.⁸⁶

Bulgaria asks for enhancing institutional culture and expertise of public institutions, enhancing the credibility of their work with emphasis on law enforcement and justice, enhancing awareness raising among representatives of Roma communities of their rights and their protection mechanisms to overcome obstacles and barriers to access to justice. They also highlight the need to raise public awareness of human rights under the Charter and the history of Roma to understand the causes of social exclusion and poverty and raising public awareness of incidents of racism and their negative consequences for society, changing social attitudes and stereotypes.⁸⁷

Although there is considerable space for interventions premised on the Charter in Cyprus, the Roma community lacks a voice and sustainable support from advocates and defenders. The proposals presented by stakeholders in the context of the National Roma Platform, an EU funded project run by the Social Welfare Services, did not lead to any policy change or to any Roma inclusion measures or budget.⁸⁸

In Italy, the report highlights some structural weaknesses of the strategy, namely the lack of binding nature of the document and of a specific and dedicated budget: the implementation is therefore left depending on the commitment of local authorities and local levels of government.⁸⁹ Together with Italy, Spain faces coordination challenges among various resources, services, and networks hinder effective responses to hate incidents, highlighting a need for better integration of efforts to comply with the Charter's requirements for effective and coordinated action.

Topic 4: Asylum and Immigration.

Greece, which faces a particularly complicated situation on asylum and immigration matters, highlights the urgent need for improved compliance with international legal standards, enhanced protection of fundamental rights, and stronger mechanisms to ensure accountability for human rights violations. The Charter is not well integrated in the legislation and as a result plays a minimal role in providing human rights coverage, even though it has the potential to be a powerful tool against many of today's pressing human rights issues. While progress has been made, there is a need for more concrete action plans with clear targets and timelines to ensure effective implementation and sustained support for Roma integration and rights in Greece.⁹⁰

Belgium raises an interesting issue about misuse of the Charter. There appears to be an implementation gap in Belgium, as even though the Charter is mentioned and used in Courts in the field of migration, it does not lead to actual protection of the rights of migrants. In fact, the EU Charter is not used to defend the rights of migrants and refugees but to condemn the actions of some civil society organisations. People in vulnerable situations are therefore left unprotected.⁹¹

Portugal raises the need to develop policies that help with the effective transposition of the Charter into policy. As noted in their report, there are no effective migration policies in Portugal, so even if the Charter is implemented in the law, it is not transferred into policies or strategies to defend migrants and refugees right. They note that "the delays to obtain and renew legal residence in Portugal, with the Agency for

⁸⁶ Center for Social Studies Report, p. 15 (Portugal).

⁸⁷ CSD Report, p. 7 (Bulgaria).

⁸⁸ Symfiliosi Report, p. 16 (Cyprus).

⁸⁹ FGB Report p. 7 (Italy).

⁹⁰ CECL Report, p. 6 (Greece).

⁹¹ VUB Report, p. 7 (Belgium).

Integration, Migration and Asylum, is the main political issue in what concerns “immigration policies” the Portuguese report said.⁹²

The big challenges in Bulgaria are legal barriers to apply the Charter, enabling NGOs and lawyers to use the Charter to challenge national asylum and migration policies that violate fundamental rights in court. Also, the Charter could be seen as a tool to advocate for better treatment of asylum seekers and ensure procedures comply with fundamental rights.⁹³

Topic 5: Information Society and Privacy.

Whether the EU standards of Information Society and Property are integrated into the national law in Greece, there is an enormous gap between the text of the law and its application where challenges remain in ensuring comprehensive protection of privacy and fundamental rights amidst evolving technological and surveillance practices.⁹⁴ In cases such as Portugal, EU law is not implemented equally amongst all the people. The existing restrictions in the access to justice and to legal mechanisms to enforce rights, which may be more limited for certain populations, especially marginalized or vulnerable groups. Concerning jurisdiction, the Charter is still largely underrepresented in Croatian case law, with few cases mentioning it. Free and commercially available databases partially cover the case law of regional/local courts. Having all court judgements published would allow for better tracking and evaluating the use of the Charter at the national level.⁹⁵

Portugal is in need of an effort to adapt and update laws and guidelines to the rapid advancement of technology and all the new challenges it brings. Can the Charter help to achieve this? The investment in the effective enforcement of laws and regulations, as evidenced by the penalties imposed by the CNPD, brings the importance of ongoing oversight and ensuring compliance. The lack of resources, institutional capacity limitations, or political resistance, including a culture of low level of evaluation of public policies, laws or guidelines, leading to difficult implementation and effective enforcement of the existing mechanisms. The deficient awareness of citizens of the Charter, its principles, rights and policies associated, making it crucial to invest in awareness campaigns and public education, from primary schools to public officials.⁹⁶

Bulgaria raises a number of important issues about training and use of the Charter, According to the Bulgarian report, training programmes for Bulgarian law enforcement officials on data protection regulations under the EU Charter (Article 8) and Directive 2016/680 (GDPR) will foster a culture of data privacy compliance. Also, raising public awareness about people’s right to data protection can empower citizens to hold authorities accountable and understand their rights when interacting with public authorities, or specifically, law enforcement. At a lawmaking level, Charter-compliant amendments to the Ministry of Interior Act (*Закон за Министерството на вътрешните работи*) and its implementing regulations should be made to ensure full compliance with the Charter and GDPR. In terms of monitoring, Bulgaria’s data protection watchdog or NHRIs should have adequate competencies and resources to effectively monitor and enforce data protection regulations in the public domain, particularly in law enforcement practices.⁹⁷

Topic 6: Rights of the Child.

⁹² Center for Social Studies Report, p. 20 (Portugal).

⁹³ CSD Report, p. 8 (Bulgaria).

⁹⁴ CECL Report, p. 7 (Greece).

⁹⁵ Center for Peace Studies Report, p. 12 (Croatia).

⁹⁶ Center for Social Studies Report, p. 23 (Portugal).

⁹⁷ CSD Report, p. 10 (Bulgaria).

In Italy there is a lack of legislation concerning the rights of children. There is not a comprehensive legislative text governing child protection in Italy: the regulatory framework is made of several legislative Acts and policy documents adopted by different institutional bodies (i.e., Parliament, Government and Ministries), either implementing EU and international law, and adopting internal legislative Acts.⁹⁸

In the case of Greece, the EU Charter is well inserted in the national legislation, but there is a lack of application of the charter. Overall, while Greece has improved in specific areas of child protection, a cohesive national strategy is essential to ensure consistent and effective safeguarding of children's rights.⁹⁹

Concerning the Rights of the Child in Bulgaria, awareness raising by training professionals working with children (teachers, social workers, and law enforcement), child-friendly information campaigns to educate children about their rights under the Charter, public awareness campaigns aimed at parents, caregivers, and the general population to foster a culture of respect for children's rights. Also, the support NGOs and lawyers in using the Charter to challenge violations of child rights in Bulgarian courts. This would increase case law and strengthen child rights protections.¹⁰⁰

The Portuguese Government recognizes the need to promote educational campaigns to increase public awareness of children's rights and the relevance of the Charter, starting from the schools. The investment in the reinforcement and qualification of the infrastructures to support protective measures. Also, there is a need to promote a fruitful cultural dialogue with deep-rooted cultural and social norms that raises obstacles to the effective implementation of the Charter, especially in communities where certain traditional practices may conflict with children's rights, and the necessity to establish effective monitoring and evaluation mechanisms to track compliance with children's rights and ensure accountability of stakeholders, institutions and existing mechanisms.¹⁰¹

Addressing these vulnerabilities requires targeted interventions and tailored support systems, to be able to deal with dimensions related to cultural norms, social stigma, and insufficient awareness about children's rights, which may impede their full realisation. Furthermore, the complex nature of issues like domestic violence and sexual abuse requires comprehensive and coordinated efforts across multiple sectors, which may present challenges to the legislation and in practice.

Topic 7: Access to justice (and rule of law).

Spain raises the important issue of domesticating the Charter into national legislation on issues of access to justice. Despite appearing to be following the Charter, it has not directly cited or utilized it in many of its legislative reforms related to access to justice in Spain, except for the Spanish Data Protection Agency's data protection initiatives.¹⁰²

In broad terms, there seems to be a lack of uptake of European legislation in this area. In the case of Belgium, the Federal Institute for the protection and promotion of Human Rights recently highlighted the weakening of the rule of law in Belgium in its 2023 annual report. More specifically, the Institute focused on the lack of resources for the judiciary, the non-implementation of judicial decisions by authorities, pressure and threats to human rights defenders and weaknesses regarding the right to information. Thus, there is an implementation gap regarding the rule of law in Belgium.¹⁰³ What this, in Bulgaria the existence

⁹⁸ FGB Report p. 10 (Italy).

⁹⁹ CECL Report, p. 8-9 (Greece).

¹⁰⁰ CSD Report, p. 11 (Bulgaria).

¹⁰¹ Center for Social Studies Report, p. 25 (Portugal).

¹⁰² Comillas Report, p. 17 (Spain).

¹⁰³ VUB Report, p. 11 (Belgium).

of non-compliant legislation, on another hand, suggests that lawmakers should be more aware of the Charter provisions that would allow them to improve the national justice system, enhance judicial independence and accountability, and fight corruption more effectively.¹⁰⁴

In the case of Italy, national law clashes with EU law and national legislation continues to be prioritised. This means that assimilated direct EU legislation must be read and given effect in a way that is compatible with all other domestic Italian legislation. If there is a conflict, domestic legislation prevails over assimilated direct EU legislation.¹⁰⁵

Greece's attempts to reform its judicial system and align with international standards represent a crucial step towards improving access to justice, however the practical implementation of these reforms underscores the persistent inefficiencies. The judiciary's inefficiencies, lack of awareness among victims, and significant barriers for individuals with disabilities highlight the need for more robust measures and better enforcement of existing laws to ensure true access to justice for all citizens.¹⁰⁶ Similarly, this is the case in its neighbouring country, Cyprus, where there are deficiencies in the training of legislators, policy makers, judges or police forces.¹⁰⁷

There are various important issues to consider in the access to justice and full realization of the Rule of Law. As Portugal is one of the EU countries that least invests in the judicial system, it has an obvious correspondence with a difficult access to justice. The predominant reason for the EU Charter's failure to domesticate is the lack of financial investment in legislation. In Portugal, domestic violence incidents are often underreported due to lack of awareness of available support services, access to justice and support services when the victim is a migrant or refugee and also with the rise of online domestic violence, including cyberstalking and cyberbullying, raises additional challenges in protecting victims and accessing justice, especially in contexts where legislation and resources to combat these crimes are limited and coordination between different sectors may be inadequate or limited, leading to gaps in providing comprehensive support to victims.¹⁰⁸

Topic 8: Convention on the Rights of People with Disabilities.

In the case of Spain, the Charter is not explicitly cited in the laws and reforms implemented regarding the rights of persons with disabilities. While the expansion of rights of persons with disabilities has shared much of its reasoning with the Charter, there is no cited evidence that the Spanish government is using the Charter to inform such decisions which limits its visibility and its effect in national jurisdictions.¹⁰⁹ As in the rest of the scenarios, there is a challenge in the training of policy makers. However, in this specific scenery, the challenge is most notable in the case of people with disabilities, as there is a lack of representation in the decision-making process. An example of this is the case of Slovenia, where there is no training for people with disabilities to participate in decision-making concerning their rights. The creation of the necessary conditions for full and effective participation of people with disabilities in political life and decision-making, by improving accessibility in electoral processes and ensuring adequate representation in government bodies.¹¹⁰

¹⁰⁴ CSD Report, p. 12 (Bulgaria).

¹⁰⁵ FGB Report, p. 12 (Italy).

¹⁰⁶ CECL Report, p. 10 (Greece).

¹⁰⁷ Symfiliosi Report, p. 28 (Cyprus).

¹⁰⁸ Center for Social Studies Report, p. 28 (Portugal).

¹⁰⁹ Comillas Report, p. 20 (Spain).

¹¹⁰ Peace Institute Report p. 21 (Slovenia).

In Greece, practical implementation of the Charter remains problematic. In the country, delays in the elaboration of secondary regulations impede the effectiveness of legislative measures. In addition, social awareness of the rights of persons with disabilities is insufficient, limiting the impact of these reforms. Furthermore, accessibility problems persist, especially in the digital domain, preventing many people with disabilities from fully participating in society. Reforms should be accompanied by sound implementation strategies and comprehensive awareness-raising campaigns to achieve the intended objectives, and the Charter must be at the forefront of such activities.¹¹¹

In Portugal, stronger and more proactive measures are needed to fill this gap and ensure that the rights enshrined in the Charter are effectively protected and promoted for people with disabilities. There is lack of adequate resources and supports for learners with disabilities, as well as the lack of adequate training for teachers and educators, to ensure the right to inclusive education. The need to increase awareness-raising and sensitisation on the rights of people with disabilities in certain sectors of society where many discriminatory attitudes still exist. Also, the need to improve access to appropriate health care and support services, such as mental health care and rehabilitation services, especially for people with disabilities living in rural areas or with limited resources.¹¹²

Bulgaria joins Portugal's call for a stronger legal and social environment where the rights of people with disabilities are fully respected and upheld.¹¹³

Topic 9: Gender Based Violence Against Women and the LGBTQIA+ Community.

Hate speech against LGBTQ+ people continued to be a serious issue in the Member States. Generally, there is a lack of application of the law regarding LGBTQ+ children, including in bullying in schools and cyberbullying, where the training for relevant professionals, and measures to ensure safe access to justice, specialized support and reparations, as well as a safe environment to increase reporting of incidents is necessary.

In Spain, hate speech against LGBTQ+ people continued to be a serious issue in Spain. Hate speech from politicians also remained common.¹¹⁴ In Portugal, there is a need for greater training and awareness, additional resources to support victims, and a more consistent use of laws and policies across the country. Addressing these areas is crucial to ensuring full and equitable protection for all victims of gender-based violence.¹¹⁵

The Cypriot and Greek legal framework lacks special regulation regarding violence against the LGBTIQ community.¹¹⁶ In Cyprus the Penal Code only covers the basic rights of the LGBTQ+ rights that criminalizes acts without providing a special frame for investigating and prosecuting perpetrators and supporting victims.¹¹⁷ In Italy, the legal authorities decided to let the domestic law prevail over EU fundamental rights.¹¹⁸ In Bulgaria, there is much room for improvement concerning the implementation

¹¹¹ CECL Report, p. 12 (Greece).

¹¹² Center for Social Studies Report, p. 30 (Portugal).

¹¹³ CSD Report, p. 13 (Bulgaria).

¹¹⁴ Comillas Report, p. 24 (Spain).

¹¹⁵ Center for Social Studies Report, p. 33 (Portugal).

¹¹⁶ CECL Report, p. 13-14 (Greece).

¹¹⁷ Symfiliosi Report, p. 31 (Cyprus).

¹¹⁸ FGB Report p. 14-15 (Italy).

of the EU Charter in this area targeting all groups from the wide public to narrow professionals, for instance, in justice or social sphere.¹¹⁹

Conclusion: Summary of Gaps

	Gap 1: Non-domestication of the Charter	Gap 2: No domestic use or reference of the Charter	Gap 3: Limited or no judicial trainings on use of the Charter	Gap 4: Limited or no data collection on rights issues or Charter use	Gap 5: Limited public awarenesses the Charter	Gap 6: Limited or no funding for Charter activities.
Slovenia		x	x	x	x	
Portugal		x	x	x	x	x
Belgium		x	x	x	x	
Bulgaria		x	x	x	x	
Italy	x	x	x	x	x	
Spain		x	x	x	x	
Greece	x	x	x	x	x	
Cyprus	x	x	x	x	x	
Croatia		x	x	x	x	

Table 4.1

¹¹⁹ CSD Report, p. 14 (Bulgaria).