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Implementation of the Charter of Fundamental Rights of the European Union in the EU institutional framework

European Parliament resolution of 12 February 2019 on the implementation of the Charter of Fundamental Rights of the European Union in the EU institutional framework (2017/2089(INI))

(2020/C 449/05)

The European Parliament,

- having regard to the Charter of Fundamental Rights of the European Union,
- having regard to Articles 2, 3, 6, 7, 9, 10, 11, 21, 23 and 49 of the Treaty on European Union (TEU) and Articles 8, 9, 10, 11, 12, 15, 16, 18, 19, 20, 21, 22, 23, 24, 67(1), 258, 263, 267 and 352 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the case law of the European Court of Human Rights (ECtHR),
- having regard to the Memorandum of Understanding between the Council of Europe and the European Union,
- having regard to the Opinions and the Rule of Law Checklist of the Venice Commission,
- having regard to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,
- having regard to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), and to its resolution of 12 September 2017 on the proposal for a Council decision on the conclusion, by the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence ⁽¹⁾,
- having regard to its resolution of 15 March 2007 on compliance with the Charter of Fundamental Rights in the Commission's legislative proposals: methodology for systematic and rigorous monitoring ⁽²⁾,
- having regard to its annual resolutions on the situation of fundamental rights in the EU,
- having regard to its resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights ⁽³⁾,
- having regard to its resolution of 19 January 2017 on a European Pillar of Social Rights ⁽⁴⁾,
- having regard to its resolution of 14 September 2017 on transparency, accountability and integrity in the EU institutions ⁽⁵⁾,
- having regard to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ⁽⁶⁾,
- having regard to Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights ⁽⁷⁾,

⁽¹⁾ OJ C 337, 20.9.2018, p. 167.

⁽²⁾ OJ C 301 E, 13.12.2007, p. 229.

⁽³⁾ OJ C 215, 19.6.2018, p. 162.

⁽⁴⁾ OJ C 242, 10.7.2018, p. 24.

⁽⁵⁾ OJ C 337, 20.9.2018, p. 120.

⁽⁶⁾ OJ L 145, 31.5.2001, p. 43.

⁽⁷⁾ OJ L 53, 22.2.2007, p. 1.

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- having regard to the Commission communication of 27 April 2005 entitled ‘Compliance with the Charter of Fundamental Rights in Commission legislative proposals — Methodology for systematic and rigorous monitoring’ (COM(2005)0172),
- having regard to the Commission Report of 29 April 2009 on the practical operation of the methodology for a systematic and rigorous monitoring of compliance with the Charter of Fundamental Rights (COM(2009)0205),
- having regard to the Commission communication of 19 October 2010 entitled ‘Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union’ (COM(2010)0573),
- having regard to the Commission Staff Working Paper of 6 May 2011 entitled ‘Operational Guidance on taking account of Fundamental Rights in Commission Impact Assessments’ (SEC(2011)0567),
- having regard to the joint communication from the Commission and the High Representative of the Union for Foreign Affairs and Security Policy to the European Parliament and the Council of 12 December 2011 entitled ‘Human rights and democracy at the heart of EU external action — Towards a more effective approach’ (COM(2011)0886),
- having regard to the ‘EU Strategic Framework and Action Plan on Human Rights and Democracy’ of 25 June 2012,
- having regard to the Council Guidelines of 20 January 2015 on methodological steps to be taken to check fundamental rights compatibility at the Council preparatory bodies,
- having regard to the Guidelines for Council preparatory bodies entitled ‘Fundamental rights compatibility’,
- having regard to the Council Presidency seminar report of 13 May 2016 entitled ‘National policy application of the EU Charter of Fundamental Rights’,
- having regard to the Commission Guidelines of 19 May 2015 on the analysis of human rights impacts in impact assessments for trade-related policy initiatives,
- having regard to the Commission annual reports on the Application of the EU Charter of Fundamental Rights,
- having regard to the Commission Annual Colloquia on Fundamental Rights,
- having regard to the Judgment of the Court of Justice of the European Union (CJEU) of 20 September 2016, in Joined Cases C-8/15 P to C-10/15 P, *Ledra Advertising Ltd v European Commission and European Central Bank (ECB)* ⁽¹⁾,
- having regard to the Judgment of the CJEU of 6 November 2018, in Joined Cases C-569/16 and C-570/16, *Stadt Wuppertal v Maria Elisabeth Bauer and Volker Willmeroth v Martina Broßmann* ⁽²⁾,
- having regard to Opinion 2/13 of the CJEU of 18 December 2014 on the Accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms ⁽³⁾,
- having regard to Opinion 4/2018 of the European Union Agency for Fundamental Rights (FRA) of 24 September 2018 entitled ‘Challenges and opportunities for the implementation of the Charter of Fundamental Rights’,
- having regard to the annual fundamental rights reports of the European Union Agency for Fundamental Rights,
- having regard to the Handbook of the FRA of October 2018 entitled ‘Applying the Charter of Fundamental Rights of the European Union in law and policymaking at national level — Guidance’,
- having regard to the Better Regulation Toolbox, in particular Tool #28 ‘Fundamental rights & human rights’,

⁽¹⁾ ECLI:EU:C:2016:701.

⁽²⁾ ECLI:EU:C:2018:871.

⁽³⁾ ECLI:EU:C:2014:2454.

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- having regard to Rule 38 of its Rules of Procedure,
 - having regard to the Opinion of the Secretary General of the Council of Europe of 2 December 2016 on the European Union initiative to establish a European Pillar of Social Rights,
 - having regard to the Paper from the Dutch COSAC delegation on EU transparency of November 2017 entitled ‘Opening up closed doors: Making the EU more transparent for its citizens’, and to the letter of the COSAC Delegations to the EU Institutions of 20 December 2017 on the transparency of political decision-making within the EU,
 - having regard to the studies entitled ‘The implementation of the Charter of Fundamental Rights in the EU institutional framework’, ‘The interpretation of Article 51 of the EU Charter of Fundamental Rights: the Dilemma of Stricter or Broader Application of the Charter to National Measures’ and ‘The European Social Charter in the context of implementation of the EU Charter of Fundamental Rights’ published by its Directorate-General for Internal Policies on 22 November 2016, 15 February 2016 and 12 January 2016 respectively ⁽¹⁾,
 - having regard to Rule 52 of its Rules of Procedure, as well as Article 1(1)(e) of, and Annex 3 to, the decision of the Conference of Presidents of 12 December 2002 on the procedure for granting authorisation to draw up own-initiative reports,
 - having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on Employment and Social Affairs, the Committee on Civil Liberties, Justice and Home Affairs, the position in the form of amendments of the Committee on Women’s Rights and Gender Equality and the opinion of the Committee on Petitions (A8-0051/2019),
- A. whereas the Lisbon Treaty has conferred the status of primary law on the Charter of Fundamental Rights of the European Union (hereinafter the Charter) within the EU legal framework, having the same legal value as the Treaties;
- B. whereas this report does not assess each individual right contained in the Charter, but, rather, analyses implementation of the Charter as an instrument of primary law;
- C. whereas social provisions are a crucial part of the Charter and the Union’s legal structure; whereas it is important to ensure respect for, and highlight the importance of, fundamental rights across the Union;
- D. whereas, according to the CJEU, the fundamental rights recognised by the Charter are at the heart of the EU legal structure, and respect for them is a necessary precondition for the legality of any EU act;
- E. whereas the Charter encompasses, in line with the requirements of international human rights law and of its Article 51, both negative (non-violation) and positive (active promotion) obligations which should be equally fulfilled in order to give full operational character to its provisions;
- F. whereas Article 51 of the Charter circumscribes the scope of the Charter with regard to observing the principle of subsidiarity, taking account of the powers of the Member States and of the Union, and respecting the limits of the powers conferred on the Union in the Treaties;

⁽¹⁾ Study entitled ‘The implementation of the Charter of Fundamental Rights in the EU institutional framework’, European Parliament, Directorate-General for Internal Policies, Policy Department C, 22 November 2016; study entitled ‘The interpretation of Article 51 of the EU Charter of Fundamental Rights: the Dilemma of Stricter or Broader Application of the Charter to National Measures’, Directorate-General for Internal Policies, Policy Department C, 15 February 2016 and study entitled ‘The European Social Charter in the context of implementation of the EU Charter of Fundamental Rights’ of 12 January 2016.

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- G. whereas Article 51(2) of the Charter makes it clear that the Charter does not extend the scope of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined in the Treaties;
- H. whereas the institutions, bodies, offices and agencies of the Union are continuously bound by the Charter, even when they act outside the EU legal framework;
- I. whereas, by virtue of Article 51, the provisions of the Charter apply to the Member States only when they implement Union law; whereas, however, the uncertain boundaries of such a requirement make it hard to determine whether and how the Charter applies concretely;
- J. whereas the potential of the social and economic rights set out in the Charter has not been adequately exploited so far; whereas, recalling the opinion of the Secretary General of the Council of Europe, respect for social rights is not only an ethical imperative and a legal obligation, but also an economic necessity;
- K. whereas Article 6 TEU also emphasises that fundamental rights, as guaranteed by the ECHR, must constitute general principles of the Union's law;
- L. whereas Article 151 TFEU refers to fundamental social rights such as those set out in the European Social Charter;
- M. whereas its study of 22 November 2016 entitled 'The Implementation of the Charter of Fundamental Rights in the EU institutional framework' ⁽¹⁾ considers, *inter alia*, the relevance of the Charter for the Commission's activities under the Treaty Establishing the European Stability Mechanism (ESM Treaty) and in the context of the European Semester; whereas little attention is being paid to the social rights set out in the Charter in the economic governance of the Union; whereas these rights must be considered genuine fundamental rights;
- N. whereas the commitment in the European Pillar of Social Rights to delivering new and more effective rights for citizens in the areas of equal opportunities and access to the labour market, fair working conditions and social protection and inclusion further enhances the rights enshrined in the Charter;
- O. whereas the principle of gender equality is a core value of the EU and is enshrined in the EU Treaties and the Charter; whereas Article 8 TFEU establishes the principle of gender mainstreaming by stating that 'In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women';
- P. whereas the transparency of the EU legislative and decision-making processes is a corollary of the right to good administration, as set out in Article 41 of the Charter, and an essential precondition for citizens to be able to assess and properly monitor the implementation of the Charter by the EU institutions;
- Q. whereas the promotion, by the institutions, bodies, offices and agencies of the Union, of the broad spectrum of rights provided for in the Charter — ranging from civil and political to social, economic and third-generation rights — would constitute a crucial impetus to develop a European public sphere and to give tangible expression to the concept of European citizenship and to the EU participatory dimension enshrined in the Treaties;
- R. whereas the FRA has formulated a number of recommendations for the effective implementation of the Charter in its opinions entitled 'Improving access to remedy in the area of business and human rights at the EU level' ⁽²⁾ and 'Challenges and opportunities for the implementation of the Charter of Fundamental Rights' ⁽³⁾;

⁽¹⁾ 'The Implementation of the Charter of Fundamental Rights in the EU institutional framework', European Parliament, Directorate-General for Internal Policies, Policy Department C — Citizens' Rights and Constitutional Affairs, 22 November 2016.

⁽²⁾ FRA Opinion 1/2017, 10 April 2017.

⁽³⁾ FRA Opinion 4/2018, 24 September 2018.

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- S. whereas Article 24 of the Charter sets out the rights of the child, obliging public authorities and private institutions to make children's best interests a primary consideration;
- T. whereas Article 14 of the Charter emphasises the right of every child to a free education;

Strengthening the integration of the Charter in the legislative and decision-making processes

1. Strongly believes that the Commission's Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union (COM(2010)0573) constituted an initial effort after the entry into force of the Charter, but urgently needs to be updated; welcomes the annual reports on the application of the Charter by the Commission, and calls for a review of this strategy, which was elaborated in 2010, in order to update it to take account of the new challenges and institutional reality, particularly after Brexit;
2. Recognises the several important steps made by the EU institutions to integrate the Charter into the EU legislative and decision-making processes; notes that the principal role of the Charter is to ensure that the EU's legislation is in full compliance with rights and principles enshrined in it, and acknowledges the difficulties involved in actively promoting them and ensuring their fulfilment;
3. Stresses that it is important that all proposals for Union legislation must respect the fundamental rights enshrined in the Charter;
4. Recalls that the procedures established by the EU institutions to assess the compatibility of legislative proposals with the Charter are mainly of an internal nature; calls for the opportunity to provide for enhanced forms of consultation, impact assessments, including specific gender impact assessments, and legal scrutiny with the involvement of independent experts in the field of fundamental rights; calls on the Commission to promote structured and regulated cooperation with human rights bodies, such as the FRA, the European Institute for Gender Equality (EIGE) and the relevant bodies of the Council of Europe and of the United Nations, and civil society organisations working in the field, whenever a legislative file potentially promotes or negatively affects fundamental rights;
5. Calls for the Commission, the Council and Parliament to revise Regulation (EC) No 168/2007 in order to allow the FRA to deliver non-binding opinions on draft EU legislation on its own initiative, and to promote systematic consultations with the Agency;
6. Calls on the Commission, the other EU institutions and Member States' national and regional governments to consult the FRA when fundamental rights are at stake;
7. Recognises the vital role of the FRA in assessing compliance with the Charter and welcomes the work that the Agency has undertaken; encourages the FRA to continue advising and supporting EU institutions and Member States on improving the culture of fundamental rights across the Union; welcomes the recently adopted FRA Strategy for 2018-2022;
8. Takes note of the CLARITY interactive online tool developed by the FRA in order to enable easy identification of the most appropriate non-judicial body with a human rights remit for a particular fundamental rights issue;
9. Calls on the Commission to ensure comprehensive impact assessments through a balanced evaluation of economic, social and environmental consequences and a revision of its decision to divide its considerations on fundamental rights into the current three categories— economic, social and environmental effects — and to create two specific categories entitled 'Effects on fundamental rights' and 'Gender impact assessment', so as to guarantee that all aspects of fundamental rights are assessed;

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10. Calls on the Commission to take systematic action at Union level in order to uphold and fulfil the provisions of the Charter and to ensure that Union law is adapted to take account of the legal and jurisprudential developments of international human rights law; in this regard, reiterates furthermore its call on the Commission to submit a proposal giving effect to Parliament's resolution of 25 October 2016 on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights⁽¹⁾, which would allow for the systematic screening of developments in the EU institutions and bodies and in the Member States that would call for action to protect and fulfil the rights, freedoms and principles of the Charter; suggests, in particular, that the conditions set out in the Copenhagen criteria relating to fundamental rights should not simply be used once as preconditions for accession, but that Member States be periodically assessed to gauge compliance with them;

11. Notes that the Ombudsman also plays a relevant role in guaranteeing respect for fundamental rights in the context of the Charter, not only in relation to Article 41 on the right to good administration as such, but also by taking into account the fact that such good administration is a cornerstone in terms of securing other fundamental rights; recalls the exemplary work of the Ombudsman in the field of transparency and freedom of information among others, as well as the Special Report on Frontex⁽²⁾ during this parliamentary term dealing in particular with the complaint rights of asylum seekers and migrants;

12. Understands that jurisprudence will have an impact on the scope of the Charter and that this must be taken into consideration;

13. Calls for the EU legislators to acknowledge the outcomes of the judgment of the General Court of 22 March 2018 (case T-540/15) on access to the documents of the trilogues⁽³⁾ and act accordingly; insists on the necessity of enhancing transparency and access to documents between EU institutions, in order to develop more effective interinstitutional cooperation, including accountability on matters related to fundamental rights; urges the Council to swiftly address the concerns raised with regard to the transparency of its decision-making process and access to documents in line with the relevant recommendations of the European Ombudsman;

Mainstreaming the Charter into EU policies

14. Recalls that EU policy-making relies upon the principles and objectives set out in Articles 2, 3, 4, 5 and 6 TEU, while fully endorsing and implementing the requirements enshrined in the provisions having general application of Title II, Part I, of the TFEU;

15. Calls for the EU institutions to strengthen the implementation of gender mainstreaming in all EU activities in order to combat gender discrimination and promote gender equality;

16. Reaffirms that all legal acts adopted by the Union must fully comply with all of the Charter's provisions, including its social provisions; stresses the importance of incorporating explicit references to the Charter within the legal framework regulating EU economic and monetary policy; stresses that recourse to intergovernmental arrangements does not relieve the EU institutions of their obligations to assess the compatibility of such instruments with EU law, including the Charter;

17. Deems it crucial that the Union take resolute steps to strengthen its own engagements in guaranteeing the enjoyment of all of the rights of the Charter, including social rights;

18. Calls on the Commission to ensure that the European Semester process, including the country-specific recommendations and the annual growth survey recommendations, comply with the normative components of the social rights of the Charter;

19. Supports the introduction of strong and consistent fundamental rights clauses into the operational texts of the draft regulations establishing EU funds;

⁽¹⁾ OJ C 215, 19.6.2018, p. 162.

⁽²⁾ European Parliament resolution of 2 December 2015 on the Special Report of the European Ombudsman in own-initiative inquiry OI/5/2012/BEH-MHZ concerning Frontex, OJ C 399, 24.11.2017, p. 2.

⁽³⁾ Judgment of the General Court of 22 March 2018, *Emilio de Capitani v European Parliament*, T-540/15, ECLI:EU:T:2018:167.

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20. Calls on the Commission and the Council to make macroeconomic decisions having due regard to fundamental rights assessments, based on the full range of civil, political and social rights guaranteed by the European and international human rights law instruments;
21. Calls on the Commission to look into what steps are needed for accession by the European Union to the European Social Charter, and to propose a timeframe for achieving that objective;
22. Recalls that, on the basis of the powers laid down in the Treaties, it is primarily the responsibility of the Member States to put social policy into practice, hence also to impart effectiveness and tangible expression to the social provisions enshrined in the Charter; reiterates, however, its proposal, in the context of a possible revision of the Treaties, for a social protocol to be incorporated into them in order to strengthen fundamental social rights in relation to economic freedoms;
23. Takes note of the de facto crucial, but informal, role of the Eurogroup in the economic governance of the euro area, and of the impact that its decisions might have in influencing policy-making, without being counterbalanced by appropriate mechanisms of democratic accountability and judicial control; reminds its members of their horizontal obligations deriving from Articles 2 and 6 TEU and from the Charter;
24. Calls on the Commission and the European Central Bank to fully comply with the Charter in fulfilling their tasks under the European Stability Mechanism, including the lending practices of the latter, in view of the jurisprudence of the CJEU;
25. Recalls that the Union's action on the international scene must be guided by the principles enshrined in Article 21(1) TEU; is convinced that full respect for and promotion of the Charter's provisions inside the EU represents a benchmark for assessing the legitimacy and credibility of the Union's behaviour in its international relations, including within the framework of the enlargement process pursuant to Article 49 TEU;
26. Notes the limited jurisdiction of the CJEU in the field of Common Foreign and Security Policy (CFSP), and warns against any potential limitation of the rights to an effective remedy as enshrined in the Charter;
27. Reminds the EU institutions of their human rights obligations within the scope of the Charter, also in the field of trade policy; encourages the Commission to carry out specific human rights impact assessments prior to the conclusion of any trade negotiation by making reference to the UN Guiding Principles on human rights impact assessments of trade and investment agreements;
28. Recalls that both the Treaties and the Charter make reference to the protection of national minorities and discrimination on grounds of language; calls for concrete administrative steps within the EU institutions to encourage national governments to find sustainable solutions and to promote the culture of linguistic diversity in their Member States, beyond the official EU languages;
29. Recalls the obligation laid down in article 6 TEU to accede to the ECHR; asks the Commission to take the necessary steps to eliminate the legal barriers that prevent the conclusion of the accession process, and to present a new draft agreement for the accession of the Union to the ECHR providing positive solutions to the objections raised by the CJEU in Opinion 2/13 of 18 December 2014; considers that its completion would introduce further safeguards protecting the fundamental rights of Union citizens and residents and provide an additional mechanism for enforcing human rights, namely the possibility of lodging a complaint with the ECtHR in relation to a violation of human rights derived from an act by an EU institution or a Member State implementing EU law, falling within the remit of the ECHR; is of the opinion, furthermore, that ECtHR case law will thus provide extra input for current and future EU action on the respect for, and promotion of, human rights and fundamental freedoms in the areas of civil liberties, justice and home affairs, in addition to the case law of the CJEU in this field;
30. Calls for the adoption of the horizontal Anti-Discrimination Directive ⁽¹⁾ to be concluded without delay in order to further guarantee fundamental rights in the EU by means of concrete EU legislation;

⁽¹⁾ Commission proposal of 2 July 2008 for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008)0426).

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The Charter and the EU Agencies

31. Highlights the potential of certain EU agencies to offer support to Member States in fulfilling their obligations deriving from the Charter, by frequently acting as an operational link between the EU and national spheres; points out that this task can only be effectively performed by developing a fully-fledged fundamental rights practice within the agencies operating in the sphere of justice and home affairs and/or those whose activities could have an impact on the rights and principles derived from the Charter, taking into account both the internal and external dimensions of the protection and promotion of fundamental rights;

32. Calls on the relevant EU agencies to step up work to implement the gender equality principles enshrined in the Charter, including by ensuring that all the EU institutions and agencies pursue a policy of zero tolerance towards all forms of sexual violence and physical or psychological harassment; calls for all the EU institutions and agencies to fully implement its resolution of 26 October 2017 on combating sexual harassment and abuse in the EU⁽¹⁾;

33. Takes note of the differentiated range of policies and instruments developed by the various agencies to give effect to their fundamental human rights' obligations, resulting in varying degrees of implementation; stresses the need to promote EU intra-agency cooperation as well as structured dialogues with independent human rights experts, and to build on existing best practices, in order to advance a common and strengthened human rights framework;

34. Calls on the EU agencies operating in the sphere of justice and home affairs and/or those whose activities could have an impact on the rights and principles deriving from the Charter to adopt internal fundamental rights strategies and to promote regular fundamental rights and Charter training sessions for their staff at all levels;

35. Regrets the absence, in many EU agencies' founding regulations, of an explicit reference to the Charter; calls on the co-legislators to fill this gap, where necessary, whenever regulations or decisions setting up agencies are drafted or revised, and to provide, taking account of the mandate and the specificities of each individual agency, for additional operational mechanisms ensuring compliance with the Charter;

Supporting Member States in implementing the Charter at national level

36. Recalls that the EU and national dimensions of the Charter are inextricably linked and complement each other in ensuring that the Charter's provisions are consistently applied within the overall EU legal framework;

37. Highlights the persistent awareness-gap concerning the Charter, its scope and degree of application among both rights-holders who benefit from its protection and legal and human rights experts, and deplores the scarcity of national action devoted to remedying such a deficiency;

38. Calls on the Commission to strengthen its awareness-raising activities concerning the Charter, with the full involvement of civil society organisations, and to promote and fund Charter-targeted training modules for national judges, legal practitioners as well as civil servants, aimed also at improving knowledge of Union policies and Union law, including *inter alia* substantive and procedural law, the use of EU judicial cooperation instruments, the relevant case law of the CJEU, legal language and comparative law; calls on the Commission, furthermore, to equip the Member States with practical guidelines supporting them in the implementation of the Charter at national level; asks the Commission, in this context, to give full visibility to the FRA's recently published Handbook on Applying the Charter of Fundamental Rights of the European Union in law and policymaking at national level;

39. Encourages the Member States to regularly exchange information and experience on the use, application and oversight of the Charter, and to mainstream the examples of best practice already developed at national level; encourages the Member States to review their procedural rules on legal scrutiny and impact assessments of bills from the perspective of the Charter; notes that such procedures should explicitly refer to the Charter, in the same way as they do to national human rights instruments, to minimise the risk of the Charter being overlooked;

⁽¹⁾ OJ C 346, 27.9.2018, p. 192.

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40. Points out that the loopholes in the transposition and proper implementation of EU law in Member States can have a genuine impact on the enjoyment of EU fundamental rights; recalls, in this context, the Commission's role as guardian of the Treaties, rendering it ultimately — if not primarily — responsible for safeguarding fundamental rights, including through infringement procedures, where needed; calls in this regard for more determined leadership in ensuring adequate implementation of EU legislation;

Toward a more consistent interpretation of the Charter

41. Is convinced that different interpretations concerning the application of the provisions of the Charter by the EU institutions, bodies, offices and agencies of the Union and the Member States are detrimental to the added value brought by the Charter, namely that of representing a set of common minimum standards of protection to be applied horizontally to all institutional actors and policies and activities connected to the EU sphere;

42. Stresses that the incorporation of the Charter into primary EU law, while not extending the Union's competences, and while respecting the principle of subsidiarity as defined in its Article 51, creates new responsibilities for the decision-making and implementing institutions, as well as for Member States when implementing EU legislation at national level, and that the Charter's provisions have thus become directly enforceable by European and national courts;

43. Encourages the EU institutions and the Member States to allow for more straightforward application of the Charter as a whole;

44. Regrets that to date, the Republic of Poland and the United Kingdom have not decided to withdraw from Protocol No 30 of the Treaties;

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45. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.
