



COUNCIL OF
THE EUROPEAN UNION



Council conclusions on fundamental rights and rule of law and on the Commission 2012 Report on the Application of the Charter of Fundamental Rights of the European Union

*JUSTICE and HOME AFFAIRS Council meeting
Luxembourg, 6 and 7 June 2013*

The Council adopted the following conclusions:

"EMPHASISING that in accordance with TEU Article 2 the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail;

RECALLING Council conclusions of 25 February 2011 on the role of the Council of the European Union in ensuring the effective implementation of the Charter of Fundamental Rights of the European Union,¹ its conclusions of 23 May 2011 on the Council's actions and initiatives for the implementation of the Charter of Fundamental Rights of the European Union,² as well as the guidelines on methodological steps to be taken to check fundamental rights compatibility in the Council's preparatory bodies.³

CONSIDERING existing Union legislation in the field of racism, xenophobia as well as anti-discrimination and COMMITTING to fully implement existing law;

RECALLING the discussions at the informal meeting of JHA Ministers in January 2013 on fundamental rights and on the need to counter intolerance, racism, anti-Semitism, xenophobia and homophobia by fully implementing existing legislation and possibly by way of a holistic framework to better support protection of fundamental rights and the rule of law in Member States;

¹ 6387/11 FREMP 13 JAI 101 COHOM 44 JUSTCIV 19 JURINFO 5

² 10139/1/11 FREMP 53 JAI 318 COHOM 131 JUSTCIV 128 JURINFO 30

³ 10140/11 FREMP 54 JAI 319 COHOM 132 JURINFO 31 JUSTCIV 129

P R E S S

EMPHASISING the importance of mutual recognition and trust amongst the Member States for effective cooperation between justice institutions;

TAKING NOTE OF the letter of Foreign Affairs Ministers of four Member States raising with the President of the Commission the need to develop a new and more effective method of safeguarding fundamental values in order to place greater emphasis on promoting a culture of respect for the rule of law while fully respecting national constitutional traditions and noting the contributions to the ensuing debate in the General Affairs Council of 22 April 2013;

VALUING the central role of the Council of Europe in the promotion and development of human rights, democracy and rule of law and EMPHASIZING the importance of simultaneously creating synergies and avoiding duplication with the work of the Council of Europe;

CONSIDERING the discussions at the Presidency conference of 9-10 May 2013 on the protection of equality, fundamental rights and the rule of law in the EU;

WELCOMING the important role the Fundamental Rights Agency of the European Union has in providing expert and independent analysis relating to fundamental rights within the remit of its mandate in this area;

the Council adopts the following conclusions:

a) The Charter

1. The Council has considered the 2012 report of the Commission on the Application of the EU Charter of Fundamental Rights and considers the proper application of the Charter an important priority. The Charter is a key element in the fundamental rights protection architecture in the European Union and is binding on the EU institutions and the Member States when implementing EU law.
2. The Council emphasizes the importance of EU institutions and bodies as well as Member States, when implementing EU law, of fully complying with the Charter.
3. The Council welcomes the systematic application of the Charter by the Court of Justice of the European Union as well as by national courts. The increased application of the Charter by national courts, which is evident, reflects the importance of the Charter in the implementation of Union law and underlines the importance of having due regard to the Charter when transposing Union law. The Council considers it important to follow developments in evolving case-law and notes the Fundamental Rights Agency's work in publishing regular updates in this regard.

4. The Council welcomes further debate on the Charter and its application and renews its commitment to have every year an exchange of views on the Commission's annual report on the application of the Charter, based on objective data and on equality of treatment as between all Member States. The efforts should be enhanced to put in practice the principles and working methods contained in its previous conclusions and guidelines, which are aimed at ensuring that practical steps are taken at any level of the legislative process to ensure compatibility with the Charter rights throughout the Council's internal decision-making procedures and to raise awareness of the Charter within the Council.

b) Other fundamental rights issues

5. The Council highlights the importance of European Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) in that context. The Council underlines its dedication to take this process forward and invites the Commission to bring forward a proposal for internal rules. The Council welcomes the agreement at negotiators' level from 5 April 2013 and notes that the Union has declared that the signature of the Accession Agreement by the EU is subject to a series of internal political and procedural steps. The Council emphasizes that EU accession to ECHR will further enhance coherence in human rights protection in Europe, increase judicial dialogue and improve the consistency of case-law.
6. The Council recalls the completion of procedures for the adoption of the 2013-2017 Multi-annual Framework of the European Union Agency for Fundamental Rights⁴ and looks forward to receiving the evaluation report and recommendations of the Management Board of the Agency referred to in Article 31(1) of Regulation 168/2007 on establishing a European Union Agency for Fundamental Rights.
7. The Council notes with interest the discussions at the Presidency conference on equality, fundamental rights and the rule of law on 9-10 May 2013, in Dublin, which stressed the need to give further consideration to raising awareness and understanding the importance of fundamental values, in particular the rule of law, in ensuring the protection of fundamental rights of all in Europe through broad, appropriate debate and dialogue with all interested parties.
8. The Council looks forward to receiving the forthcoming report pursuant to Article 10(2) of the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law for assessing the effectiveness of the existing EU legal norms on fighting hate crimes.

⁴ 10449/12 FREMP 81 JAI 366 COSCE 17 COHOM 122 OC 292

c) Rule of law

9. Considering that respecting the rule of law is a pre-requisite for the protection of fundamental rights, the Council calls on the Commission to take forward the debate in line with the Treaties on the possible need for and shape of a collaborative and systematic method to tackle these issues. Therefore it is of critical importance to:
- i. ensure that EU institutions and agencies; Member States and relevant institutions at national level, including judicial authorities, human rights institutions, equality bodies, ombudsmen and civil society; and relevant international institutions can contribute to the public debate or otherwise fulfil their relevant functions;
 - ii. develop an agreed understanding of what any initiative in this area would entail, including of the problems to be addressed, as well as questions of methodology and indicators;
 - iii. make full use of existing mechanisms and cooperate with other relevant EU and international bodies, particularly with the Council of Europe, in view of its key role in relation to promotion and protection of human rights, democracy and the rule of law, in order to avoid overlaps;
 - iv. focus on shared universal values and identify the added value of EU action and coordination;
 - v. consider the full range of possible models, stressing the need for approaches that could be accepted by all Member States by consensus;
 - vi. ensure that any future initiative in this area that might be agreed would apply in a transparent manner, on the basis of evidence objectively compiled, compared and analysed and on the basis of equality of treatment as between all Member States; and
 - vii. ensure that any initiative in this area would have a real positive impact on the lives of ordinary persons over the medium term.
10. The Council calls on the Commission to take forward in 2013 a process of inclusive dialogue, debate and engagement with all Member States, EU institutions as well as all relevant stakeholders on the basis, in particular, of the considerations and suggested approach set out in these conclusions, following the previous discussions by JHA Ministers⁵ and General Affairs Ministers.⁶
11. The Council looks forward to receiving the Commission's reflection in due course on the completion of this process of dialogue, to working with the Commission in this process, and to giving further consideration at its forthcoming meetings to the possible need for and possible shape of methods or initiatives to better safeguard fundamental values, in particular the rule of law and the fundamental rights of persons in the Union and to counter extreme forms of intolerance, such as racism, anti-Semitism, xenophobia and homophobia."

⁵ Informal meeting of JHA Ministers, 18 January 2013.

⁶ General Affairs Council, 22 April 2013.