

DIRITTI COMPARATI

Comparare i diritti fondamentali in Europa

EUROPEAN COMMISSION MAKES FUNDAMENTAL RIGHTS A REALITY FOR CITIZENS

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The EU Charter of Fundamental Rights – now in force and legally binding for more than two years – has guided EU law-making from the very first draft all the way through to the statute book. The Charter sets out fundamental rights – such as freedom of expression and the protection of personal data – that reflect Europe’s common values and its constitutional heritage. The European Commission’s second annual report on the Charter finds that fundamental rights concerns are increasingly embedded in EU policy-making. For example, travellers will be entitled to opt out of security scanning at EU airports and be screened using other methods thanks to Commission action to take on board privacy concerns in a new EU law. The EU Court of Justice increasingly refers to the Charter, notably in landmark decisions on sex discrimination and Internet privacy. Today’s report is part of the Commission’s efforts to raise people’s awareness of the Charter, when it applies, and the role of EU institutions in the field of fundamental rights.

“My primary goal over the last two years, since the Charter became legally binding, was to create a solid EU-wide fundamental rights culture. I have

made the Charter the compass of all policies decided at EU level,” said Viviane Reding, Vice-President of the European Commission in charge of Justice, Fundamental Rights and Citizenship. “We now need to help citizens exercise their rights in practice by working with Member States to ensure people know where they can turn if their rights are infringed.”

The primary role of the Charter is to guarantee that the EU institutions respect fundamental rights in preparing new European laws. Fundamental rights concerns are now an inherent part of the preparation of new EU laws. For example, in 2011, this helped ensure that EU rules on the use of security scanners at airports respect the fundamental rights to protection of personal data, private life and dignity.

The Commission not only guarantees that its proposals are compatible with the Charter, it also ensures that the Charter is respected when Member States implement EU law. In 2011, the Commission expressed its concerns about the independence of Hungary’s data protection authority and measures regarding the retirement age of judges, prosecutors and public notaries. The Commission began infringement proceedings to ensure that Hungary satisfies all of its legal concerns.

At the same time, the Charter increasingly helps to shape decisions by the courts. In 2011, the number of rulings quoting fundamental rights laid down in the Charter rose by 50% at both EU and national level. One such landmark ruling by the EU’s Court of Justice stressed the right of asylum seekers to protection from inhuman or degrading treatment when clarifying EU rules for determining which country should deal with an asylum application. The decision effectively banned transfers of asylum seekers to countries where inadequate conditions would compromise their fundamental rights. In March 2011, the Court ruled in the Test-Achats case that different premiums for men and women constitute sex discrimination and, In November 2011, that ordering an internet service provider to install a filtering system to prevent an infringement of intellectual property rights would infringe customers’ rights to receive and send information. [Here](#) to read more.

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