



HUNGARIAN
HELSINKI
COMMITTEE

Response of the Hungarian Helsinki Committee to FRANET Service Request no. 35. – The use of the EU Charter of Fundamental Rights at national level

The use of the Charter outside courts

9 October 2024

1. Provide, if available, one or more promising examples of

a) arrangements ensuring that programmes supported by Common Provisions Regulation (CPR) funds and their implementation comply with the relevant provisions of the Charter and allow for respective complaints or

In Hungary, Monitoring Committees (MCs) were re-established in 2023 following an open call for applications to include independent civil society actors as well. The Hungarian Helsinki Committee (HHC) is a member of the Home Affairs Fund MC, in charge of compliance with the horizontal enabling condition of the effective implementation of the Charter.

In line with the CPR, Managing Authorities have appointed fundamental rights officers (“alapjogi felelős”), tasked with ensuring compliance with the relevant HEC and with managing complaints related to fundamental rights violations.

The legal framework for investigating fundamental rights complaints were originally provided in Act CLXV of 2013 on complaints and whistle-blowing, replaced as of 24 July 2023 by Act XXV of 2023 on complaints, whistle-blowers and rules related to reporting infringements. While there were signs that a tailor-made complaint mechanism would be set up for the purposes of investigating potential breaches of the Charter (including inquiries from managing authorities whether the HHC would assist the authorities in developing it), this idea, if ever truly existed, unfortunately never took concrete shape.

Act XXV of 2023, supposedly the transposing domestic act of the Whistleblower Protection Directive, has been heavily criticized for its late¹ and erroneous implementation.² Equally importantly, it has not

¹ The European Commission decided to refer Hungary for failing to transpose the Directive on 15 February 2023, see: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_703

² See for example the comparative analysis of whistleblower protection in practice in EU Member States in Transparency International, *How well do EU countries protect whistleblowers?*, 8 November 2023, available online at <https://whistleblowingnetwork.org/WIN/media/pdfs/2023-How-well-do-EU-countries-protect-whistleblowers-revised-revised.pdf> and the joint letter of K-Monitor and Transparency International Hungary to the European Commission of 21 December 2023 on the possible infringement of the Directive, available online at: https://transparency.hu/wp-content/uploads/2024/01/K-Monitor_Transparency-Int-HU_letter_to_COM_on_transposition_of_whistleblower_directive_21122023.pdf

been tried and tested in real life scenarios. However, taking into consideration that the Act is a general framework for handling complaints and that these (at least in the past) were related to potential misuse of funds, but not Charter violations, its applicability is questionable.

At every in-person session of monitoring committees, the fundamental rights officers provide information on the complaints they reviewed since the previous in-person session. To the HHC's best knowledge, thus far only one complaint has been submitted across the different programmes. As the complaint affects a project that is not managed under the Home Affair Funds, the HHC has no further information on how the complaint was handled.

Compliance with the Charter HEC requires that monitoring committees carry out their duties without undue interference. The setting up of the Sovereignty Protection Office (SPO) in February 2024 and its subsequent investigations launched, and derogatory claims levied against organisations that are members of MCs or who otherwise participate in EU-funded projects with a view to advance the exercise of rights in the Charter, instill a chilling effect on civil society in general,³ as well as members of MCs in particular.

The European Commission referred Hungary to the Court of Justice of the European Union over the adoption of the Sovereignty Protection Act on 3 October 2024.⁴

Following the launching of an investigation by the SPO against Transparency International Hungary and an investigative news portal in June 2024, 20 civil society representatives in various monitoring committees requested that an extraordinary session of their respective MCs are convened to discuss, in the presence of the SPO, whether the work carried out in MCs, including the monitoring of the effective implementation of the Charter, may be an activity that triggers the investigation of the SPO.⁵

No such session was convened in either of MCs to date. In a number of MCs that held regular sessions since then, civil society members proposed that the representative of the SPO is invited to the next MC session, but all such proposals were rejected.

Prior to the SPO's investigation against Transparency International Hungary, the Central Coordination requested that members of three MCs in charge of fundamental rights compliance (the HHC, the Hungarian Civil Liberties Union, and Amnesty International Hungary) provide a training on the implementation of the Charter to the fundamental rights officers of the managing authorities. The three civil society organisations agreed and were already preparing the content of the training, set to take place in the beginning of September 2024, when the SPO's investigation against another civil society member of MCs began.

As all invited trainers also signed the joint letter of civil society members concerning the SPO's investigations, the trainers decided to inform the Central Coordination that until at least their original request presented in the joint civil society letter is addressed, it is not possible to carry out such an activity based on mutual partnership.

The HHC suggested that funding allocated for communication and awareness raising purposes are spent on a coordinated campaign to inform citizens of the Charter HEC under the CPR and the available complaints mechanisms in case they believe their rights were infringed. While the members of the

³ See the survey of the Civilizáció Coalition and the Hungarian Helsinki Committee of February 2024: <https://helsinki.hu/wp-content/uploads/2024/06/Consequences-of-the-Sovereignty-Protection-Act.pdf>

⁴ See the Commission's statement: https://ec.europa.eu/commission/presscorner/detail/en/ip_24_4865

⁵ See the joint letter in English: <https://helsinki.hu/en/wp-content/uploads/sites/2/2024/07/CSOs-letter-to-Managing-Authorities-and-Monitoring-Committees-1.pdf>

Home Affairs Fund MC were generally open to the idea, as decisions on communications are made by the Central Coordination, the proposal was forwarded to them. No follow-up information is available on this.

b) complaints in the context of EU funds and the mentioned arrangements for the alleged violation of fundamental rights obligations

As explained above, the HHC is only aware of the submission of one complaint, but under a different fund, therefore no further information is available on its handling.

3. Provide one or more promising example of initiatives aimed to promote people's awareness of their Charter rights and of where to turn when their rights are breached.

Example 1:

Short 'title' of measure:

CharterWise project - Making the EU Charter a leading human rights litigation tool in Hungary

Detailed description of the measure/event/tool/ publication/policy/news item etc (including where applicable the specific target groups):

The Hungarian Helsinki Committee (HHC) and the Hungarian Civil Liberties Union (HCLU) are implementing in 2023-2024 their "CharterWise" project funded by the EACEA coordinated by the HHC. The project's aims are the multiplication of Hungarian lawyers equipped and motivated to bring forward domestic and European strategic litigation based on the Charter, the construction of a Charter-based joint CSO litigation strategy, the sustainable mainstreaming of the Charter into university legal education and the mandatory accredited training of attorneys, the creation of Hungarian-language legal literature on the Charter, the increased ability of victims to recognise Charter-based rights violations in their own situation and challenge it through litigation, as well as improved awareness in Hungarian society of the centrality of fundamental rights protection in the EU legal system.

Until August 2023, the HHC and the HCLU held a training for Hungarian CSOs, including advocacy organisations and workers' unions, on fundamental rights and the Charter. Following a needs assessment, in the online part, participants were introduced to the Charter through tutorial videos and then completed an exercise sheet. The training continued with an in-person part from 12 to 14 June 2023, where participants attended five lectures and workshops given by experts to deepen their knowledge on the enforcement of fundamental rights, and the Charter. The participants developed their own sample cases with feedback from the experts. The training concluded with the development of a CSO strategy for fundamental rights enforcement.

Three in-person trainings were held for ca. 90 attorneys two outside Budapest, and one for union lawyers. The training agenda and the curriculum of the attorneys' training scheme have been published. The trainings focused on the Charter, its applicability, and further Charter related practical knowledge for attorneys.

A curriculum was developed and published for legal studies seminars on the Charter, and the curriculums will be tried in practice in the 2024/2025 autumn semester.

Five case studies, a series of blogposts and a “know-your-rights” leaflet was published on the Charter and related topics in order to educate activists and the public and to draw attention to the potential of the Charter.

Comment/assessment and reference (including weblink):

The average evaluation of the three attorney trainings and the CSO training was 96%. The number of participants and the results of the evaluation exceeded the threshold predicted in the project proposal.

- [Short description of the project on the website of the Hungarian Helsinki Committee](#)
- [Video 1](#)
- [Video 2](#)
- [Video 3](#)
- [Short description of the training retreat of CSOs on the website of the HHC in Hungarian](#)

Example 2:

Short ‘title’ of measure:

STARLIGHT - Strategic Litigation for Rights in Europe: Building Knowledge, Skills and Connections for Legal Practitioners to Use the EU Charter of Fundamental Rights

Detailed description of the measure/event/tool/ publication/policy/news item etc (including where applicable the specific target groups):

[STARLIGHT](#) – Strategic Litigation for Rights in Europe is a joint programme by the Berlin-based Hertie School and the HHC, funded by the EU’s CERV programme, that aims to provide legal practitioners in the European Union with the skills and knowledge to apply the Charter in strategic litigation. The project is implemented in 2023-2024 and selected participants benefit from seminars, workshops, legal clinics and professional networking opportunities in varying formats to accomplish two main goals:

- applying the Charter and other EU laws in three thematic areas: the rule of law, asylum/migration and criminal justice;
- and acquiring crucial skills to engage in strategic litigation at EU level, develop EU jurisprudence and promote systemic and social changes in their respective countries.

The programme focuses on training practitioners from the following target countries: Bulgaria, Croatia, Czechia, Cyprus, Estonia, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia, Slovenia and Spain.

The project was launched in January 2023 through an [online webinar](#) with a panel discussion about the power of strategic litigation. The panel included esteemed speakers from the Unit for Fundamental Rights Policy of the European Commission, the ZHAW School of Management and Law, the Hertie School, and the HHC.

Comment/assessment and reference (including weblink):

Until September 2024 a selected 60 participants have

- benefitted from online cross-cutting introductory modules focused on litigation in front of the Court of Justice of the European Union (CJEU);
 - deepened their strategic litigation skills (e.g.: effective judicial review, strategies to get your case to the CJEU) in one of the abovementioned three thematic areas through training sessions held by both practitioners and academics;
 - and worked on case studies in the mentor-lead legal clinic sessions. The outputs of the legal clinics will be model legal arguments to support future litigation (published on the STARLIGHT website).
- [official STARLIGHT website](#)
 - [STARLIGHT publications \(clinic cases\)](#)
 - [participant testimonial 1](#)
 - [participant testimonial 2](#)