

Viviane Reding

Vice-President of the European Commission responsible for
Justice, Fundamental Rights and Citizenship

Towards a European Area of Fundamental Rights: The EU's Charter of Fundamental Rights and Accession to the European Convention of Human Rights

Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort

High Level Conference on the Future of the European Court of
Human Rights

Interlaken, 18 February 2010

It is a great pleasure to attend this Ministerial Conference just a few days after my nomination as Vice-President of the European Commission in charge of Justice, Fundamental Rights and Citizenship. My presence today confirms the determination of the European Commission to work closely with the Council of Europe to put into practice the common principles upon which both our institutions are founded.

All the components for developing an ambitious fundamental rights policy at the level of the European Union are now in place:

- First of all, with the entry into force of the Lisbon Treaty, the Charter of Fundamental Rights of the European Union is legally binding;
- Secondly, the European Union will launch as soon as possible the accession negotiations to the European Convention on Human Rights. President Barroso has entrusted me with looking after this important dossier of constitutional significance.
- Thirdly, the promotion of fundamental rights is one of the priorities of the Stockholm programme setting the strategic guidelines for developing an area of freedom, security and justice in Europe;
- Fourthly, the very creation of a new "Justice, Fundamental Rights and Citizenship" portfolio shows the importance that President Barroso attaches to strengthen even further the action of the Commission in this area.

The Charter of Fundamental Rights-policy I will develop is directly relevant for the subjects which are discussed at this Ministerial Conference. The more the European Commission ensures the effective full respect of fundamental rights whenever European Union law comes into play, the more efficiently the European Court of Human Rights will be in a position to do its job.

The Declaration and the Action plan being discussed today call for an effective implementation of the Convention at national level and for the full execution of the judgments of the European Court of Human Rights.

The Union can, and will contribute to address these calls through a rigorous policy.

1. My first priority will be to ensure that the Union is beyond reproach whenever making legislation. When the European Commission proposes legislation, this must fully respect the Charter of Fundamental Rights. **The Charter will be the compass for all European Union policies.** It will be the base for rigorous impact assessments on fundamental rights concerning all new legislative proposals.
2. My second priority will be to watch over the European Union legislative process to ensure that the final texts emerging from it are in line with the Charter. It will be a collective responsibility of all the institutions and the Member States to ensure that European Union law is and remains consistent with fundamental rights throughout the legislative process.
3. My third priority is at the level of the Member States. The EU Charter of Fundamental Rights applies not only to EU institutions, but also to Member States when they implement EU law. I will use all the tools available under the Treaty to ensure compliance with the Charter of national legislation that transposes EU law. **I will apply a "Zero Tolerance Policy" on violations of the Charter.** I will certainly not shy away from starting infringement proceedings whenever necessary.

The key objective is to render as effective as possible the rights enshrined in the Charter for the benefit of all people living in the EU. This is indispensable to reach a high level of integration in the area of Justice, Freedom and Security, as well as for the credibility of the EU external policy on human rights.

The EU Charter of Fundamental Rights is a key instrument for achieving these objectives. **Our EU Charter represents the most modern codification of fundamental rights in the world. We, Europeans can be proud of it.** The Charter entrenches all the rights found in the European Convention on Human Rights. The meaning and scope of these rights are the same as those laid down by the ECHR. The Charter, however, goes further and also enshrines other rights and principles, including economic and social rights resulting from the common constitutional traditions of the EU Member States, the case law of the European Court of Justice and other international instruments. In the Charter, we also find the so-called "third generation" fundamental rights, such as data protection, guarantees on bioethics and on good and transparent administration. **And Article 53 of the Charter makes it clear that the level of protection provided by the Charter must be at least as high as that of the Convention.** Often, it will go beyond.

This legally binding Charter for 27 countries represents a major step forward in terms of political commitment for fundamental rights, of legibility and of legal certainty. **The new European Commission will make this visible by adding to the solemn oath we will be taking soon before the European Court of Justice in Luxembourg an explicit reference to the Charter.**

The accession of the EU to the Convention will complete the EU system of protection of fundamental rights. The constitutional significance of this accession was noted by the European Court of Justice back in 1994. Now the EU has the competence it lacked back then. What is more, **the Lisbon Treaty makes it clear that accession is not only an option, it is the destination.** We will reach that destination, while of course safeguarding the special characteristics of the Union legal order.

Accession to the Convention will ensure that the case-law of both Courts – the Court in Strasbourg and our Court in Luxembourg – evolves in step. It is therefore an opportunity to develop a coherent system of fundamental rights protection throughout the continent, with a strong promise for a Europe truly united by law and in values. I am proud and honoured to take part in this worthwhile endeavour, which is also of symbolic importance. In view of the strength of the EU Charter – which is in many instances more ambitious than the Convention – the European Union will not find it difficult to meet the standards required by the Convention. Accession will nevertheless show that the European Union itself, with its 27 Member States, will put its weight behind the Strasbourg system of fundamental rights protection. The European Union judiciary will become part of the Strasbourg court and strengthen its efficiency. This will make Strasbourg even more so than it is today the European capital of fundamental rights protection.

In the coming months I will submit to the Council a formal recommendation for negotiation directives on the accession of the European Union to the Convention. I am happy that the Spanish Presidency of the Council of the European Union is equally determined to push for a rapid agreement on these directives in order to start the negotiations with the Council of Europe.

I welcome the fact that the accession process will coincide with the reform of the European Court of Human Rights. The European Union has a strong interest in the efficient functioning of the Court. **Justice delayed is justice denied.** That is why the European Union will work with you to clear the **big backlog of cases and the long delays.** I am confident that the Ministerial Conference will succeed in launching a process that aims to enhance the effectiveness of the Court. Of course, the right of individual application and the principle of subsidiarity must remain essential pillars of the system.

I am convinced that the accession of the European Union to the Convention is an opportunity for both institutions. As the Secretary General of the Council of Europe rightly pointed out, "protecting human rights is not just about the Court condemning states. It is about anticipating problems and cooperating in their solution". **Protecting human rights is not about creating a culture of litigation; it is about upholding human dignity and the full enjoyment of rights.** The accession of the European Union to the Convention is an incentive to develop the policies that strengthen the effectiveness of the fundamental rights that people enjoy in Europe.

We should feel proud of all our common accomplishments in the protection of human rights over the last six decades. These accomplishments should serve as guiding inspiration to continue to do what still needs to be done.