

Introduction

The Charter of Fundamental Rights (CFR) sets out in one text the full range of civil, political, economic and social rights of EU citizens, as well as all other persons living in the EU. The CFR became legally binding for all member states in 2009. A number of countries (including Britain) had opposed it because they argued the new legal obligations would undermine their national sovereignty. However, other governments, including those of France, Germany and the Netherlands, welcomed the Charter and were keen to give it legal force.

History

Until the signing of the CFR, the protection of human rights in Europe had been guaranteed by the European Convention on Human Rights (ECHR), signed by the member countries of the Council of Europe. These rights were protected by the European Court of Human Rights, which is not an EU institution. All the member states of the EU have signed the ECHR, although the European Union itself was not a member until the legal basis for its accession was included in the Lisbon Treaty, which came into force in 2009.

In 1974, the European Court of Justice (ECJ) affirmed that the EU must uphold fundamental rights and in 1997 Article Six of the Treaty of Amsterdam gave new powers to the Council of the European Union and the ECJ to protect fundamental rights within the EU. On 3-4 June 1999, the Cologne European Council decided to start work on drafting the Charter of Fundamental Rights.

At the European Council in Nice in December 2000, the European Commission, the European Parliament and the heads of state and government of the EU member states proclaimed the Charter of Fundamental Rights of the European Union as part of the signing of the Nice Treaty (2001).

Because the Charter of Fundamental Rights was written as an annex to the Treaty of Nice, it was not legally binding; national law courts and the ECJ could consider the CFR in their judgements, but were not bound by its content. However, the Charter was included in the Lisbon Treaty (2007), which made it legally binding for EU member states from December 2009. Along with the Czech Republic and Poland, the UK negotiated the right to opt-out from the Charter, so that it cannot be used to challenge current UK legislation.

How does the Charter of Fundamental Rights work?

The purpose of the CFR is set out in its introduction: 'it is necessary to strengthen the protection of fundamental rights in the light of changes in society, social progress and scientific and technological developments by making those rights more visible in a Charter'. The CFR is divided into six sections: Dignity, Freedoms, Equality, Solidarity, Citizens' Rights and Justice.

Each of the CFR's 54 articles, which set out individuals' rights and freedoms, is taken from a **precursor text**. Most of the rights are contained in other documents, such as the ECHR, the constitutional traditions of the EU member states, the Council of Europe's Social Charter and other international conventions to which the EU or its member states are signatories.

Facts and figures

- ❖ The Charter of Fundamental Rights was the first document in the EU to be drawn up by a convention, rather than by the governments of the member states.

Arguments

For

- ❖ The Charter makes the rights of EU citizens visible and brings them together in one document.
- ❖ The Charter provides judges with an explicit guide to fundamental rights, rather than leaving them to interpret vaguely worded agreements.

Against

- ❖ When the CFR became legally binding, the EU acquired jurisdiction over many aspects of employment and social life that had previously been considered to be the responsibility of elected national governments.
- ❖ Many rights would be better dealt with by elected politicians, who have a mandate to determine their country's priorities, rather than unelected judges.

"By proclaiming the Charter of Fundamental Rights, the European Union institutions have committed themselves to respecting the Charter in everything they do and in every policy they promote."

Romano Prodi, EU Commission President, 1999-2004

"The Charter of Fundamental Rights will be no more binding than the Beano or the Sun."

Keith Vaz, Minister for Europe, 1999-2001

Technical Terms

- ❖ **Convention:** a formal meeting of delegates and representatives drawn from groups and institutions to discuss a common interest.
- ❖ **Precursor Text:** another treaty, charter or convention that provides the basis for each of the rights and freedoms.

Links

- ❖ http://europa.eu/legislation_summaries/justice_freedom_security/citizenship_of_the_union/l33501_en.htm
- ❖ <http://news.bbc.co.uk/1/hi/world/europe/6225580.stm>