

Report from the Workshop “Ten Years of the binding Charter of Fundamental Rights of the European Union”, 21 November 2019

On November 21st, 2019, a Workshop “Ten Years of the Binding Charter of Fundamental Rights of the European Union” took place in the European House in Prague and was kindly supported by the European Commission Representation in the Czech Republic. The Workshop was organized by the Department of European Law, Faculty of Law, Charles University, within the framework of the Specific University Research Project No. 260 361, funded by Charles University, called “Legal Awareness: Notion, Formation, Impact with the Particular Focus on the Effects of the Charter of Fundamental Rights of the European Union on Legal Awareness in the Czech Republic”. The Workshop represents the concluding forum of the Project which ended in 2019 and most of the participants discussed phenomena they had dealt with in previous years within this Project. Most findings will become available in a form of a monograph titled “Listina základních práv Evropské unie deset let v praxi – hodnocení a výhled” [“The Charter of Fundamental Rights in the European Union Ten Years in Practice – Assessment and Prospect”].

After the welcoming speech by the Chair of the Workshop, Dr. Magdaléna Svobodová, the Workshop was opened by Professor Michal Tomášek, Vice-Dean of the Faculty of Law, Charles University, and Head of the Department of European Law.

The first panel followed with the speech of Karolína Kottová, Head of the Political Section of the European Commission Representation in the Czech Republic, which was focused on the assessment of benefits the Charter had brought during past ten years. Next, Associate Professor Harald Christian Scheu from the Faculty of Law, Charles University, critically assessed Article 6 of the Treaty on European Union, relations between the Charter and general principles as well as non-accession of the EU to the European Convention on Human Rights. Then, Dr. Ondřej Hamulák, Senior Lecturer from the Faculty of Law, Palacký University in Olomouc, outlined main preliminary results of his larger project examining reflection of the Charter in the case-law of Czech, Slovak, Polish and Hungarian constitutional courts. The first panel was concluded by considerations on the history and the present of proposed Czech “opt-out” from the application of the Charter presented by Associate Professor Lenka Pítrová, Faculty of Law, Charles University, who personally attended negotiations of the Lisbon Treaty.

The second panel shifted the attention of the participants from the politics of human rights mainly towards the ever richer case-law of the EU Court of Justice. It was opened by the organizer and the Chair of the Workshop herself. She analyzed the rising importance of the Charter in the process of ex-post review of EU legal acts by the CJEU. Petr Mádr, Ph.D. candidate from the Department of European Law, Faculty of Law, Charles University, explored a rather controversial topic, the spill-over effect of the Charter into purely internal situations in the Member States. Dr. Petr Navrátil from the same Department took inspiration in the Polish national epic “With Fire and Sword” when reflecting the approach of the CJEU to determining the boundaries of the Charter applicability in cases regarding protection of the right to fair trial and the effective legal protection in Poland.

The strengthening influence of the Charter can be identified in a number of particular areas of European law. Alžběta Králová from the Office of the Public Defender of Rights and Ph.D. candidate at the Faculty of Law, Masaryk University in Brno, opened the third panel and provided a glimpse on the role of the Charter from the point of view of protection of rights of foreign nationals. Papers of both Eliška Jonášová and Tomáš Ochodek, Ph.D. candidates at Faculty of Law, Charles University, concentrated on how the Charter can influence the development of law regulating the digital agenda. While Eliška Jonášová addressed human rights issues tightly connected to the cyber security sphere, namely to the question of data protection in the age of cyber-crime, Tomáš Ochodek highlighted several prominent problems of regulation arising from the conflict of digital rights protection on the one hand and interests of influential private actors in the digital sphere on the other hand.

Within the fourth panel the last three speakers described the role of the Charter in the legislative procedures of various bodies. The national part was explored by Bohumil Peterka, Ph.D. candidate

at Faculty of Law, Charles University, and Dr. Jindřiška Syllová, Researcher in Parliamentary Institute and Senior Lecturer at Faculty of Law, Charles University (Department of Constitutional Law). The former focused on the issues connected to the area of applicability of the Charter within the process of national legislative drafting by the executive, while the latter provided comparison with the role the Charter plays in the Czech parliamentary procedure. The closing paper, presented by Dr. Jan Grinc, Head of European Union Unit of the Czech Senate Chancellery and Senior Lecturer at Faculty of Law, Charles University (Department of Constitutional Law), imaginarily moved the participants back to Brussels and discussed the unbalanced approach of the EU legislative bodies to the Charter which ranges from solid considerations to disregard.

The Charter of Fundamental Rights of the European Union constitutes a new instrument within the framework of European law. Maybe its most significant aspect, which was repeatedly emphasized by the participants, is how it has, since 2009, gradually penetrated into the proverbial hearts and minds of relevant actors, judges, legislators and legal scholars within the EU and the Member States. The seminar brought a complex view on the phenomenon of the Charter impact in the course of last ten years, with a particular focus on the Czech Republic. Without any doubt, it would be beneficial to continue and observe and evaluate the aforementioned process in coming years.

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