

October 2023

Use of the EU Charter of Fundamental Rights in Croatia

Baseline report prepared by the Office of the Ombudswoman of
Croatia

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INTRODUCTION

The Croatian Constitution recognizes that the exercise of the rights ensuing from the European Union *acquis communautaire* shall be made equal to the exercise of rights under Croatian law. Furthermore it stipulates that all legal acts and decisions accepted by the Republic of Croatia in European Union institutions shall be applied in the Republic of Croatia in accordance with the European Union *acquis communautaire*. Croatian courts are defined as those who protect subjective rights based on the European Union *acquis communautaire* by the Constitution, while governmental agencies, bodies of local and regional self-government and legal persons vested with public authority apply European Union law directly.

Hence, it is not surprising the Charter has been applied directly by the Croatian Constitutional Court. The Charter has been used in a limited number of cases, mostly concerning migrations or asylum, but the use of the Charter has been growing. The Charter is also used by national judges, parliamentarians, government officials, and civil society, but its use has been limited.

THE USE OF THE CHARTER OUTSIDE COURTS

The baseline study covers a range of key areas, including the legislative process, the role of Charter focal points, instances of Charter use in administration and law enforcement, judicial and civil servant training, awareness-raising initiatives, and the involvement of civil society organizations and academia. This enabled identification of trends, patterns, and shifts in how the Charter has been employed outside of the courtroom, shedding light on the evolving landscape of usage of the Charter in Croatia.

Overall trends in the use of the Charter outside courts

Even though the Charter of Fundamental Rights is legally binding document for Croatia since the accession to the EU in 2013, it has been used in the limited level and the awareness of the Charter has been rather low. However, trend has slowly began changing and Croatia's usage of the EU Charter of Fundamental Rights from 2017 to 2022 in legal and political systems appears to be increasing. :

While examining the data on the use of the EU Charter in Croatia, it becomes apparent that there have been both positive and concerning developments.

On the positive side, it's evident that Croatia has made efforts to incorporate the Charter into various aspects of governance and administration. The **establishment of Charter focal points**, for instance, reflects a commitment to promoting awareness and application of fundamental rights. Furthermore, National Human Rights Protection and Promotion and Anti-Discrimination Plan till 2027 refers to the Charter of Fundamental Rights of the European Union in its introductory chapters. Furthermore, Human Rights Action Plan includes specific measures on the Charter – such as raising awareness on the application of the Charter of Fundamental Rights, increasing capacities of staff working on the EU funds on the Charter of Fundamental Rights. Additionally, there are examples of the use of the Charter in legislative processes.

However, a more critical examination reveals several areas of concern. First, the relatively limited number of examples provided in the baseline study suggests that the use of the Charter outside of courts may still be sporadic or ad hoc in Croatia. This raises questions about the systematic use of the Charter within different policy areas.

Moreover, while there are instances where the Charter has been cited in legislative processes, the impact and effectiveness of these references are not always clear. It's important to scrutinize whether the Charter is used as a mere formality or whether it significantly influences policy outcomes and safeguards fundamental rights.

Another critical point is the lack of concrete examples of Charter use by civil society organizations. Given their role as watchdogs and promoters of fundamental rights, a more active engagement with the Charter by CSOs would be expected.

In conclusion, while there are positive signs of Charter integration in Croatia's governance and legislative processes, there remain challenges regarding consistency, effectiveness, and broader civil society engagement. These issues underscore the need for continued efforts in raising awareness of the application of the EU Charter of Fundamental Rights at the national level in Croatia.

Examples of the use of the EU Charter outside of courts in Croatia

Act on Electronic Communications (2022) - Ensuring EU alignment and fundamental rights protection

- **Background:** In 2022, Croatia adopted new Act on Electronic Communications ([Zakon o elektroničkim komunikacijama](#)), Official gazette no. 76/2022, which held significant implications for the telecommunications sector and the protection of fundamental rights.
- **Key legislative details:** The Act on Electronic Communications was adopted, and the Charter was relevant in relation to the Article 7 of the proposed Act.. The Charter was used in Article 7 of the proposed Act transposing the Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code, more concretely Article 100, paragraph 1 of the Directive. The proposal of the Act also indicated that paragraph 2 of Article 100 of the Directive has not been transferred, because “the application of Charter and principles of proportionality in limiting rights should not be prescribed by special laws because the Charter forms part of the law of the Republic of Croatia and its provisions are directly applicable, and the principle of proportionality in the limitation of the established rights is an integral part of the established practice of the Constitutional Court of the Republic of Croatia.”
- **Charter's integral role:** Article 7 of the adopted Act on Electronic Communications concerns national regulatory body therefore stipulates as follows: The Croatian Regulatory Agency for Network Activities is a national regulatory body for the performance of regulatory and other tasks within the scope and competences prescribed by this Act. In carrying out the prescribed regulatory tasks, the Agency

undertakes measures to achieve the goals including, among others: (...) promoting the interests of citizens by ensuring connectivity and availability and the use of high-capacity networks, including fixed, mobile and wireless networks, as well as electronic communication services, by providing the greatest possible benefits in relation to the choice of price and quality based on effective market competition, by maintaining the security of networks and services, by ensuring a high and common level of protection for end users, especially in relation to price affordability, by encouraging the provision of clear information, especially with regard to the publication and transparency of prices and terms of use of electronic communication services and the provision of comparable information to end users by operators, by addressing the needs of special social groups, especially disabled end-users, elderly end-users and end-users with special social needs, by ensuring choice and equal access for end-users with disabilities, and undertaking all measures to enable end users to access services and **applications in accordance with the provisions of the Charter of the European Union on Fundamental Rights and the general principles of European Union law.**

- **Link:** Proposal of the Act on Electronic Communications, with Final Act Proposal ([Prijedlog zakona o elektroničkim komunikacijama, s Konačnim prijedlogom zakona](#)), P.Z.E.286, June 2022.

National Human Rights Protection and Promotion and Anti-Discrimination Plan till 2027 and accompanying Action plans

- **Background:** At its session held on 30 March 2023, the Government of the Republic of Croatia adopted the Decision on the adoption of the National Plan for the Protection and Promotion of Human Rights and Anti-discrimination for the period until 2027, the Action Plan for the Protection and Promotion of human Rights for 2023 and the Anti-discrimination Action Plan for 2023.
- **Aim of the initiative:** The purpose of the National Plan for the Protection and Promotion of human Rights and Anti-discrimination for the period up to 2027 is to ensure the coordinated action of state administration bodies in the field of human rights protection and anti-discrimination, to supplement existing sectoral policies and to raise the level of knowledge and awareness of human rights and equality in order for all citizens to exercise their rights guaranteed by the Constitution of the Republic of Croatia and international treaties for the protection of human rights and anti-discrimination.
- **Impact and implications to the Charter:** National Plan refers to the Charter of Fundamental Rights of the European Union in the analyses of the situation in the context of human rights protection and promotion. It also includes a specific goal “Raise awareness and inform about use of international instruments for the protection of human rights with special emphasis on the EU Charter”, whose implementation will be further specified by the accompanying Action plan. Furthermore, Human Rights Action Plan includes specific measures on the Charter – such as raising awareness on the application of the Charter of Fundamental Rights, increasing capacities of staff working on the EU funds on the Charter of Fundamental Rights.

- **Link:** documents can be accessed at the following web page: <https://ljudskaprava.gov.hr/nacionalni-plan-zastite-i-promicanja-ljudskih-prava-i-suzbijanja-diskriminacije-za-razdoblje-do-2027-godine/989>

Charter focal point coordination (2022) - Promoting Charter awareness and implementation

- **Background:** In 2022, Croatia took a step in promoting the use and awareness of the EU Charter of Fundamental Rights by establishing a dedicated Charter focal point.
- **Aim of the initiative:** The Croatian Government Office for Human Rights and Rights of National Minorities appointed Office for Human Rights and Rights of National Minorities as the Charter focal point. The mandate of the focal point involves coordinating and facilitating the exchange of Charter-related information and best practices among state administration bodies, ombuds institutions, and non-governmental organizations. Additionally, the focal point was tasked with organizing activities aimed at promoting Charter use and awareness across various sectors in Croatia. Even though the charter focal point organized a meeting with relevant stakeholders, including civil society organization, it was only one time meeting. Furthermore, in 2022 the focal point organized a public discussion on the usage of the Charter to mark Human Rights day. The panel was named "Charter of the European Union on Fundamental Rights - Possibilities of Implementation in the National Context". The panellists included representatives of state authorities, academia, ombuds institution and CSOs. However, such initiative has not continued in the period to come.
- **Impact and implications:** This initiative shows Croatia's commitment to strengthening Charter awareness and practical implementation at the national level. By designating a focal point, Croatia recognizes the importance of fostering collaboration among different stakeholders to ensure that Charter principles are effectively integrated into policies and practices, extending beyond the legal sphere. The establishment of the Charter focal point represents a proactive approach to raising awareness on the Charter rights by public administration bodies and CSOs.

NHRI Practice: Ombudswoman's analysis on conscientious objection (2022)

- **Background:** In 2022, the Ombudswoman of Croatia addressed the contentious issue of conscientious objection, particularly in healthcare debates concerning reproductive rights (namely, abortion).
- **Aim of the analysis:** The analysis aimed to provide clarity on the legal framework for conscientious objection, including the EU Charter of Fundamental Rights.
- **Key points from the analysis:** The EU Charter of Fundamental Rights, specifically Article 10, safeguards the right to freedom of thought, conscience, and religion. This includes the right to conscientious objection, but the Charter leaves the regulation of this right to the discretion of individual Member States. Importantly, the analysis underscored the need to balance the right to conscientious objection with the right to healthcare, as guaranteed by the Charter's Article 35. This balance is essential to

ensure that both rights are protected effectively. The analysis emphasized that interpretations of EU law should align with the jurisprudence of the European Court of Human Rights and the Court of the European Union, reinforcing the significance of EU law consistency in respecting fundamental rights.

- **Impact and implications:** This NHRI practice serves as an example of how the EU Charter of Fundamental Rights can guide and inform complex discussions on fundamental rights issues. The analyses contributed to a more comprehensive and well-informed debate in Croatia
- **Link:** Ombudswoman of the Republic of Croatia, [Analysis: Conscientious objection – legal sources and standards](#), June 2022.

Data Protection Agency - a guide to the rights of data subjects

- **Background:** In 2021 the Data protection Agency published a guide to the rights of data subjects.
- **Aims of the guide:** this guide shows that data protection authorities can play a role in raising awareness of relevant aspects of the Charter, in this specific context data protection.
- **Key points:** The guide presents the rights of data subjects under the General Data Protection Regulation (Regulation (EU) 2016/679) and the Charter, to help citizens understand their rights as data subjects. It also covers mechanisms available for safe and confidential data processing.
- **Link:** [A guide](#)

Breakdown of legislative proposals where the EU Charter of Fundamental Rights was used or referred to

Title of the legislative file	Charter usage description
<p>Draft Audit Act (Prijedlog zakona o reviziji)</p>	<p>The Audit Act Draft was criticized during public consultation for harsh and disproportionate fines to be imposed on audit companies for potential breaches. The Government, as the initiator of the Bill, accepted the remark brought forward by Irena Dobrović that the proposed sanctions were not in line with the practice of other EU member states. Thus, the Audit Act would not respect the fundamental rights as set forth in the Charter. The remark was taken into consideration and the provisions regarding the determination of fines have been amended.</p> <p>“(...) In any case, Member States shall apply the same criteria when determining sanctions to be imposed. Such a proposal does not respect the fundamental rights set forth in the Charter of Fundamental Rights of the European Union (...)”</p>
<p>Draft Act on amendments to the Act on Protection of Population from Infectious Diseases (Prijedlog zakona o izmjenama i dopunama Zakona o zaštiti pučanstva od zaraznih bolesti)</p>	<p>The Draft suggests that vaccination against infectious diseases should be made voluntary instead of the existing obligatory immunization in certain legally defined cases. The provisions of the Charter were listed to support the statement of a group of Parliament members who claim that the provisions of the existing legislation are in collision with international and EU legal standards. In that light, their proposal is based, among other, on the principle of respect for the human dignity guaranteed in the Article 1, the right to the personal integrity guaranteed in Article 3 and the prohibition of torture and inhuman or degrading treatment or punishment outlined in Article 4 of the Charter. The Government did not support this legislative initiative explaining that the right of patients to be informed, as well as the modalities of their consent for certain medical procedures are regulated in other legislative acts.</p>
<p>Final proposal for the Act on amendments to the Act on Judicial Cooperation in Criminal Matters with the Member States of the European Union</p>	<p>The Charter was used as an argument to amend the legislation to guarantee the full enjoyment of the right to presumption of innocence and the rights of defence in criminal proceedings when issuing a European arrest warrant and European investigation order. Any limitation of these rights through limitation of personal freedom and carrying out of evidentiary actions should be entirely in accordance with the requirements laid down in Article 52 of the Charter in the light of the necessity, proportionality and the goals to be achieved.</p>

Title of the legislative file	Charter usage description
<p>(Konačni prijedlog zakona o izmjenama i dopunama Zakona o pravosudnoj suradnji u kaznenim stvarima s državama članicama Europske Unije)</p>	<p>The final draft of the Act was brought forward by the Croatian Government, including references to Articles 48 and 52 of the Charter, as support to the introduction of the new Article 3a of the Act related to the principle of respect of fundamental rights, stating that the procedures defined in this Act shall not affect the obligation to respect fundamental rights and freedoms defined in the Charter.</p> <p>Based on the draft, the Act on Amendments of the Act on Judicial Cooperation in Criminal Matters with the Member States of the European Union has been adopted in October 2017¹. The reference to the provisions of the Charter does not go beyond EIO and EAW.</p>
<p>Act on comparability of fees, transfer of payments accounts and access to basic account (Zakon o usporedivosti naknada, prebacivanju računa za plaćanje i pristupu osnovnom računu)</p>	<p>The text of the law invokes the Charter: Prohibition of Discrimination, Article 21 (1) A credit institution shall not discriminate a consumer submitting request for the opening of a payment account and/or using a payment account on the basis of his/her nationality or place of residence or on any other grounds referred to in Article 21 of the Charter of Fundamental Rights of the European Union, if the consumer has legal residence in the European Union.</p>
<p>Final proposal of Act on the capital market (Konačni prijedlog zakona o tržištu kapitala, PZE 321)</p>	<p>Charter was used in the explanatory memorandum of the Final proposal of Act on the capital market in order to explain more closely Articles 75-79 of the proposed Act that prescribe the obligations of the investment company in relation to management and keeping business documentation, especially with regard to recording telephone calls and electronic documentation. It explains that recording telephone calls or electronic communications that refer to client orders is in line with the Charter of Fundamental Rights of the European Union and justified with reasons of strengthening investor protection, improving market surveillance and increasing legal safety in the interest of investment companies and their clients.</p> <p>The Proposal with explanatory memorandum was submitted to the Croatian Parliament on 22 March 2018. The proposed Act was adopted on 6 July 2018 and published in the Official Gazette no 65/18.</p>

¹ Croatia, Official Gazette (*Narodne novine*) No. 102/2017

Title of the legislative file	Charter usage description
<p>Proposal and Final proposal of the Act on protection of individuals with regard to the processing and exchange of personal data for the purpose of prevention, investigation, detection or prosecution of criminal offenses or the execution of criminal sanctions</p> <p>(Prijedlog i Konačni prijedlog zakona o zaštiti fizičkih osoba u vezi s obradom i razmjenom osobnih podataka u svrhe sprječavanja, istraživanja, otkrivanja ili progona kaznenih djela ili izvršavanja kaznenih sankcija, PZ 350)</p>	<p>The explanatory memorandum of the Proposal and Final proposal of the Act on protection of individuals with regard to the processing and exchange of personal data for the purpose of prevention, investigation, detection or prosecution of criminal offenses or the execution of criminal sanctions includes the assessment of the current situation, main issues that shall be regulated by the Act and the consequences of the legislation proposed. In the introductory part it is emphasized that protection and privacy of personal data represent one of the fundamental freedoms and rights of every individual, as granted by the Article 37 of the Constitution, Article 8 paragraph 1 of the Charter of Fundamental Freedoms of the EU and Article 16 paragraph 1 of the Treaty on the Functioning of the EU which all determine the right to protection of personal data. The Proposal of the Act also entails an assessment of the harmonization of draft provisions with EU secondary legal sources, namely Directive (EU) 2016/680. Regarding the powers of the surveillance authority, Article 47 of the Directive refers to provisions of the Charter and according to the impact assessment, provisions of this article have been fully transposed to the provisions of the proposed Act.</p> <p>The Proposal with explanatory memorandum was submitted to the Croatian Parliament on 30 May 2018. The proposed Act was adopted on 13 July 2018 and published in the Official Gazette no 68/18.</p>
<p>Proposal of the Act on ratification of the Council of Europe Convention on preventing and combating violence against women and</p>	<p>The explanatory memorandum of the Proposal of the Act on ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence includes the assessment of the current situation and the aim of the legislation proposed. While addressing the subject matter and the existing regulation thereof, the Government assessed the regulation of the issue of violence against women and stressed that the equality between men and women is a fundamental value and goal of the European Union as recognized by the Treaty on the European Union (Articles 2 and 3) and the Treaty on the functioning of the</p>

Title of the legislative file	Charter usage description
<p>domestic violence, with Final proposal</p> <p>(Prijedlog zakona o potvrđivanju Konvencije Vijeća Europe o sprečavanju i borbi protiv nasilja nad ženama i nasilja u obitelji, s Konačnim prijedlogom zakona, PZ 318)</p>	<p>European Union (Article 8). It further emphasized that this is also acknowledged in the European Union Charter of Fundamental Rights (Article 23), which as well recognizes the right to humanity dignity, right to life and right to integrity of the person, and bans inhumane or degrading treatment as well as all forms of slavery and forced labor (Articles 1 - 5). Act was adopted on 13 April 2018 and published in the Official Gazette – International Contracts no.3/2018.</p>
<p>Act on Protection of Non-Published Information with Market Value (OG 30/18)</p> <p>(Zakon o zaštiti neobjavljenih informacija s tržišnom vrijednosti(NN 30/18))</p>	<p>Exceptions (*of the right granted in Article 7(1) according to which holders of professional secret have the right to request measures, procedures and remedies prescribed by this law in order to prevent unlawful acquisition, use or disclosure of the professional secret and receive protection in that matter.)</p> <p>Article 8</p> <p>The court shall reject the application for the measures, procedures and remedies referred to in Article 7, paragraph 1 of this Act when the alleged acquisition, use or disclosure of a professional secret is done in any of the following cases:</p> <ol style="list-style-type: none"> 1. in order to exercise the right to freedom of expression, the right to access information and the freedom to report, in accordance with the Constitution of the Republic of Croatia and the Charter of Fundamental Rights of the European Union, as well as the law governing the right to access information and the law regulating media reporting, in line with respect for freedom and pluralism of the media 2. for the purpose of detecting omissions, transgressions or illegal activities, provided that the counterparty acted with the purpose of protecting the public interest 3. for disclosure of professional secrets by workers to their representatives in the course of the lawful exercise of functions of those representatives, in accordance with special regulations or the <i>acquis communautaire</i>, provided that such disclosure was necessary for that performance or

Title of the legislative file	Charter usage description
	4. For the purpose of the protection of legitimate interests recognized by special regulations or by the <i>acquis communautaire</i> .
<p>Draft Act on Processing of Biometric Data and Final draft Act on Processing of Biometric Data (Prijedlog Zakona o obradi biometrijskih podataka i Konačni prijedlog Zakona o obradi biometrijskih podataka)</p>	<p>Articles of the Charter were used and cited in order to emphasize all the rights that were taken into consideration and will be protected through the Act on Processing of Biometric Data. The need to unify and strengthen information tools of the EU and the Republic of Croatia with regards to border control, migration and security as well as their connection was stressed in the legal scrutiny preceding the adoption of the Act. The Act is being adopted in order to ensure the interoperability of information systems within the Republic of Croatia and their interoperability with information systems of the EU through common technical solution for comparison of biometric samples, considering that information management in the EU and in Croatia shall be more efficient and with full respect of fundamental rights, especially the right to protection of personal data. The Act sets up conditions to process biometric data in information systems within Croatia and in EU information systems connected to them.</p> <p>Among others, the following Charter provisions were mentioned and it was stressed that the adoption of this Act shall contribute to their respect and implementation: protection of personal data (Article 8), right to identity (Article 7), right to life (Article 2), prohibition of slavery and forced labour (Article 5), right to asylum and protection in the event of removal, expulsion or extradition (Articles 18-19) etc.</p>
2020	
<p>Proposal for the Act on the Ombudsperson for the Older Persons (Prijedlog zakona o pravobranitelju za starije osobe), No. P.Z.847 and P.Z.944</p>	<p>The legislative proposal assesses the current situation, the basic questions it needs to address and the consequences of its adoption. Within this assessment, the international legal framework for the protection of the elderly was analysed to stress how important it is for the society to adapt to the needs of the elderly, as underlined by the UN and the EU. In light of that, the assessment referred to the provision of the EU Charter which recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.</p>

Title of the legislative file	Charter usage description
<p>Proposal for the Act on National Allowance for the Older Persons, with the Final proposal for the Act</p> <p>(Prijedlog zakona o nacionalnoj naknadi za starije osobe, s Konačnim prijedlogom zakona), No. P.Z.947</p>	<p>The legislative proposal assesses the current situation, the basic questions it needs to address and the consequences of its adoption. The assessment of the existing circumstances provides an analysis of EU sources over the decades referring to the need for ensuring a basic income for the elderly. The proposal stresses that the Community Charter of the Fundamental Social Rights of Workers which was accepted and confirmed by the Croatian Parliament provided for basic social rights that are now part of the EU Charter on Fundamental Rights. This means that they are obligatory for Croatia after having ratified the Treaty on EU and the Treaty on the Functioning of the EU.</p>
<p>Proposal of Amendments to the Competition Act, P.Z.E. No. 107, January 2021</p> <p>Act on Amendments to the Competition Act, Official Gazette 41/21, April 2021</p>	<p>The act transposes the ECN+ Directive into Croatian national legislation i.e., aims to harmonise national legislation in the field of competition law with the <i>acquis communautaire</i>. Among other things, it proposed that the general principles of European Union law and the Charter of Fundamental Rights of the European Union are respected in proceedings related to infringements of the Competition Act and Article 101 or Article 102 of the TFEU. This was included in Article 2 (b) of the Act on Amendments to the Competition Act which was adopted in April 2021.</p>
<p>Proposal of Consumer Protection Act, P.Z.E. No. 175, 2 September 2021</p>	<p>The act transposes the Treaty on European Union (hereinafter: TEU) and Directive (EU) 2019/2161 into Croatian national legislation i.e., aims to harmonise national legislation in the field of consumer protection with the <i>acquis communautaire</i>. The Proposal of Consumer Protection Act aims to contribute to achieving a high level of consumer protection through measures adopted in accordance with Article 114 of the TEU and Article 38 of the Charter.</p>
<p>Proposal of the Act on Electronic Communications, with Final Act Proposal</p>	<p>Article 7 of the proposed Act determines the competence of the Croatian Regulatory Agency for Network Activities as a national regulatory body for carrying out regulatory and other tasks in accordance with this and other relevant acts. In accordance with the provisions of Article 3 of Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 on the European Code of Electronic Communications, this</p>

Title of the legislative file	Charter usage description
<p>(Prijedlog zakona o elektroničkim komunikacijama, s Konačnim prijedlogom zakona), P.Z.E.286, June 2022</p>	<p>Article determines the basic goals of the Agency which will undertake all necessary measures in the performance of regulatory tasks. It also determines the method actions to achieve those goals.</p> <p>The Charter was used in Article 7 of the proposed Act transposing the Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code, more concretely Article 100, paragraph 1 of the Directive. The proposal of the Act also indicated that paragraph 2 of Article 100 of the Directive has not been transferred, because “the application of Charter and principles of proportionality in limiting rights should not be prescribed by special laws because the Charter forms part of the law of the Republic of Croatia and its provisions are directly applicable, and the principle of proportionality in the limitation of the established rights is an integral part of the established practice of the Constitutional Court of the Republic of Croatia.</p>

THE CHARTER AND THE COURTS

The following court decisions serve as valid examples of how the EU Charter of Fundamental Rights is effectively integrated into national case law within Croatia. They demonstrate that the Charter plays a pivotal role in safeguarding individual rights and principles enshrined in EU law, ensuring consistency and adherence to fundamental values across member states. In each case, the Charter is explicitly referenced to uphold the principles of equality, effectiveness in judicial proceedings, data protection, and access to remedies and a fair trial. These decisions underscore the critical role of the Charter in shaping legal interpretations, guiding national courts to align domestic laws with EU standards, and guaranteeing that individuals' rights are respected and protected within the broader European legal framework. Ultimately, these cases exemplify how the Charter serves as a fundamental reference point for legal reasoning and decision-making at the national level, reinforcing the significance of EU principles in shaping national jurisprudence.

LIST OF SAMPLED COURT DECISIONS REFERRING TO THE CHARTER

Constitutional Court of the Republic of Croatia - U-I-60/1991 i dr. from 2017

http://narodne-novine.nn.hr/clanci/sluzbeni/2017_03_25_564.html

In the period from 1991 to 2016, seven applicants, both natural persons and civil society organizations, lodged requests to challenge the constitutionality of the legislation regulating child birth decision making, which grants abortion on request during the first ten weeks of pregnancy and thereafter in the case of indications. The applicants claimed that the Act on health measures for exercising the right to free decision-making on childbirth (Zakon o zdravstvenim mjerama za ostvarivanje prava na slobodno odlučivanje o rađanju djece) is not constitutional, as Article 21 of the Constitution grants the right to life that is placed before and above all other human rights. The key legal question was Is the existing abortion regulation compatible with the Constitution

The Court decided that the legislation which allows for an abortion on request during the first 10 weeks of pregnancy and thereafter in cases of medical, ethical and eugenic indications is compatible with the Constitution. It maintains a fair balance between the right to privacy of a pregnant woman and the public interest for the protection of unborn life, which is a constitutional value. The Constitutional Court ordered the legislator to draft educational and preventative measures to make termination of pregnancy an exception. The Court ordered the Croatian Parliament to enact new legislation in accordance with the contemporary circumstances and challenges within two years.

In its decision the Constitutional Court stated the following:

"Article 1 of the Charter of Fundamental Rights of the European Union (Official Journal of the European Union, C 83/389, 30/03/2010) reads: 'Human dignity is inviolable, it must be respected and protected.' In the European Union, human dignity is the first indivisible and universal value.

In the present case, the Court referred to its case-law to reaffirm the right to human dignity as absolutely protected, non-derogable and incomparable. For that purpose, the Court referred to Article 1 of the Charter.

Constitutional Court of the Republic of Croatia - U-III-1095/2014 from 2017

[https://sljeme.usud.hr/usud/praksaw.nsf/94b579567876f9fcc1256965002d1bf4/c12570d30061ce54c12581a3002cb3d0/\\$FILE/U-III-1095-2014.pdf](https://sljeme.usud.hr/usud/praksaw.nsf/94b579567876f9fcc1256965002d1bf4/c12570d30061ce54c12581a3002cb3d0/$FILE/U-III-1095-2014.pdf)

On 10 May 2003, the applicant, who was twelve years old at the time, was shopping with his father in a Getro store in Rijeka. After the purchase has been made, the anti-theft alarm went off while the applicant was passing through the doors. The security guard started checking the applicant in a manner causing fear and shame in front of a large group of people. The security guard requested him to empty his pockets. Upon the applicant's father's request, the assistant workers decided to call the police. Even though the police concluded that no theft has been made, the security guard nevertheless checked the applicant's shoes as well.

In accordance with the Civil Obligations Act, the court of first instance granted the applicant a compensation for non-material damages in relation to the violation of the right to human dignity and reputation and for the violation of his personality. The county court confirmed the first violation, but decided to deny the second violation, reasoning that a twelve-year-old child cannot develop a sense of a personality. The Supreme Court of the Republic of Croatia has nullified the decision of the County Court.

In the proceedings, the Constitutional Court assessed the question whether the County Court, a court of second instance, violated the applicant's constitutional right by invoking a part of the expert findings and opinion according to which the applicant, as a person in the pre-adolescent period, cannot perceive himself outside the family context and thus did not have a developed personality. On the basis of these findings, the County Court rejected a part of the claim for compensation for immaterial damages caused by the violation of dignity, reputation and honour.

According to observations of the Constitutional Court, the second-instance court made an arbitrary conclusion that the applicant, a 12-year-old child, who has not formed a perception of his personal reputation and dignity, does not have a right to compensation of damages on that basis.

The Constitutional Court finds that the applicant's right to a fair trial granted by Article 29 of the Constitution has not been respected by the court of second instance in relation to the exercise of his right to respect for and legal protection of each person's private and family life, dignity and reputation guaranteed in Article 35 of the Constitution.

Therefore, the Constitutional Court has nullified the decisions rendered by the courts of lower instances and remanded the case to the County Court for a new trial.

When deciding about the protection of applicant's constitutional rights, the Constitutional Court has referred to the Article 1 of the Charter to additionally support their opinion in order to provide full protection of the person's constitutional rights to dignity and reputation.

Constitutional Court of the Republic of Croatia - U-III-208/2018 from 2018

[https://sljeme.usud.hr/usud/praksaw.nsf/94b579567876f9fcc1256965002d1bf4/c12570d30061ce54c12582c80046bbe4/\\$FILE/U-III-208-2018.pdf](https://sljeme.usud.hr/usud/praksaw.nsf/94b579567876f9fcc1256965002d1bf4/c12570d30061ce54c12582c80046bbe4/$FILE/U-III-208-2018.pdf)

Nurettin Oral, a citizen of the Republic of Turkey and resident of the Swiss Confederation, was deprived of liberty while crossing the Croatian border with Serbia as he was found in security database given that arrest warrant for him was issued by Turkish authorities.

The court of first instance found that all the legal preconditions for the extradition of the applicant to the Republic of Turkey were fulfilled due to the prosecution of the criminal offense of violating national unity and territorial integrity. The Supreme Court rejected the applicant's appeal and approved the extradition. He appealed to the Constitutional Court with respect to decisions of the courts of lower instance to ascertain whether the conditions for extradition to the Republic of Turkey on the basis of the International Criminal Matters Act were fulfilled. In constitutional complaints, the applicant disputes the decision of the County Court in Vukovar and the Supreme Court of the Republic of Croatia that established that the conditions for extradition were met and the Constitutional Court upheld the applicant's appeal, abolished the above-mentioned decisions and returned the case to the County Court for redecision. The complainant's main complaint referred to the fact that the competent authorities (Vukovar County Court and Supreme Court) failed to take into account applicant's refugee status when making the disputed decisions.

The Constitutional Court abolished the decisions of lower instances allowing for extradition and referred the case back to the County Court as it has found that their reasoning was contrary to the provision of the Croatian Constitution referring to the right to fair trial (Article 29), extradition of third country nationals (Article 33,p.2) and application of EU law (Article 141c).

Taking into account the importance of the principle of mutual trust between the participating countries of the Dublin system, and the fact that Swiss competent authorities recognized the applicant as a refugee in accordance with the Dublin system settings and principles, including a presumption of respect for the fundamental rights of the applicant by Swiss authorities, the Constitutional Court ruled that the decision of domestic bodies according to which the applicant would be extradited despite such positive assessment would constitute a violation of Article 33, paragraph 2 of the Croatian Constitution that regulates extradition of aliens. It also established that it would represent a violation of non-refoulement principle which the Republic of Croatia is obliged to respect not only as a Member State of the European Union, but also by the mere fact that it is a party to the Geneva Convention and its 1967 Protocol.

The Constitutional Court emphasized that the European Court of Justice has stressed the importance of mutual trust between the Member States participating in the Dublin system i.e. the common European asylum system. In the main decision in this area, in case C-411/10 N. S. v Secretary of State for the Home Department and C-493/10 M. E., A. S. M., M. T., K. P., E. H. v Refugee Applications Commissioner, Minister for Justice, Equality and Law Reform (from 12 December 2011) the European Court of Justice found that "it should be assumed that the

treatment of asylum seekers in all Member States meets the requirements of the Charter, the Geneva Convention and the European Court.”

Constitutional Court of the Republic of Croatia - U-I-2911/2017 from 2019

[https://sljeme.usud.hr/Usud/Praksaw.nsf/C12570D30061CE54C125839B003D1FBA/\\$FILE/U-I-2911-2017.pdf](https://sljeme.usud.hr/Usud/Praksaw.nsf/C12570D30061CE54C125839B003D1FBA/$FILE/U-I-2911-2017.pdf)

The applicant, High Administrative Court of the Republic of Croatia, submitted on 27 June 2017 a request to the Constitutional Court of the Republic of Croatia to review conformity with the Constitution of Article 434 and Article 435 of the Public Procurement Act (OG 120/16), which refer to the judicial protection/channels to appeal against the decision of the State Commission for the Control of Public Procurement Procedures as well as the liability for damages.

The applicant claimed that by prescribing the jurisdiction of the High Administrative Court of the Republic of Croatia the legislator 'skipped' the first instance administrative courts that have jurisdiction over deciding on the legality of administrative acts, including the decision of the State Commission for the Control of Public Procurement Procedures.

The Court assessed whether the provisions of the Public Procurement Act indeed violated the constitutional guarantees of the right of appeal and the independence and impartiality of the judiciary by prescribing the jurisdiction of the High Administrative Court instead of courts of lower instance for deciding about the legality of administrative act i.e. decisions of the State Commission for the Control of Public Procurement Procedures.

The Constitutional Court rejected the request for review and noted that the request claims have not been substantiated in more detail by constitutional law but rather expressed as viewpoints.

The request was rejected based on a thorough elaboration of the provisions of national law in the light of the constitutional and Charter provisions.

Constitutional Court of the Republic of Croatia - U-I-503/2018 from 2020

[sljeme.usud.hr/Usud/Praksaw.nsf/C12570D30061CE54C1258598002D4DEB/\\$FILE/U-I-503-2018.pdf](https://sljeme.usud.hr/Usud/Praksaw.nsf/C12570D30061CE54C1258598002D4DEB/$FILE/U-I-503-2018.pdf)

The petitioner submitted a proposal for a constitutional review of Article 54 (1) of the Act on International and Temporary Protection. The petitioner states that the disputed article is contrary to Article 22 (2) of the Constitution which stipulates that "no one shall be deprived of their liberty nor their liberty may be restricted, save in so far as provided by law and as decided by a court of law". In the same vein, the petitioner considers that the restriction of freedom of movement to a foreign national, including accommodation of applicants for international protection, should not be decided on by an executive body, namely the Ministry of the Interior, but only by the court of law. The Constitutional Court considers that the relevant legal norms applicable in this case are Article 22 of the Constitution, Article 5 of the ECHR and Article 6 and 52 of the Charter.

The Constitutional Court concludes that EU Member States can independently decide on the entry, stay and expulsion of applicants for international protection. However, not only the provisions of the Constitution must be respected when deciding on the application of measures that may restrict the movement of applicants for international protection and foreign nationals in transfer, but also other EU documents which stipulate that decisions on the restriction of movement can be made by administrative or judicial bodies. The court stressed that to protect the right to liberty guaranteed by the Constitution, the ECHR and the Charter, the restriction of liberty can occur only based on exhaustively listed grounds prescribed by law.

The Constitutional Court referred to the case law of the Court of Justice of the EU (CJEU). It emphasized that the case law has already established that the restriction of the fundamental right to liberty is subject to compliance with a set of preconditions aimed precisely at limiting the use of such measure (Judgement of the Court of 15 February 2016, *J. N. v. Staatssecretaris van Veiligheid en Justitie*, C-601/15 PPU, EU:C:2016:84, p. 57)

The Constitutional Court has directly referred to the provisions of the Charter in the present case as the basis for its argumentation. The Constitutional Court emphasized that its provisions should be interpreted and applied in the light of the above EU regulations and the existing case law of the Court of Justice of the European Union.

Constitutional Court of the Republic of Croatia - U-III/3917/2021

<https://www2.iusinfo.hr/sudska-praksa/USRH2021B3917AIII>

The Constitutional Court accepted the reasoning of the disputed first instance decision rendered in accordance with the Declaration on the Inter-State Relations between Croatia and Slovenia, which took the position that the border line at sea in the Gulf of Piran should be established according to the criterion of equidistance (equal distance from the coast) in the middle of the bay, and while that line at sea is not established, the States are obliged to refrain from any form of exercise of power across the centreline at sea in the gulf. Therefore, the applicant, as a professional fisherman, must and could have been aware of the different positions of the neighbouring states regarding the state border in Savudrijska Vala, and that by crossing the centreline in that part he would expose himself to committing an offence. Following this reasoning, the Constitutional Court found the applicant's complaints about the violation of the principle of legality as not founded.

However, dissenting opinions were made by two constitutional judges who expressed their concerns about the Constitutional Court decision failing to take into consideration the "EU aspects" of this case. Even though Charter provisions did not represent a decisive factor in this case, the argumentation brought in the dissenting opinion stressed the relevance of taking into consideration the EU aspects of legal questions in front of domestic courts, including rights granted by the EU Charter. The judges stressed the importance of assessing the issue in question in light of EU obligations taken over by Member States when accessing the EU, and expressed concern about what they see as a trend of undermining the constitutional position of EU law in the Republic of Croatia.

[Constitutional Court of the Republic of Croatia - U-I-1039/2021, U-I-1620/2021](#)

The Constitutional Court rejected the requests submitted by the petitioners for constitutional review of Article 44a of the Courts Act, which prescribes the procedure for electing the president of the Supreme Court. The petitioners argued that Article 44a of the Courts Act is unconstitutional because it prescribes a different procedure from that set out in Article 119 (2) of the Constitution. Specifically, Article 119 (2) of the Constitution prescribes that "the president of the Supreme Court of the Republic of Croatia shall be appointed and dismissed by the Croatian Parliament at the proposal of the President of the Republic, following a preliminary opinion of the General Session of the Supreme Court of the Republic of Croatia and of the competent committee of the Croatian Parliament". On the other hand, Article 44a of the Courts Act stipulates that the procedure for electing the president of the Supreme Court is initiated via a public call for candidates launched by the State Judicial Council. After receiving candidate applications, the State Judicial Council submits them to the Office of the President of the Republic of Croatia, which will request an opinion on the candidates from the General Session of the Supreme Court of the Republic of Croatia and the competent committee of the Croatian Parliament.

The Constitutional Court concluded that the President of the Republic is authorized to nominate only a candidate who responded to a public call launched by the State Judicial Council, however the President is not bound by the opinion of the General Session of the Supreme Court and the Judiciary Committee of the Croatian Parliament when submitting the proposal to the Croatian Parliament. The Constitutional Court stressed that the Courts Act does not restrict the President of the Republic who, according to the Constitution, nominates a candidate elected by the Croatian Parliament.

The Constitutional Court held the Charter applicable through the case law of the CJEU, and particularly through the decisions made by the CJEU in cases against Poland related to the protection of the independence of the judiciary as a precondition for the rule of law.

[Constitutional Court of the Republic of Croatia U-III-5963/2020](#)

The citizen of Panama was arrested in 2017 upon arrival at the airport in Dubrovnik, Croatia, based on an international search for arrest and extradition launched by Interpol Panama for committing the offense of fraud as prescribed by the criminal law of Panama. After the lengthy process regarding the approval of his extradition to Panama, the competent court ruled against his extradition because legal preconditions for extradition had not been met.

In parallel, in October 2018 the applicant submitted a request for international protection to the Shelter for asylum seekers in Zagreb. International protection was denied by the Ministry of Interior and the applicant appealed to the courts of all instances which confirmed the Ministry's decision. Before the Ministry and the administrative courts the applicant claimed that he will be prosecuted in the country of origin for belonging to a particular social group and race, that there is a serious threat to his life i.e. that upon returning to his country of origin he would be prosecuted in a politically motivated proceedings that would not meet the standards of a fair trial and would, consequently, be placed in a prison where he would be abused and his life would be endangered. Finally, the applicant filed a constitutional complaint

which was rejected by the Constitutional court of the Republic of Croatia which found that the institutions of lower instance decided correctly when deciding against granting international protection to the applicant.

The Constitutional Court assessed the grounds for deciding against granting international protection to the applicant.

The Constitutional court of the Republic of Croatia rejected the constitutional claim and found that the institutions of lower instance decided correctly when deciding against granting international protection to the applicant. The Constitutional Court held the Charter applicable through listing the provisions relevant for the assessment of the applicant's right to asylum and protection from inhuman or degrading treatment

[Constitutional Court of the Republic of Croatia - U-I/5695/2014](#)

The central focus of this court decision is the examination of the constitutionality of specific provisions within the Aliens Act of the Republic of Croatia. In particular, the court was tasked with evaluating the compliance of Article 135, paragraphs 1 and 2 of this Act, which pertain to the placement and extension of placement of third-country nationals in Reception Centers for Foreigners. The core issue at hand was to ascertain whether these provisions align with the Croatian Constitution, especially concerning the protection of individual freedoms and rights. This case delves into the intricate balance between safeguarding national interests and respecting the rights of individuals, as enshrined in EU law, the Croatian Constitution, and the EU Charter of Fundamental Rights.

The legal question posed by the court in this decision revolved around the compatibility of the provisions within the Croatian Law on Foreigners, specifically Article 135(1) and (2), which deal with the detention and restriction of movement of third-country nationals in Prihvatni centar za strance (Reception Centers for Foreigners), with the fundamental rights and principles outlined in the EU Charter of Fundamental Rights. This inquiry predominantly pertained to the right to liberty and security (Article 6), the right to an effective remedy and a fair trial (Article 47), and the scope and interpretation of these rights (Article 52) within the EU Charter of Fundamental Rights. Essentially, the court sought to establish whether the Croatian legal provisions under scrutiny adhered to the standards set forth in the EU Charter of Fundamental Rights, particularly in the context of the treatment of third-country nationals concerning their liberty, access to remedies, and fair trial rights.

The court decision upheld the legality of specific provisions within Croatian law (ZoS:130/11-53/20) that relate to the detention and restriction of movement of third-country nationals. The court placed a significant emphasis on the need to harmonize domestic law with EU standards and directives, all while ensuring that the rights of individuals, especially their freedom, receive adequate protection. The court's conclusion was that the contested provisions did not violate Article 22, Paragraph 2, of the Croatian Constitution.

The EU Charter of Fundamental Rights played a role in this court decision by serving as a reference point for assessing the legality of measures restricting the freedom of third-country nationals. The decision consistently emphasized the need to align domestic law with EU standards, and the EU Charter was a fundamental component of these standards. The Charter

acted as a guiding framework for interpreting and assessing the constitutionality of relevant legal provisions, ensuring that the rights of individuals are respected and protected within the broader European legal context. The court decision references Articles 6, 47, and 52 of the EU Charter of Fundamental Rights to underscore the fundamental principles that must be adhered to when restricting individual liberties, particularly in the context of third-country nationals. These references were cited within the court decision to provide a legal framework for the assessment of the case.

Supreme Court of the Republic of Croatia - II-8 Kr 3/17-4

<https://sudskapraksa.csp.vsrh.hr/decisionPdf?id=090216ba8077f218>

On 21 October 2008, S.C. in complicity with O.J., I.K., D.A., and H.A, threw a homemade Molotov cocktail at the Turkish Embassy in Helsinki, causing fire and material damage. The Finnish Court finally convicted the defendant for sabotage in 2009. S.C., a Finnish citizen, was arrested in Croatia following a Turkish international arrest warrant, as Turkish authorities initiated criminal proceedings for the same event, but on different legal grounds. In accordance with non bis in idem principle, the Supreme Court confirmed the County Court in Dubrovnik decision denying C.S.'s extradition to Turkey, concluding that the legal conditions for extradition have not been met.

Following the fact that the defendant has already been finally convicted in Finland, the legal question that arose was whether the Finnish final judgment can be considered equal to a domestic judgement in accordance with the Croatian legislation, considering the fact that both Croatia and Finland are members of the European Union.

Respecting the fact that Croatia has become a full member of the European Union on 1 July 2013, the Supreme Court holds that the Dubrovnik County Court was right to include the courts established in other EU member states under the scope of the term "domestic court" for the purpose of Article 35 (1) point (5) of the Act on international legal assistance in criminal matters. It is in accordance with the right of all EU citizens to equal protection in all Member States, in order to ensure the principle of non-discrimination on the basis of nationality and the freedom of movement and residence in the Union. The Court used Article 45 of the Charter to extend the term "domestic court" to courts established in other EU member states for the purpose of interpreting Article 35 (1) point 5 of the Act on International Legal Assistance in Criminal Matters. The Court correctly interpreted the principle of non-discrimination based on EU nationality from Article 45 of the Charter, and the principle of double jeopardy from Article 50 of the Charter.

Supreme Court of the Republic of Croatia - Nr. I Kž 464/2018-4 from 2018

<https://sudskapraksa.csp.vsrh.hr/decisionView?id=090216ba808cce3a&q=I+K%C5%BE+464%2F2018-4>

The Supreme Court of the Republic of Croatia abolished the decision on the extradition of the Swedish citizen F.Y. to Norway issued by the County Court in Dubrovnik. Instead of considering the applicant's appeal, the Supreme Court returned the case to the court of first instance for reassessment because the reasoning of the decision in question did not contain necessary

reasons regarding the decisive facts in relation to the extradition status of F. Y. as a citizen of the European Union and the extradition procedure to the Kingdom of Norway as a non-EU country.

Given that the signed Agreement on extradition between the EU and the Republic of Island and the Kingdom of Norway has not yet entered into force, for the time being the Kingdom of Norway shall be considered a third country when it comes to the international legal assistance among Norway and EU Member States. In addition, as a Member State of the EU Croatia is bound by the EU legal sources, including TEU, TFEU, EU Charter and standards set by ECJ. In this case, the fact that the person whose extradition was approved by the Republic of Croatia was a citizen of another EU country was not taken into consideration. Based on the ECJ case law, the freedom of movement cannot result in different treatment of EU citizens in relation to the MS they have found themselves in. Therefore, in this case the European arrest warrant would have prevailed over the third country's extradition request which means that firstly the information shall be exchanged with the Kingdom of Sweden as the person in question is a Swedish national. Only after establishing that Sweden would not request the extradition of its national, the preconditions for the extradition to Norway could be considered by the Croatian court of first instance.

The Supreme Court referred the case to the court of first instance to reconsider the decision as it has established that it has omitted to take into consideration the fact that the person was an EU national when deciding about his extradition. The Supreme Court found that the information shall be exchanged with the EU country of nationality, in order to determine whether that country would request the extradition of its national, before deciding on extradition of an EU-national to a third country.

The Court used the Charter in order to warn that in the frame of assessment of preconditions for extradition to the third country, the court deciding on the extradition shall take into consideration compliance of the extradition with the EU Charter provisions on the protection in the event of removal, expulsion or extradition, as well as with national legal regulations on international judicial cooperation.

[Supreme Court of the Republic of Croatia - I Kž 528/2019-16 from 2020](#)

On 20 May 2015, Interpol's Bureau in Moscow issued an international wanted persons notice for I.N. for his arrest, on account of criminal proceedings for passive corruption. On 30 June 2019, I.N. was arrested in Croatia at the border control between Slovenia and Croatia, where he was seeking to enter the territory as a bus passenger in possession of an Icelandic travel document for refugees. The County Court in Zagreb received a note from the Embassy of Iceland confirming that, since 19 June 2019, I.N. has been a citizen of Iceland and has the status of a permanent resident in Iceland. The note also stated that the Icelandic Government requested that I.N. be guaranteed safe passage to Iceland with a minimum of delay. On 6 August 2019, the County Court in Zagreb received a request from the Public Prosecutor's Office of the Russian Federation for the extradition of I.N. to that third State, in accordance with the provisions of the European Convention on Extradition on account of criminal proceedings against him for several offences of passive corruption. On 5 September 2019, the

County Court in Zagreb held that the legal conditions for the extradition of I.N. were met. I.N. appealed against that order to the Supreme Court of Republic of Croatia. He claimed that there is a concrete, serious and reasonably foreseeable risk that, if he were extradited to the Russian Federation, he would be subjected to torture and inhuman and degrading treatment. He also pointed out that his status as a refugee had been recognised in Iceland precisely on account of the actual criminal proceedings of which he had been the subject in Russia.

The court of first instance ruled that the legal preconditions from the Croatian Act on Mutual Legal Assistance in Criminal Matters (OG No. 178/04) were met for the extradition of a foreign national, citizen of Russian Federation and Iceland, to the Russian Federation following an extradition request in relation to committing 14 criminal offences of passive bribery according to the Russian criminal legislation. The Supreme Court, as a court of second instance, noted that the court of first instance omitted to analyse in detail the fact that the foreign national was granted asylum in Iceland and subsequently acquired Icelandic citizenship. Following the extradited person's appeal, the Supreme Court annulled the first-instance decision and returned the case to the court of first instance for retrial.

In this case the Supreme Court referred to the Court of Justice of the EU for a preliminary ruling EU (Judgment of the Court (Grand Chamber) of 2 April 2020). The Supreme Court questioned whether the EU law applies equally to EU citizens and Icelandic citizens, since Iceland is a part of Schengen acquis, participates in the common asylum system and is a signatory to the EFTA and EEA Agreements.

Following the preliminary ruling of the CJEU, the Supreme Court requested from the first instance court to reassess the case and verify whether the extradition may undermine the rights under Article 19 of the Charter as well as the existence of legal conditions for extradition under the national law.

[County Court in Zagreb - Gž Ovr - 532/2021-2](#)

Court of appeal rules that the court of first instance, when denied the motion to delay enforcement, did not take into account the principle of effectiveness (Article 47 of the Charter of Fundamental Rights of the European Union, Article 4 of the Treaty on European Union). If the real estate would be sold in the enforcement procedure, and in the civil procedure would be ruled in favor of the debtor, the debtor could subsequently obtain protection in the form of monetary compensation only.

That kind of compensation would be incomplete and insufficient, since in the enforcement procedure the real estate, which in nature is a debtor's house, would be sold and irretrievably lost. Therefore, that kind of protection, in terms of the principle of effectiveness, would not represent an adequate or effective measure of protection. Key legal question raised by the court:

The key legal question raised by the court was whether the first-instance court, when denying the motion to delay enforcement, properly considered and applied the principle of effectiveness as mandated by Article 47 of the Charter of Fundamental Rights of the European Union and Article 4 of the Treaty on European Union, especially in the context of the potential

sale of the debtor's real estate and the subsequent possibility of obtaining protection only in the form of monetary compensation, which could be incomplete and insufficient.

[High Administrative Court of the Republic of Croatia - Usž 3388/2021-2](#)

The case involves a dispute related to access to personal data between the plaintiff, a credit recipient, and the defendant, a bank. The plaintiff requested access to specific personal data contained in credit documentation, arguing it was her right under data protection regulations.

The customer filed a complaint with the Croatian Personal Data Protection Agency, which ordered the bank to provide the requested information. The bank appealed the decision to the Administrative Court, which upheld the agency's decision. The bank then appealed to the High Administrative Court, which also upheld the agency's decision.

The key legal question raised by the court was whether the bank was required to provide the customer with access to her personal data contained in loan documents under the EU Charter of Fundamental Rights and the General Data Protection Regulation (GDPR). The court needed to determine whether the requested credit documentation constituted personal data and whether the plaintiff had a legitimate right to access it.

The court ruled that the bank was required to provide the customer with access to her personal data contained in loan documents under the GDPR and the EU Charter of Fundamental Rights. The court concluded that the requested credit documentation indeed contained personal data as defined by the GDPR. The defendant, the bank, was obligated to provide access to this information.

FUTURE POTENTIAL ROLE AND ADDED VALUE OF THE CHARTER TO STRENGTHEN THE FUNDAMENTAL RIGHTS SITUATION AT NATIONAL LEVEL

In the pursuit of strengthening fundamental rights protections at the national level, legal practitioners have a key role to play in harnessing the full potential of the EU Charter. Equally so, civil servants play an important role.

Indications of potential future improvements in the broader use of the Charter

- **Strengthening Charter awareness:** Despite increased awareness, there is room for improvement in educating the public, civil servants, and legal professionals about the Charter's provisions and significance. Conducting more workshops, training sessions, and public awareness campaigns can enhance understanding and particularly application.
- **Expanding Charter use in administrative practices:** Further efforts are needed to ensure that all administrative decisions and policies consider Charter rights. This may involve developing guidelines or best practices for public authorities and raising the awareness of those already existing through Public School for Public Administration (e.g. Applying the Charter of Fundamental Rights of the European Union in law and policymaking at national level – Guidance, which has been translated in Croatian recently)
- **Enhancing civil society engagement:** Civil society can play a vital role in monitoring Charter compliance, offering expertise, and advocating for fundamental rights. More platforms for dialogue and cooperation can be established. Additionally, resources should be ensured for the capacity building of CSOs on the Charter.
- **Continuous training:** Training programs for civil servants, judges, and other relevant professionals should be ongoing and adapted to evolving legal and societal contexts. Regular updates on Charter-related developments at the EU level can help ensure that these individuals stay informed and capable of applying Charter principles effectively. It is welcomed that both Judicial Academy and Public School for Public Administration have had various courses on the Charter – this should be a standing offer of these educational institutions.
- **Strengthening the role of the Charter focal point:** The Charter focal point can play a key role in coordinating Charter-related activities. Its mandate and responsibilities should be clearly defined and expanded to facilitate greater cooperation among state institutions, ombuds institutions, and non-governmental organizations. It should also promote the exchange of best practices.