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LIMITE

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NOTE

From: Presidency
To: Delegations

Subject: Council conclusions on the application of the Charter of Fundamental Rights in 2016

Delegations will find in the Annex the draft conclusions prepared by the Presidency. These conclusions will be examined in the Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons (FREMP) on 6 September 2017.

Delegations that so wish are invited to send their written comments by 28 August 2017 to the functional mailbox frempe@consilium.europa.eu

**COUNCIL CONCLUSIONS ON THE APPLICATION OF THE CHARTER OF
FUNDAMENTAL RIGHTS IN 2016**

I. INTRODUCTION

1. Common values, including respect for human rights, are the foundation of the European Union and our societies. The Council underlines that the European and national institutions should lead by example and continue to promote and uphold fundamental rights and values to ensure that they are a reality for everyone.
2. In 2016, several rights from the EU Charter of Fundamental Rights (the Charter) were given concrete effect through the adoption of a set of legal instruments: on the presumption of innocence and the right to be present at the trial;¹ on legal aid;² procedural safeguards for children³ as well as the establishment of a single set of data protection rules at EU level.⁴

¹ Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, OJ L 65, 11.3.2016, p. 1–11.

² Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings, OJ L 297, 4.11.2016, p. 1–8.

³ Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, OJ L 132, 21.5.2016, p. 1–20.

⁴ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1–88. Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement.

3. The Council welcomes the 2016 Commission Report on the application of the Charter⁵ as well as the Fundamental Rights Report 2017⁶ of the EU Agency for Fundamental Rights (the Fundamental Rights Agency). These reports underline developments that have taken place in the past year in the face of the challenges that the Union is currently facing.
4. The Council welcomes the Commission's proposal to establish a European Pillar of Social Rights⁷ that sets a framework for the way forward for future action by the participating Member States towards enhancing equal opportunities and access to the labour market, fair working conditions and social protection and inclusion.

II. MAKING THE RIGHTS OF THE CHARTER A REALITY

5. The Council acknowledges that the protection of fundamental rights is a horizontal issue, which affects all fields of EU activity and requires an intersectional approach. The Council welcomes the initiatives aimed at increasing awareness and improving the practical application of the Charter among policymakers, legal practitioners⁸ and the rights holders themselves, including enhanced use of e-Justice and other digital tools. The Council also supports greater consistency between the internal and external dimensions of EU human rights policy.

⁵ 9511/17.

⁶ 10744/17 + ADD 1 + ADD 2.

⁷ See doc. 8637/17.

⁸ e.g. the Council guidelines on methodological steps to be taken to check fundamental rights compatibility in the Council's preparatory bodies (5377/15) and the training course on 'Ensuring fundamental rights compatibility in the preparatory work of the Council' held in Brussels on 27 April 2017.

6. The Council acknowledges the role of the Fundamental Rights Agency over the last 10 years in providing assistance and expertise on fundamental rights issues across the EU. The Council encourages the Fundamental Rights Agency to enhance this commitment, for example, by fostering synergies and promoting cooperation between networks of government focal points, national human rights institutions, Member States, civil society organisations and citizens. The Council invites the Fundamental Rights Agency to work together with Member States to facilitate the exchange of good practices, tools and methods and to assist the Member States in their effort to develop effective strategies to raise awareness of and communicate fundamental rights, values and freedoms.
7. The Council underlines that civil society organisations play an important role in promoting and implementing fundamental rights on the ground, raising awareness of fundamental rights among rights holders and supporting their efforts to exercise and defend their rights as well as fighting misinformation about fundamental rights and rights protection. To fulfil their tasks they must be empowered and enabled to carry out their work.

a) Internal security

8. The Council reiterates that security and respect for fundamental rights are consistent and complementary policy objectives. As in all other policy areas, fundamental rights considerations need to be fully integrated into the preparation and assessment of EU legislation and policies affecting internal security.
9. In this context, the Council emphasises the importance of the right to privacy and the right to the protection of personal data in the follow up to the work of the High-Level Expert Group on Information Systems and Interoperability in line with the Council Conclusions of 9 June 2017 on the way forward to improve information exchange and ensure the interoperability of EU information systems.

b) Asylum, migration and integration

10. The Council emphasises the need to respect fundamental rights of migrants and asylum-seekers even in the face of pressing challenges in the areas of migration and asylum. The Council stresses that EU and national actions should particularly take into account the situation of refugees and migrants exposed to serious risks of abuse and exploitation by smugglers, with women and children facing greater risks of violence.⁹

c) Rights of the child

11. The Council highlights the importance of the protection of children and respect for the principle of the best interests of the child as a primary consideration in all policies affecting children.

d) Combating racism and xenophobia

12. The Council welcomes the measures coordinated by the Commission High Level Group on combating racism, xenophobia and other forms of intolerance. These include monitoring the code of conduct on countering illegal hate speech online,¹⁰ strengthening support for victims, countering illegal hate speech online and promoting media literacy and critical thinking, and increasing intercultural understanding through education. Against this background, the Conference organised by the Maltese Presidency on 'Counter-narratives: how to support civil society in delivering effective positive narratives against hate speech online' on 6-7 April 2017 confirmed the need for more cooperation and commitment from all stakeholders: the media, internet platforms and public authorities.

⁹ See, for example, the recent conclusions of the Council and the Member States on the protection of children in migration (10085/17).

¹⁰ Available at:
http://ec.europa.eu/justice/fundamentalrights/files/hate_speech_code_of_conduct_en.pdf

13. The Council looks forward to the results of the EU-MIDIS II survey carried out by the Fundamental Rights Agency to assess progress made over the past five years in protecting the fundamental rights of people with immigrant or ethnic background.

e) Violence against women

14. The Council welcomes that the 2017 Commission Colloquium on Fundamental Rights will be devoted to the promotion of women's rights and gender equality as an opportunity to address the economic and political empowerment of women, women's rights in public and private spheres of life and the fight against violence against women in all its forms. The latter also being the topic of focused actions throughout the year.¹¹

15. The Council has repeatedly expressed its commitment to preventing and eliminating all forms of gender-based violence. In this connection, the Council recalls its recently adopted decisions¹² on the signing of the Istanbul Convention on combating violence against women and invites those Member States which have not yet done so to ratify the Convention and commits to making progress on the decision on conclusion.

f) Media pluralism

16. The Council appreciates that the 2016 Commission Colloquium on Fundamental Rights was devoted to Media Pluralism and Democracy, and takes note of the follow-up by the Estonian Presidency in its informal expert seminar “Media Pluralism and the Rule of Law in the Digital Age” held on 12 July 2017 in preparation of the Council’s annual rule of law dialogue.

¹¹ See https://ec.europa.eu/info/events/sustainable-development-goals/2017-annual-colloquium-fundamental-rights-2017-nov-20_it

¹² Council Decision (EU) 2017/865 and Council Decision (EU) 2017/866.

g) EU accession to ECHR

17. The Council remains committed to the EU accession to the European Convention on Human Rights, which will reinforce the common values of the Union, improve the effectiveness of EU law and enhance the coherence of fundamental rights protection in Europe.
