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SPEECH

LXII Conference [plenary meeting] of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC)

Session II: Promoting the Rule of Law in the EU and the EU Charter of Fundamental Rights (exchange of views)

Scandic Marina Congress Center; Katajanokanlaituri 6, Helsinki, Finland

2 December 2019

Chairperson, Minister, Honourable Parliamentarians, it is a really great pleasure to be here. I would like to thank the Presidency for the invitation. It has been wonderful, these past six months, to get so many opportunities to visit Helsinki and to get to appreciate its beauty and its charm.

I agree with the Minister that what we have achieved here in Europe is fragile. But notwithstanding its fragility, it is also something we should be immensely proud of. We have built here, in this corner of Europe, the strongest architecture for the protection of human and fundamental rights that you will find on this Earth. And that is an achievement that we should acknowledge more often.

We should also acknowledge the way in which the architects of the system have woven together delivery and respect for human and fundamental rights with the quality of rule of law in our society. They are formally bound together, you cannot have one without the other, and indeed this is repeatedly reaffirmed to us by the Court of Justice of the EU.

But of course it would be naïve of me to just allow us to rest and relax at this point. Because notwithstanding this most impressive architecture, we every day confront grave problems concerning failure to deliver on the human and fundamental rights promises and commitments. I could give so many examples this morning – let me just pick two out of the range.

The first one would be the levels of child poverty within the European Union. One in four children in the EU live in poor households. One in four children who are poor is 25 million children who experience poverty within the richest corner of the world. And then if you go to particular groups already on the margins of our society, the figures shoot up way higher than one in four. Among Roma, the figure for children living in a poor household is 41% - nearly half.

And then just to pick one other, quite unrelated, issue of our failure to deliver on human rights and fundamental rights in Europe, I would point to the growing evidence of racism and intolerance in our society – intolerance reflected through hate acts, hate speech and otherwise. It is directed against so



many groups. I will just mention one before moving on, and that is our Jewish community. FRA repeatedly surveys the views and experiences of the Jewish community in Europe, and a vast majority of those surveyed told us just last year that the biggest problem you face as a Jew in Europe today, is not about housing, is not about health, is not about employment, is not about education, it is about antisemitism. Just one indicator of the extent to which we have a problem with intolerance in our societies.

So we have a long way to go. We have a long way to go so that our impressive architecture delivers for the benefit of everybody in our societies. And you Parliamentarians are in the frontline as we push back and we struggle to develop that more fair Europe. And as you carry out your responsibilities on the frontline, this is a good moment to take stock of the tools. To see to what extent we are using the tools that have been put at our disposal, to carry out our vital responsibilities. And the tool I want to focus on this morning, is of course that which was mentioned by the Minister just now – the EU Charter of Fundamental Rights.

We celebrated yesterday the entering into force of the Lisbon Treaty, and with slightly less fanfare, we marked the ten years of legal force of the EU Charter. Why does the Charter matter? The Charter is our Magna Carta of fundamental rights within the European Union. Read it. It is an impressive instrument in the breadth of its ambition, in the scope of its protections. It contains rights you will not find in many of the great international human rights treaties. We in Europe, through the Charter, have a right to fair procedures beyond that you will find anywhere else under the human rights treaties. We have a guarantee of good administration in the operations of the European Union. We have an equal focus on the whole human experience: the civil and political sides of our lives, the economic, social and cultural; we even have, in the Charter, the right to found a business.

These powerful rights in the Charter really matter for the EU because the Charter, unlike the other human rights commitments our states enter into, has direct domestic national effect when the issue is one of EU competence. And that particularly matters because, as we found out last year when we studied the patterns across EU Member States, the guarantees in the Charter often go beyond the guarantees found in our national constitutions.

So then, honourable Parliamentarians, the Charter should be transforming our societies. But I am afraid, as we did our ten-year stock-taking, we found evidence of significant underuse, particularly at the national level. Let me take parliaments. We surveyed all 28 Member States in 2018. We asked a number of questions – one was: “how many debates referenced the Charter in national parliaments in that year?” The answer was just 43 debates out of the many hundreds. We asked how many Charter references there were in legislation, in 2018. We found just 20, notwithstanding the many hundreds of acts adopted by our parliaments. We asked how many national plans of action there were, to promote knowledge and use of the Charter. We could find hardly any.

Why this underuse? Let me briefly suggest some elements that we see. The first is the one mentioned by the Minister, the relative novelty of the instrument. It is just ten years as a legally binding document. So maybe, in terms of awareness of it, we are more or less where you would expect us to be after ten years. But nevertheless, we have this issue of novelty. We have a lack of sufficient awareness raising and training about the Charter, above all else at national level. We have some confusion about the use of the Charter. For instance, again from the perspective of the work of a

Parliamentarian: when is this a matter of EU competence and when is this a matter of national sovereignty? The grey areas inhibit use of the Charter. And finally, there is an inherent challenge in the Charter, which is that it identifies some of its contents as rights, some of its contents as principles, but does not give us a particularly clear guidebook on which is which.

Notwithstanding such difficulties, this is a moment to reinvigorate our focus on and attention to the Charter. By way of my concluding remarks, let me suggest six ways in which Parliamentarians in particular could rise to the challenge as you work on the frontlines of protection of our human rights.

1. The first is, let's learn from each other. This meeting is, among other things, an opportunity to share good practice across the Parliaments of the Member States. Let's also do it in terms of delivering on the Charter. Let's, for example, learn from Finland, which does a better job than many in terms of focused attention on the Charter in the work of its Parliament.
2. Second, to the extent it is not already there, put the assessment of Charter compliance explicitly in the mandate of relevant parliamentary committees.
3. Third, consider convening an annual fundamental rights debate within your parliament, putting the standards of the Charter at its heart.
4. Next, consider investing in training for your staff, as well as Parliamentarians, in the use of the Charter.
5. Fifth, put in place a formal scrutiny procedure for Charter compliance of relevant legislation.
6. And finally, and sixth, we would invite you to encourage the governments within your States to adopt a national action plan for promotion of awareness, and use, of the Charter.

Honourable Parliamentarians, you can count on the Fundamental Rights Agency to support you in your work on the Charter. We will support you through the resources we develop and our expertise, if you consider that useful. Let me wrap up by quoting to you just one sentence from Article 1 of the Charter of Fundamental Rights. It states that human rights, and human dignity, are inviolable. Human dignity must be respected and protected. Ultimately, it is human dignity that is the final goal of our rule-of-law-based states, our human rights-compliant states – and working on the delivery of the Charter, our Magna Carta, is one important pathway to that endpoint.

I thank you.