



## **FUNDAMENTAL VALUES AND THE RULE OF LAW**

### **EUROPEAN AFFAIRS COMMITTEE HEARING AT THE DANISH PARLIAMENT**

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Morten Kjærum

Director of the European Union Agency for Fundamental Rights

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Ms Chairwoman, Members of Parliament,

Thank you for the invitation to address you all here today.

When we discuss about threats to the fundamental values of the EU, I find it important not to limit ourselves to the dimension of the rule of law only. Therefore I am glad that the title of this hearing takes a wider approach.

Against the background of the fact that the EU disposes over a Charter of Fundamental Rights but not a Charter for democracy or a Charter for the rule of law, it appears wise to take fundamental rights as the EU's starting point when discussing the EU's fundamental values.

The Charter of Fundamental Rights is putting detailed flesh on the normative backbone we find in the list of values in Article 2 of the EU Treaty.

And maybe it is also wise not to start by being negative. I would like to remind us what the EU and its Member States have achieved in the area of fundamental rights. We have:

- a legally-binding Fundamental Rights Charter that run like a common thread through the EU founding values;
- the European Commission's actions to uphold our fundamental values, non-discrimination principles, for example;

- “fundamental rights friendly” judgements from the Court of Justice;
- And the European Parliament regularly acting as a watchdog on fundamental rights issues.

Could I stop here and say: Everything is fine?

No, obviously challenges still remain. Take:

- The ongoing debates over the right to privacy and data protection, as illustrated by the European Court of Justice’s decision on the data retention directive or discussions on the EU Passenger Name Record system;
- Or threats to social and economic rights, including access to health and education;
- Or the rise of extremism and populism throughout Europe, which in particular targets ethnic and sexual minorities;
- Or finally the serious risk of undermining the rule of law in some EU countries.

FRA’s research and large-scale surveys have uncovered and unmasked a sense of anxiety amongst people living in the EU. Across our different surveys, victims have reported a lack of trust in law enforcement and other institutions to address violations of their fundamental rights. Take hate crime: Large numbers of victims – up to 80% depending on which minority group you ask - do not report the crime to the police or any other organisation.

So, what can be done? Allow me to start with the conclusion: Let’s use what we already have, but let’s be smarter and more focussed.

Since 2013, there has been an intensive debate on what more the EU and its Member States can do to ensure that the values of the Union are promoted, respected and fulfilled. There are a number of possible avenues open to ensure that the Union and its Member States live up to their fundamental rights commitments.

First, we need to promote the understanding of **fundamental rights as a horizontal issue**. We need to see human rights as an issue, which is not compartmentalized, but a horizontal obligation, influencing all policy agendas, from migration to internal security, from child rights to Roma issues.

Fundamental rights have to be a natural and integral part of everything that the EU does. After all the EU should be leading by example rather than lecturing from a podium.

Second, we need **multi-level cooperation** between the EU, national, regional and local levels. Given the complexity of the challenges we face and the diversity between Member States, fundamental rights actors at different levels need to work together and develop joint efforts within their respective competencies.

The European Commission's Annual Colloquium on fundamental rights is a step in this direction. Also the Council of the EU announced an annual "dialogue among Member States to promote and safeguard the rule of law".

I very much hope that these initiatives will advance the debate on how best to safeguard the values that are shared between the Union and its States.

Given its own network structure and ties to fundamental rights actors at all levels, FRA is well placed to contribute to such endeavours.

Third, there is a need to zoom in on the **practical implementation** of legal and political commitments as they appear on paper. Many judges, lawyers and officials are unaware of EU legislation. This is problematic since EU law is typically implemented not by EU bodies but by actors at different layers of governance.

For that, simple and practical tools are needed to ensure that fundamental rights standards are upheld. FRA's popular series of handbooks on human rights case law covering asylum, data protection, non-discrimination etc. that target legal practitioners is one such example.

Fourth, the **exchange of promising practices** can help pool knowledge and expertise from different Member States. We need to develop more opportunities for good practice sharing and peer-to-peer support between Member States. FRA has set up two Working Parties with Member States on hate crime and on Roma integration. This bears fruits. For example, the Hate Crime Working Party is developing a simple reporting tool for victims to report incidents of hate crime. Not addressing hate crime is a factor in the radicalisation that we see in Europe today.

The Roma Working Party is drafting a common set of indicators that can be used to assess national Roma integration strategies. Such indicators, for example, can tell us whether the existing EU funds do indeed improve the fundamental rights of Roma or whether the funding stays in Brussels or disappears into the wrong pockets. These are simple but essential accountability tools, tools that are so much needed and so much resisted by many Member States.

Practical support to mainstream fundamental rights at the operational level should be a priority for the allocation of all EU funds.

Finally, a few words on how FRA could assist the EU institutions and Member States to ensure that their shared values are upheld. Our **independent research** and EU-wide surveys provide detailed evidence on fundamental rights shortcomings in Member States. Upon request by any EU institution, the Agency can provide high-level **expert advice** on all relevant draft EU legislation to ensure that it is compatible with fundamental rights.

Our networks link the Agency to fundamental rights actors at virtually all levels. And our annual reports include proposals of how the EU and its Member States could address challenges in selected policy fields. And we collect promising practices from across the EU which guide Member States on how to address fundamental rights challenges in very practical ways. This, finally, is complemented by FRA's high-level Scientific Committee that brings together renowned experts with a proven record of solid judgement. Its experts include members of Constitutional Courts, the former Vice President of the European Court of Human Rights, as well as members of UN, Council of Europe and national monitoring bodies. So before creating something new - why not use what is already there?

To conclude:

As you can see the toolbox for EU and Member States to use is extensive. If we were to use all these tools, we would not need to reinvent the wheel. Instead we would demonstrate beyond all doubt to the European citizens that the EU and its Member States are prepared to protect the fundamental values that are such an integral part of living in Europe.

Thank you.