

2021 Report on Application of the Charter of Fundamental Rights in the EU

News

Anna Pingen

On 10 December 2021, the European Commission released its 2021 report on application of the Charter of Fundamental Rights in the EU. A special focus was on the challenges of protecting fundamental rights in the digital age. The 2021 report follows last year's [strategy to strengthen application of the Charter of Fundamental Rights in the EU](#), including annual reports with thematic focuses (→ [eucri](#)m news from 19 January 2021). The main issues raised in the report are as follows:

- Tackling the challenges of online content moderation: While online intermediaries, e.g. social media platforms, facilitate the exchange of information and play a major role in the democratic debate, the use of online platforms also amplifies societal problems like polarization or the dissemination of illegal content, often with significantly negative effects on fundamental rights. The report noted that the revised Audiovisual Media Services Directive (AVMSD) – adopted in 2018 – includes measures to protect minors from audio-visual content and commercial communications that could cause them physical, mental, or moral harm. In 2016, the Commission signed a voluntary code of conduct with major online platforms to ensure that notifications of illegal racist and xenophobic hate speech are rapidly assessed (→ [eucri](#)m 2/2016, p. 76). In addition, the Regulation addressing the dissemination of terrorist content online, which was adopted in 2021 by the European Parliament and the Council (→ [eucri](#)m 2/2021, 95-97), ensures that terrorist content online is removed.
- Safeguarding fundamental rights when Artificial Intelligence (AI) is used: The report stressed that AI is frequently used without adequate safeguards and quality controls to automate or support decision-making processes or for surveillance activities that violate the rights of individuals. Bias in algorithms can lead to unjust and discriminatory outcomes. If AI is used in the context of law enforcement or the judiciary, it can also affect the presumption of innocence and the right to a fair trial and defence. The report pointed to the Commission proposal for a Regulation on AI (AIA) presented in April 2021, which aims to ensure that high-risk AI systems are designed and used in compliance with fundamental rights.
- Addressing the digital divide: Not being online can affect people in the exercise of their rights. This is the case, for example, when political campaigns are increasingly run online. This can affect people's rights in a democratic society, including their right to freedom of expression and information. The digital divide has increased with the COVID-19 pandemic, as it has exacerbated these difficulties in accessing public services for those without the necessary technical equipment or digital knowledge. The report noted that various Member States are pursuing different approaches towards ensuring

AUTHOR

Anna Pingen 

Researcher
Max Planck Institute for the
Study of Crime, Security and
Law

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digital access to public services. It also stressed that efforts have been made at the EU level so that nobody is left behind (e.g. the Digital Education Action Plan launched in September 2020 or the European Electronic Communications Code).

- Protecting people working with platforms: While platform work has generated new economic opportunities for people, it also poses challenges to fundamental rights, including the protection of personal data, privacy, and fair and just working conditions. The report drew attention to the Commission's proposal for a directive to improve working conditions for platform workers at the EU level by ensuring correct determination of their employment status.

The Commission calls on the European Parliament, the Council, and Member States to use this Annual Report on the Application of the EU Charter of Fundamental Rights to engage in exchanges about the challenges of and opportunities for protecting fundamental rights in the digital age.

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