

The Charter of Fundamental Rights of the European Union as a Horizontal Principle

EU Funding Programme 2021 - 2027

**HUMAN
RiGHTS**
DIRECTORATE

What are the Horizontal Principles?

All projects supported by the EU's regional and structural policy programme must be implemented in accordance with and respectfully of the programme's horizontal principles.

Horizontal principles include fundamental rights and principles in accordance with the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of Persons with Disabilities, gender equality, non-discrimination, equality in general and sustainable development.

Fundamental Rights and Equality Principles

11.1 - Fundamental Rights and Equality principles

Identify how the **horizontal principles** mentioned below are considered. **What measures** are planned throughout the project design, implementation, monitoring, reporting and evaluation stages to ensure that the principles are safeguarded?

Gender Equality	<i>The Applicant should explain how equality amongst genders, integration of the gender perspective and gender mainstreaming are taken into account and promoted throughout the design, implementation, monitoring, reporting and closure of projects.</i>
Equal Opportunities	<i>The Applicant should take into consideration appropriate steps to ensure equal opportunities independent from gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation throughout the design, implementation, monitoring, reporting and closure of projects.</i>
Non-discrimination including accessibility for persons with disability	<i>The Applicant should explain how measures are put in place during the design, implementation, monitoring, reporting and closure of projects to prevent discrimination in particular accessibility for persons with disabilities and ensure access for all.</i>

Fundamental Rights and Equality Principles

This section contains 10 marks.

The applicant should provide detailed information beyond the minimum legal obligations in these areas.

The applicant should explain how equality between men and women, equal opportunities, gender mainstreaming and the integration of the gender perspective are taken into account and promoted throughout the **project design, implementation, monitoring, reporting and evaluation stages**.

The Applicant should explain what measures are planned to be carried out to ensure appropriate steps are taken to prevent any form of discrimination based on gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation during all project stages.

Gender Equality

The Applicant should explain how equality between men and women, integration of the gender perspective and gender mainstreaming are taken into account and promoted throughout the design, implementation, monitoring, reporting and closure of projects.

Equal Opportunities

The Applicant should take into consideration appropriate steps to ensure equal opportunities independent from gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation throughout the design, implementation, monitoring, reporting and closure of projects.

Non-discrimination including accessibility for persons with disability

The Applicant should explain how measures are put in place during the design, implementation, monitoring, reporting and closure of projects to prevent discrimination in particular accessibility for persons with disabilities and ensure access for all.

What is the Charter?

The EU Charter of Fundamental Rights is included as a new horizontal principle to be assessed in project applications for EU regional and structural policy funds.

The Charter of Fundamental Rights of the European Union (the “Charter”) lays out the fundamental rights and liberties of EU citizens, which all EU institutions have a duty to safeguard, even national authorities.

It reaffirms rights based on constitutional traditions and international obligations common to EU Member States and represents the fundamental values of the EU.

Enjoyment of these rights entails responsibilities and duties with regard to other persons, to the human community and to future generations.

See the Charter of Fundamental Rights: [Charter of Fundamental Rights of the European Union \(2000/C 364/01\)](#)

When does the Charter apply?

Since 2009, the Charter has the same legal status as the Treaties, the EU law on which EU legislation is based. EU institutions must comply with it in all their activities, and Member States must also comply with it when they implement EU law.

Member States implement EU law notably when they:

- give effect to EU legislation by adopting national implementing measures;
- adopt legislation where EU law imposes specific obligations, or allows for a derogation;
- implement EU funding programmes in line with the EU funding rules.

What is the scope?

Art. 51 – “The provisions of this Charter are addressed to the institutions and bodies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore **respect the rights, observe the principles and promote the application** thereof in accordance with their respective powers.”

Whilst some fundamental rights are absolute, such as right to life and prohibition of torture, other are not absolute. **Art. 52** – “Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of **proportionality**, limitations may be made only if they are **necessary** and **genuinely** meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.”

What are the rights enshrined in the Charter?

The Charter contains 54 articles grouped into 7 chapters:

Chapter I: Dignity

Chapter II: Freedoms

Chapter III: Equality

Chapter IV: Solidarity

Chapter V: Citizens' rights

Chapter VI: Justice

Chapter VII: General provisions

CHAPTER I: DIGNITY

Art. 1: **Human dignity** is inviolable, must be respected and protected

Art. 2: Right to **life**; death penalty and executions are forbidden.

Art. 3: Right to **physical and mental integrity**; medical consent, and the prohibition of eugenics, making the human body a source of financial gain, and the reproductive cloning of humans.

Art. 4: Prohibition of **torture** and **inhuman or degrading treatment or punishment**.

Art. 5: Prohibition of **slavery or servitude** and **forced or compulsory labour**; including the trafficking in human beings.

CHAPTER II:

FREEDOMS

Art. 6: Right to **liberty** and **security**

Art. 7: Respect for **private** and **family life**, **home** and **communications**

Art. 8: Protection of **personal data**; must be processed fairly, for specified purposes and based on consent or lawful basis

Art. 9: Right to **marry** and to **found a family**; guaranteed in accordance with national laws

Art. 10: Freedom of **thought**, **conscience** and **religion**.

Art. 11: Freedom of **expression** and **information**; freedom and pluralism of the media shall be respected.

Art. 12: Freedom of **assembly** and of **association**; at all levels such as political, trade unions and civic unions.

Art. 13: Freedom of the **arts** and **sciences**; art, scientific research, and academic freedom shall be respected.

CHAPTER II:

FREEDOMS

Art. 14: Right to **education**; vocational and continuing training, includes freedom for parents to have their children taught in accordance with religious, philosophical and pedagogical beliefs.

Art. 15: Freedom to **choose an occupation** and right to **engage in work**; third country national authorised to work in a MS are entitled to the same working conditions as citizens of that MS.

Art. 16: Freedom to **conduct a business**; in accordance with Community and national laws and practices.

Art. 17: Right to **property**; including intellectual property.

Art. 18: Right to **asylum**.

Art. 19: **Protection** in the event of **removal, expulsion or extradition**; such as when these may lead to the person being subjected to the death penalty or torture.

CHAPTER III: EQUALITY

Art. 20: Equality before the law; everyone is **equal before the law**.

Art. 21: Non-discrimination; forbids discrimination on the following grounds (the “Protected Characteristics”):

sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation, as well as on grounds of nationality.

Art. 22: Cultural, religious and **linguistic diversity** shall be respected.

Art. 23: Equality between men and women ensured in all areas such as employment, work, and pay. This does not prevent **positive measures** to give advantages to the under-represented gender (such as gender quotas).

CHAPTER III: EQUALITY

Art. 24: The rights of the child; Children's **views** to be taken into consideration in matters which concern them, in accordance with their age and maturity. The child's **best interest** must be the primary consideration when a decision is made by a public or private body on behalf of a child. Children have the right to maintain a regular **personal relationship** with both their parents, unless it is not in the child's best interests to do so.

Art. 25: The rights of the **elderly** to live a life of **dignity** and to **participate** in social and cultural life.

Art. 26: Integration of **persons with disabilities**; Such persons have the right to benefit from measures designed to ensure their independence, social and occupational integration and participation in the community

CHAPTER IV: SOLIDARITY

Art. 27: Workers' right to information and consultation within the undertaking.

Art. 28: Right of collective bargaining and action.

Art. 29: Right of access to placement services.

Art. 30: Protection in the event of **unjustified dismissal** (from employment) in accordance with Community and national laws and practices.

Art. 31: Fair and just **working conditions**; with respect to health, safety and dignity.

Art. 32: Prohibition of **child labour** and protection of **young people at work**.

Art. 33: **Family and professional life**; including the right to maternity and parental leave.

Art. 34: **Social security and social assistance**.

Art. 35: **Health care**, under the conditions established by national law.

Art. 36: **Access to services** of general economic interest.

Art. 37: **Environmental protection**; in accordance with the principle of sustainable development.

Art. 38: **Consumer protection**.

CHAPTER V: CITIZENS' RIGHTS

Art. 39: Right to **vote** and to **stand as a candidate** at **elections at the European Parliament**.

Art. 40: Right to **vote** and to **stand as a candidate** at **municipal elections**.

Art. 41: Right to **good administration**; impartially, fairly and within a reasonable time; includes the right to have a say in any decision that would impact you, the right to access your file, and the obligation of the administration to give reasons for its decisions.

Art. 42: Right of **access to documents of the EU institutions**.

Art. 43: **Ombudsman**; any person or company in the EU can refer cases of maladministration in the institutions of the EU to the European Ombudsman.

Art. 44: Right to **petition the European Parliament**.

Art. 45: **Freedom of movement and of residence**.

Art. 46: **Diplomatic and consular protection**.

CHAPTER VI:

JUSTICE

Art. 47: Right to an **effective remedy** and to a **fair and public hearing** within a **reasonable time** by an **independent and impartial tribunal**; also provides for legal aid to those who lack sufficient resources.

Art. 48: **Presumption of innocence** and **right of defence**.

Art. 49: Principles of **legality and proportionality of criminal offences and penalties** – includes prohibiting retrospective crimes and punishments (incl. cannot be punished for an offence that was not an offence at the time it was committed); penalties must be proportionate to the criminal offence.

Art. 50: **Right not to be tried or punished twice in criminal proceedings for the same criminal offence.**

CHAPTER VII:

GENERAL PROVISIONS

Art. 51: Field of application

Art. 52: Scope of interpretation

Art. 53: Level of protection

Art. 54: Abuse of rights

Aligning with the Charter Principles

When a project is being planned, the principles and rights enshrined in the Charter shall be at the centre and the project shall be viewed from a human-rights based approach. Applicants must therefore be able to explain how their project contributes to, and meets the requirements of, the Charter and the principles enshrined therein.

This presentation serves to provide an overview of the rights enshrined in the Charter and to guide applicants in their assessment of their application's contribution to the Charter principles. Applicants should look at all the Charter rights and evaluate whether their project would impact any of those rights, and if there is potential for impact, what safeguards can be introduced to ensure respect of those rights.

For instance, in the case of equality, one must ensure, amongst others, that no individuals are excluded from participation in a project on the ground of their Protected Characteristics, the needs of all potential beneficiaries are considered at project design stage, new building and upgrading of existing buildings need to cater for accessibility for all, and support is targeted towards under-represented communities where relevant.

Self-assessment Questions

- ☐ Is the project equitable and inclusive? Does the applicant foster an inclusive environment, such as having gender-neutral bathrooms and the use of multiple languages?
- ☐ Does the project implementation pose any challenges related to any Protected Characteristic? If so, how are these being addressed?
- ☐ How does the project accommodate diverse needs, such as those related to disability, religious beliefs, or cultural background?
- ☐ How is accessibility ensured? Is the physical infrastructure modified to be fully accessible and properly equipped to enhance opportunities for all workers and beneficiaries?

Self-assessment Questions

- ❑ Will there be training on how to recognise, address and mitigate unconscious bias to ensure a human-rights-based approach?
- ❑ What measures or policies does the applicant have in place to both prevent and address harassment and violence in the workplace, labour exploitation, etc.? Does the applicant have any internal policies related to Charter rights and principles? Does the applicant communicate to third parties involved in the implementation of the project such policies?
- ❑ Does the applicant carry out any due diligence when engaging third parties in the implementation of the project, to evaluate that third party's adherence with Charter principles? Will third parties be held accountable if they do not adhere to Charter principles and how?
- ❑ How does the applicant ensure that its policies are adhered to by its staff and affiliated third parties?
- ❑ Does the applicant have a data protection policy? How does the applicant ensure adherence to this policy by its staff and affiliated third parties?

Practical examples of how to fulfil the horizontal principles:

Data is disaggregated

Protection of personal data

Target audience includes also minorities or vulnerable groups

Non-discrimination based on any ground.

Respect of cultural, religious and linguistic diversity.

Events are accessible for all

Integration of persons with disabilities

Activities organised are gender balanced, for example, gender balance in panels

At what stage of the project cycle do the Horizontal Principles apply?

It is important to keep in mind that fundamental rights need to be incorporated throughout:

project design

Implementation

monitoring

reporting

evaluation

What is the role of HRD?

- The Human Rights Directorate have the mandate to advise Government on matters pertaining human rights.
- The Directorate may provide advice related to the adherence to the EU Charter of Fundamental Rights in Malta, including in the application of the EU Charter in EU-funded projects.

How to seek assistance?

In order to seek HRD's assistance on the application of the EU Charter in EU-funding proposals:

- ☐ Prepare a brief of your proposal outlining the aims and objectives, main activities and target groups.
- ☐ Go through horizontal principles section and propose points intended to be included in your project application.
- ☐ Send an email on eufunds.hrd@gov.mt including the above.
- ☐ Include the call under which proposal is being submitted, and deadline of call.

Do not leave until the last minute to seek advice.

Remember you know your application best!

Resources

[EU Charter of Fundamental Rights](#) (FRA)

[EU Charter of Fundamental Rights](#) (European Commission)

[Applying the Charter of Fundamental Rights of the European Union in law and policymaking at national level](#) (FRA)

[Charter of Fundamental Rights Section on the Human Rights Directorate website](#) (HRD)

Disclaimer

The advice provided by the Human Rights Directorate (HRD) is intended to assist applicants for funds to enhance their application insofar as they address, and positively contribute to, issues related to respect of fundamental human rights in the spirit of the European Union Charter for Fundamental Human Rights (EUCFR). The advice and information provided by the HRD is for general guidance on what is deemed to be relevant based on the information provided at the time of the provision of advice by the applicant and thus may not be exhaustive advice. The advice and information provided by the HRD is not intended to replace or serve as a substitute for any other professional advice, consultation or service tailored to the specific application and/or project, nor the responsibility of the applicant to ensure that their application takes into account and promotes respect of fundamental human rights in the spirit of the EUCFR. The opinions expressed in this advice are those of the HRD and do not purport to reflect the opinion or views of third parties. This advice shall not be construed to imply that the HRD possesses any responsibility for the proper implementation of the project in question. The HRD does not guarantee any specific results or outcomes based on the use of its advice. The HRD cannot guarantee the provision of timely advice when the request for advice is made close to a deadline related to applications for funds or is requested to do so on short notice in any other manner.

Thank you!



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