

Challenges for
new member states
in the application of the
**CHARTER OF FUNDAMENTAL
RIGHTS OF THE EUROPEAN UNION**

the case of
NORTH MACEDONIA



Kingdom of the Netherlands



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CHALLENGES FOR NEW MEMBER STATES IN APPLICATION OF THE CHARTER OF FUNDAMENTAL RIGHTS OF THE EU

THE CASE OF NORTH MACEDONIA AS A CANDIDATE COUNTRY

Skopje, May 2025

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1. Introduction

With the establishment of the European Union as a community founded not only on economic interests but also on shared values, the protection of fundamental rights has become an essential component of European integration. The Charter of Fundamental Rights of the European Union, adopted in 2000 and granted with a legally binding force by the Treaty of Lisbon in 2009, represents a central instrument for codification and advancement of the human rights within the European Union. It encompasses a wide range of rights: civil, political, economic, social, and cultural and it ensures their application not only by EU institutions but also by Member States when implementing the law of the European Union.

The application of the Charter poses particular challenges for new Member States as well as for countries in the process of accession. For these states, alignment with EU standards entails not only the adoption of the necessary legal and institutional reforms but also a substantive transformation of legal culture, strengthening of the rule of law, and the establishment of effective mechanisms for the protection of human rights in practice. Furthermore, the uneven level of development of judicial systems, the presence of structural weaknesses, the lack of institutional independence, and the low level of public awareness of fundamental rights further complicate these processes.

The objective of this paper is to analyze the key aspects of the implementation of the Charter of Fundamental Rights in the new Member States of the European Union and to identify the main challenges faced by the countries of Southeast Europe, including the Republic of North Macedonia. By reviewing relevant case law of the Court of Justice of the European Union and analyzing national legal and institutional frameworks, the paper explores the concrete difficulties in achieving the standards set by the Charter. In addition, it provides recommendations for overcoming the identified shortcomings, taking into account the importance of alignment with European standards as a precondition for full membership in the European Union and for the long-term consolidation of democracy, the rule of law, and the protection of human rights.

2. Methodology

The research is based on a qualitative analysis of legal sources, secondary literature, and relevant case law related to the Charter of Fundamental Rights of the European Union. A legal-dogmatic method is applied to examine the textual provisions of the Charter, their interpretation by the Court of Justice of the European Union, and their comparison with the European Convention on Human Rights.

The study also relies on the analysis of reports and documents issued by the European Commission, the European Union Agency for Fundamental Rights (FRA), as well as national reports on the rule of law and judicial independence. Special attention is given to the 2024 Progress Report on the Republic of North Macedonia, which serves as the most relevant document for assessing the country's current level of alignment with EU standards in the fields of human rights and the rule of law.

3. The Charter of Fundamental Rights of the European Union

In the early stages of the formation of the European Economic Community (today's European Union), the primary focus was placed on economic integration, the establishment of a common market, and the assurance of long-term peace in Europe. The founding treaties, such as the Treaty of Rome of 1957, did not contain specific provisions related to human rights, except for the prohibition of discrimination on the grounds of nationality¹ and the principle of equal pay for equal work between men and women².

Although the European Union was not initially conceived as a political project with a strong emphasis on human rights, over time, and with the development of its institutional and legal system, the need to address this dimension became increasingly evident. The growing focus on fundamental rights was a direct consequence of the expanding competences of EU institutions over Member States and individuals. In the absence of an explicit legal framework for the protection of human rights, the safeguarding of fundamental rights was achieved through the so-called general principles of law, which were established and evolved through the jurisprudence of the Court of Justice of the European Union (CJEU).

The case law of the CJEU has unambiguously contributed to the gradual strengthening of the position of human rights within the EU legal order, enabling their clearer articulation and recognition by the EU institutions. Through the development of autonomous legal principles, the Court successfully filled the gap created by the absence of explicit human rights provisions in the founding treaties, thus laying the foundations for further legal evolution. Without delving into a detailed examination of the Court's jurisprudence in this section, it is important to emphasize that this approach

¹ Treaty establishing the European Economic Community (Rome, 25th of March 1957), article 7, available at: https://www.cvce.eu/en/obj/treaty_establishing_the_european_economic_community_rome_25_march_1957-en-cca6ba28-0bf3-4ce6-8a76-6b0b3252696e.html

² Treaty establishing the European Economic Community (Rome, 25th of March 1957), article 119, available at: https://www.cvce.eu/en/obj/treaty_establishing_the_european_economic_community_rome_25_march_1957-en-cca6ba28-0bf3-4ce6-8a76-6b0b3252696e.html

paved the way for the formal codification of fundamental rights through the adoption of the Charter of Fundamental Rights of the European Union a document that confirmed human rights as an essential component of the Union's identity.

Before proceeding to the analysis of the Charter itself, it should be noted that both the European Parliament and the European Commission have, on several occasions, raised the question of the EU's accession to the European Convention on Human Rights. However, the process was hindered by the absence of a legal basis for such accession within the EU Treaties, which ultimately led to the adoption of the Charter that forms the subject of this paper.

The Charter of Fundamental Rights of the European Union³ is a document whose main objective is to safeguard the fundamental rights of individuals within the European Union. From a chronological perspective, the Charter was drafted in 2000 however, at that time, it did not possess legally binding force. Nine years later, in 2009, with the entry into force of the Treaty of Lisbon⁴, the Charter acquired the same legal value as the other founding treaties of the European Union⁵.

“The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties.”

Source: Article 6, Treaty on European Union (Lisbon)

This formulation enables the Charter to become an integral part of the primary law of the European Union. It is important to note that the Charter is not the

³ Charter Of Fundamental Rights of The European Union (Brussels, 2000), available at: https://www.europarl.europa.eu/charter/pdf/text_en.pdf

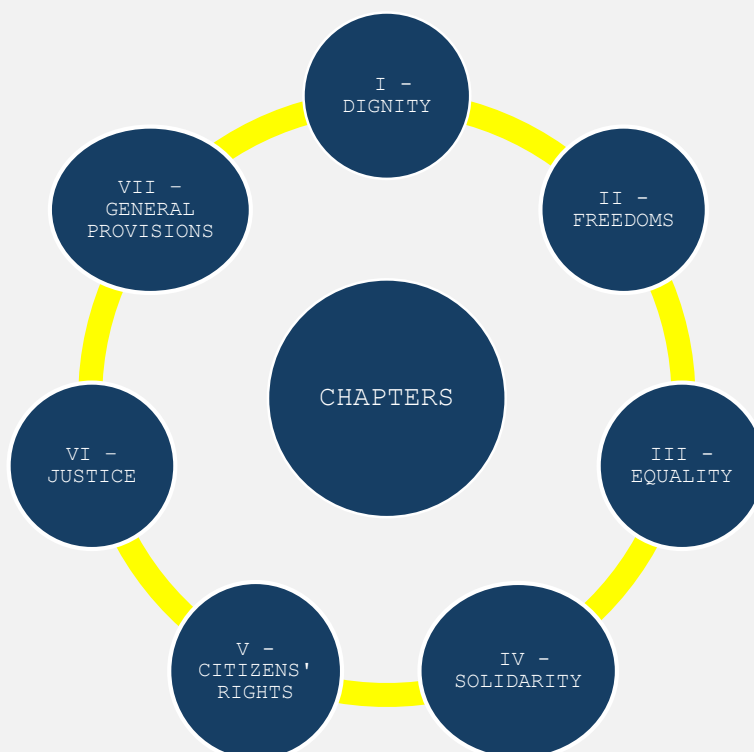
⁴ Treaty of Lisbon (Lisbon, 2007), available at: <https://eur-lex.europa.eu/eli/treaty/lis/sign/eng>

⁵ Maricic Bojan, Andreja Stojkovski, Diana Bliznakovska, Hristijan Koneski, and Juan Ignacio Signes de Mesa. *Fundamental Rights – Placement within the European Framework: Systems for the Protection of Human Rights and Freedoms in Europe and Their Effective Applicability in Macedonia*. Study, Macedonian Center for European Education, 2014, p. 38. available at: <https://www.merc.org.mk/Files/Write/Documents/01102/mk/Studija-temelni-prava.pdf>

sole instrument for the protection of fundamental rights within the EU. Secondary legislation of the European Union also contributes to their protection by complementing and reinforcing the safeguards provided under the Charter through detailed regulatory measures⁶.

The Charter consists of a total of 54 Articles, divided into seven chapters, each covering distinct aspects of human rights and fundamental freedoms. This structure ensures a comprehensive system of protection for EU citizens while defining the obligations of the Union's institutions and its Member States.

Chapter I – Dignity: The first chapter of the Charter guarantees fundamental rights such as the right to human dignity, the right to life, the prohibition of torture and inhuman or degrading treatment or punishment, and the prohibition of slavery and forced labour. These provisions form the cornerstone of the protection of human dignity, which constitutes a fundamental principle of the Union.



⁶ For example, the right to a healthy environment, as enshrined in the Charter, is further elaborated through more than 70 environmental policy instruments. Such instruments provide an opportunity for the right established in the Charter to be further developed and made effectively enforceable in practice.

Chapter II – Freedoms: The second chapter encompasses civil and political rights such as the right to liberty and security, respect for private and family life, protection of personal data, freedom of expression and information, as well as freedom of thought, conscience, and religion. This chapter also guarantees the freedom to work and the right to property.

Chapter III – Equality: This chapter establishes the principles of non-discrimination, equality between men and women, and the protection of the rights of children, the elderly, and persons with disabilities. It plays a central role in promoting equality and combating all forms of discrimination within the European Union.

Chapter IV – Solidarity: This chapter regulates social and economic rights, such as workers' rights to fair and just working conditions, protection against unjustified dismissal, the right to social security and assistance, as well as access to health care and environmental protection.

Chapter V – Citizens' Rights: This chapter defines the rights arising from EU citizenship, including the right to vote and to stand as a candidate in elections, the right to good administration, access to official documents, and the right to diplomatic and consular protection.

Chapter VI – Justice: It guarantees the right to an effective remedy, the presumption of innocence, and the right to a fair trial, as well as the principles of legality and proportionality of criminal offences and penalties. This chapter is crucial for upholding the rule of law and ensuring legal certainty within the EU.

Chapter VII – General Provisions: The final chapter contains provisions concerning the interpretation and application of the Charter. It defines the principles governing the Charter's implementation and its relationship with other EU legal acts and national legislation, thereby ensuring legal predictability and coherence with the existing EU legal framework.

3.1 Differences and Similarities with the European Convention on Human Rights

Although both the Charter of Fundamental Rights of the European Union (the Charter) and the European Convention on Human Rights (ECHR)⁷ aim to protect human rights, they differ in their legal nature, the institutions responsible for their enforcement, and their substantive scope.

Characteristic	Charter of Fundamental Rights of the EU	European Convention on Human Rights (ECHR)
Institution	European Union (EU)	Council of Europe (not part of the EU)
Legal force	Binding upon EU institutions and Member States when implementing EU law	Binding upon all Member States of the Council of Europe
Judicial protection	Court of Justice of the European Union (CJEU), Luxembourg	European Court of Human Rights (ECtHR), Strasbourg
Content	Encompasses civil, political, economic, and social rights	Primarily focuses on civil and political rights
Purpose	To ensure the harmonisation of human rights within the EU and to embed them into the Union's legal order	To guarantee fundamental human rights for all individuals in Europe, including those outside the EU

⁷ Council of Europe, European Convention on Human Rights, available at: https://www.echr.coe.int/documents/d/echr/convention_ENG

Although the ECHR provides a comprehensive system for the protection of human rights, the creation of the EU Charter was necessary for several reasons:

1. **Specific needs of the EU** – With the development of the European Union, there arose a need for a dedicated instrument integrating human rights into the EU legal framework and strengthening the protection of fundamental rights within EU institutions.
2. **Broader scope of rights** – Unlike the ECHR, which primarily focuses on classical civil and political rights, the Charter also includes social, economic, and digital rights, such as data protection and the right to good administration.
3. **Binding force within the EU** – The Charter has legally binding effect within the EU and its institutions, whereas the ECHR functions as an international treaty and is not directly incorporated into EU legislation.
4. **Enhancement of legal certainty** – Through the Charter, EU citizens are granted clear and codified rights that may be invoked before the Court of Justice of the European Union.

In essence, the Charter does not replace the ECHR but rather **complements and builds upon it**, adapting the protection of human rights to the specific context and needs of the European Union, and ensuring that fundamental rights are respected within the framework of EU law.

4. The Role of the Court of Justice (CJEU) and the Significance of Case Law

The Court of Justice of the European Union (CJEU) ensures the consistent application and interpretation of European Union law, thereby safeguarding the rule of law within the Union. This includes the implementation of the Charter of Fundamental Rights of the EU, which holds the same legal value as the founding treaties.

The Court performs its function of ensuring the observance of EU law and treaties through interpretation and application in various types of proceedings provided under the Treaties, initiated by different actors - EU institutions, other legally entitled individuals or entities, or Member States and their judicial bodies that meet the criteria established in *Vaassen*⁸. However, it would be incorrect to conclude that the CJEU is the only judicial body responsible for the application of EU law. It is important to emphasize that the majority of Union legislation is actually applied by national courts of the Member States, which directly invoke EU law. This is a consequence of the doctrines of *direct effect* and *supremacy* of EU law within the domestic legal orders of the Member States⁹.

The direct effect means that certain norms of EU law can directly create rights and obligations for individuals, which they can invoke and exercise before national courts, without the need for additional implementation in national law.

⁸ Procedural Law of the European Union by Koen Lenaerts, Dirk Arts, and Ignace Maselis (Bray ed.); 2nd Edition (2006), Sweet & Maxwell, p. 40 – The *Vaassen* criteria originated from the judgment in Case 61/65 *Vaassen-Goebbels* (1966), in which the Court of Justice of the EU defined the conditions under which national courts are entitled to refer a preliminary ruling to the Court. These criteria include: institutional independence, the binding nature of the national court's decisions, the application of legal procedures, and the nature of the dispute.

⁹ Georgievski, Sasho. *Introduction to European Union Law*. Skopje: Faculty of Law “Justinian I”, 2010, p. 81.

*This principle was established by the **Van Gend en Loos** judgment (1963)¹⁰*

Not all EU law provisions have direct effect, only those that meet certain criteria. Specific provisions of the founding treaties have direct effect provided they are clear, precise, and unconditional (i.e., they do not require further measures by the institutions or Member States). Regulations always have direct effect, as they are generally applicable, binding in their entirety, and directly enforceable in all Member States. Directives, however, do not automatically have direct effect, as they are addressed to the Member States and require national implementation. They may acquire direct effect under certain conditions: if the transposition deadline has expired, the directive has not been correctly implemented, and the provision is clear, precise, and unconditional.

The Charter is not automatically a source of direct effect like regulations, but certain provisions may have direct effect if they meet the standard criteria established by the case law of the Court of Justice of the European Union: they must be clear, precise, unconditional, and not require additional measures for their application. To facilitate understanding, a table has been prepared illustrating the differences between provisions with direct effect, those without, and those that may be subject to partial direct effect.

¹⁰ Judgment of the Court (5 February 1963) N.V. Algemene Transport- en Expeditie Onderneming van Gend & Loos v. Netherlands Inland Revenue Administration – The company Van Gend en Loos filed a complaint against the Dutch customs administration, claiming that the increase of customs duties from 3% to 8% on imports of a product from West Germany violated Article 12 of the Treaty of Rome. This article prohibits the introduction of new or the increase of existing customs duties between Member States.

The Dutch court requested a preliminary ruling from the Court of Justice of the European Union (CJEU) on whether this provision had direct effect, i.e., whether individuals could invoke it directly before national courts. The CJEU held that Article 12 of the Treaty of Rome has direct effect, meaning it confers rights which individuals may enforce directly before national courts. The ruling established that EU law is not merely an agreement between states but constitutes a new legal order binding both the Member States and their nationals.

Clauses	Direct Effect?	Explanation
Article 21, Charter – Non-discrimination	✓ Yes	A clear, precise, and unconditional norm that enables an individual to invoke it directly before a court
Article 47, Charter – Right to an effective remedy and to a fair trial	✓ Yes	Grants a directly applicable right of access to legal protection
Article 34, Charter – Social security and social assistance	✗ No	Depends on state implementation, it is not sufficiently precise and unconditional
Article 36, Charter – Access to services of general economic interest	✗ No	The norm is programmatic/objective-oriented, it does not create an individual right
Article 31, Charter – Fair and just working conditions	□ Partially	Some aspects may have direct effect (example: restrictions on working time), but others require detailed implementation
Article 45, TFEU – Freedom of movement for workers	✓ Yes	Clear norm with individual rights
Article 157, TFEU – Equal pay between women and men	✓ Yes	Establishes a specific right, recognized by case law

The supremacy of EU law means that, in the event of a conflict between national law and EU law, EU law always takes precedence.

Source: *Costa v. Enel* (1964)¹¹

¹¹ The Italian citizen Costa refused to pay his electricity bill after the company ENEL was nationalized, claiming that the nationalization was contrary to EU law. The Court of Justice of the European Communities ruled that Community law (EU Law) takes precedence over

As previously noted, the Charter has the same legal force as the Treaties (Article 6(1) TEU), which means that when applied, it forms part of the primary law of the EU. Since EU primary law has supremacy over national law, the provisions of the Charter take precedence over conflicting national norms but only when Member States are acting within the scope of EU law.

For example, if a Member State implements an EU directive and, in doing so, violates a right protected by the Charter (e.g., the right to data protection under Article 8), the national court must apply the Charter and give it priority over the conflicting national provision. The Charter does not automatically apply to all national acts it is applicable only when Member States are implementing EU law (Article 51 of the Charter).

Case Law Example – Case C-617/10, Åklagaren v. Hans Åkerberg Fransson¹²

The case concerned the application of the Charter of Fundamental Rights of the EU in national proceedings. Fransson, a Swedish fisherman, was initially fined administratively for VAT-related tax fraud and was subsequently prosecuted criminally for the same acts. Following the criminal proceedings, Fransson argued that this constituted a violation of the right not to be punished twice for the same offence (*ne bis in idem*), guaranteed under Article 50 of the Charter.

The key question before the Court of Justice of the EU (CJEU) was whether the Charter applied in this situation. The Court held that the Charter applies when Member States are implementing EU law, and VAT-related tax offences are regulated by EU law through directives. Therefore, the Swedish authorities, acting within the scope of these rules, were required to respect the fundamental rights guaranteed by the Charter.

The Court concluded that a Member State cannot apply national provisions in a manner that infringes the right to a fair trial or other fundamental rights when acting on the basis of EU law. At the same time, the Court left it to the national

national law, even when the national law is adopted subsequently. This was the first case to clearly establish the principle of supremacy of EU law.

¹² Court of Justice of the European Union, *Åklagaren v. Hans Åkerberg Fransson*, Case C-617/10, ECLI:EU:C:2013:105, Judgment of 26 February 2013, accessed 26 April 2025, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62010CJ0617>

court to determine whether, in the specific case, the principles of the Charter were indeed violated, taking into account the nature and severity of the imposed penalties.

Through this judgment, the Court reaffirmed the supremacy of EU law and emphasized that the application of the Charter is limited to situations where Member States act within the scope of Union law.

5. The Importance of Applying the Charter of Fundamental Rights of the European Union for New Member States and Acceding Countries

The application of the Charter of Fundamental Rights of the European Union represents a crucial element in the process of European integration, particularly for new member states and countries at various stages of accession the accession proces. The Charter not only codifies the fundamental rights enshrined in the EU law but also establishes a common values framework that defines the European Union as a community grounded in democracy, rule of law, and respect for human rights. In the context of candidate and new member states, the application of the Charter is essential for several reasons:

I. Advanced standards of human rights protection: as noted, the Charter encompasses a broad range of rights: political, civil, economic, and social, including rights linked to technological developments, such as the protection of personal data. Aligning national systems with these standards strengthens the legal and institutional framework for the protection of human rights. This is particularly important for candidate countries with a history of limited legal protection for certain groups of citizens or where institutions lack sufficient independence and effectiveness.

II. Institutional and legal reforms: the European Union uses its enlargement mechanisms as tools for reform in candidate countries, and the application of the Charter constitutes a concrete criterion in accession negotiations. Through screening processes and regular annual progress reports, the EU monitors the alignment of national legislation with the EU law, including the Charter. This reporting and assessment process typically promotes structural reforms,

improvement of the judicial system, strengthening of human rights institutions, and the establishment of effective protection mechanisms.

III. Strengthening the rule of law: the rule of law is a central value of the European Union, and the Charter serves as a concrete instrument for its reinforcement. Its application ensures transparency, accountability, and predictability within the legal order, building trust between the state and its citizens. For countries in the accession process, this means closer alignment with the EU's common legal and value space, as well as greater resilience to political pressures and institutional weaknesses.

IV. Greater protection and security for citizens: through the application of the Charter, citizens in acceding countries gain access to rights and protections according to European standards. This strengthens support for European integration and fosters a sense of belonging to the European family. At the same time, the possibility of institutional intervention by the EU in cases of human rights violations acts as both a preventive and corrective mechanism vis-à-vis national authorities.

V. Harmonization and legal predictability: the application of the Charter promotes legal harmonization between member states and acceding countries, facilitating cooperation in areas such as justice, security, and internal affairs, while ensuring legal predictability in proceedings before national and European courts. The CJEU's role as the ultimate interpreter and protector of rights under the Charter further guarantees its practical effectiveness.

In conclusion, the Charter of Fundamental Rights of the European Union constitutes a fundamental instrument for consolidating European values in new member states and acceding countries. Its application is not only a formal legal requirement for membership but also a key part of the transformation of legal systems, institutions, and society as a whole, enabling the development of a more inclusive, just, and democratic community, which is the ultimate goal of the European integration process.

6. Challenges in the Application of the EU Charter of Fundamental Rights in the Member States of Southeast Europe: Croatia, Bulgaria, and Slovenia

In the context of the European integration process and the promotion of the rule of law, particular attention should be given to the issue of applying the Charter of Fundamental Rights of the European Union in the countries of Southeast Europe. For the purposes of this document, Croatia (an EU Member State since 2013) and Slovenia (a Member State since 2004) were selected as two former Yugoslav republics that have joined the EU, as well as Bulgaria (a Member State since 2007), representing a post-socialist country from Eastern Europe. All of these countries have undergone similar transitional processes and have faced comparable challenges in aligning with the EU legal order, particularly with regard to human rights standards.

In recent years, these countries have encountered significant challenges in implementing the standards set out in the EU Charter of Fundamental Rights. Although they have formally adopted European norms and legal instruments, their practical application is often limited due to various structural, political, and social factors. These factors include:

- Lack of institutional capacity and judicial independence;
- Political pressure and corruption undermining the rule of law;
- Insufficient knowledge and use of the Charter by judges and legal professionals;
- Limited public awareness of fundamental rights and mechanisms for their protection;
- Absence of systematic training on the application of the Charter.

Such challenges lead to a situation where the formal acceptance of the Charter does not always result in effective protection of fundamental rights in practice. Although national courts of the Member States are obliged to apply the Charter when acting within the scope of EU law, in practice it is often perceived as a declarative instrument rather than an operational source of rights that can be directly invoked in judicial proceedings.

Furthermore, the experiences of EU Member States demonstrate that a lack of institutional preparedness and insufficient knowledge of EU law can result in serious violations of fundamental rights. For example, in **Case C-673/20 (V.M.A. v. Stolichna obshtina, rayon “Pancharevo” – Bulgaria)**¹³, the Court of Justice of the European Union was faced with a situation in which the national authorities refused to recognize the transnational parenthood of a same-sex couple, resulting in a violation of the rights of the child and the right to freedom of movement. The Court held that Member States, although not required to change their definition of family in their national law, are nevertheless obliged, for the purpose of ensuring freedom of movement, to recognize the family status established in another Member State. The refusal to recognize the legal status of the parents constituted indirect discrimination based on sexual orientation, contrary to Article 21 of the Charter of Fundamental Rights of the European Union. Through this case, the Court emphasized that the protection of fundamental rights must be ensured in a manner that guarantees the effectiveness of EU law, regardless of national legislative limitations.

Case C-544/19 (ECOTEX)¹⁴ also against Bulgaria, concerned the issue of infringement of the free movement of capital and the principle of non-discrimination, affecting legal certainty, which is of key importance for foreign investors. In this case, the Court of Justice of the European Union examined measures implemented by Bulgaria that restricted the free movement of capital. The Court underlined that although Bulgaria had the right to introduce certain regulations within its national legal framework, such measures must not undermine the freedoms guaranteed by EU law. The Court noted that any restriction on the free movement of capital must be justified by clear and proportionate measures; otherwise, it constitutes a breach of the right to free movement and non-discrimination.

¹³ Court of Justice of the European Union. *V.M.A. v. Stolichna obshtina, rayon “Pancharevo”*, Case C-673/20, Judgment of 14 December 2021. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=eli:ECLI:EU:C:2021:1008>

¹⁴ Court of Justice of the European Union. *ECOTEX*, Case C-544/19, Judgment of 2 September 2020. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62019CJ0544>

Case C-578/16 PPU (*C.K. and Others*)¹⁵ concerned the right to effective judicial protection for asylum seekers, particularly in the context of the principles set out in Article 47 of the Charter of Fundamental Rights of the European Union, which guarantees the right to an effective remedy and access to an independent tribunal. This case is of particular importance as it relates to the treatment of asylum seekers—a vulnerable group for whom the right to effective legal protection is essential for safeguarding their fundamental rights.

In this specific case, the Court of Justice examined a situation in which asylum seekers, who were in the process of determining their legal status, were subjected to procedures that did not ensure their right to effective judicial protection. Slovenia, as an EU Member State, faced the obligation to ensure that all asylum applications are examined in accordance with European human rights standards and the right to a fair procedure. The Court of Justice focused on Article 47 of the Charter, which stipulates that everyone has the right to an effective remedy before an independent and impartial tribunal. The Court affirmed that national authorities must not allow procedural formalism to prevail over human rights—particularly when dealing with asylum seekers, who in most cases belong to vulnerable categories. Formalism may result in a situation where applicants are unable to exercise their rights or obtain a fair procedure, which is a fundamental right protected under European law.

In Croatia, although there is no significant case law from the Court of Justice of the European Union (CJEU) directly analyzing the Croatian implementation of the Charter, reports from the FRA and the European Commission indicate that judicial practice still rarely refers to the Charter. Judges often rely on the European Convention on Human Rights (ECHR) instead, due to longer experience with the European Court of Human Rights and insufficient understanding of the legal nature of the Charter.

Although all countries have a formal obligation to apply the Charter when acting within the scope of EU law, the degree and manner of its application vary significantly. Slovenia stands out with specific cases in which the Charter

¹⁵ Court of Justice of the European Union. *C.K. and Others v. Slovenian Ministry of the Interior*, Case C-578/16 PPU, Judgment of 16 February 2017. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62016CJ0578>

has played a key role in legal reasoning before the CJEU, while Bulgaria and Croatia continue to struggle with limited application and institutional capacity.

Regarding the relationship between the Charter and the European Convention on Human Rights (ECHR), Article 52(3) of the Charter stipulates that, insofar as the Charter contains rights corresponding to those guaranteed by the ECHR, the meaning and scope of those rights shall be the same as those laid down by the Convention. However, this does not prevent Union law from providing more extensive protection.

This means that the CJEU, when interpreting the Charter, takes into account the case law of the European Court of Human Rights, but is not strictly bound to follow it. For example, in the *Melloni* case (C-399/11)¹⁶, the CJEU ruled that Member States may not apply higher national standards of fundamental rights protection if doing so would undermine the primacy and unity of EU law.

This dynamic demonstrates that, although there is a tendency toward harmonization between the two judicial bodies, the CJEU retains its autonomy in interpreting the Charter, particularly when the primacy of EU law is at stake.

¹⁶ Court of Justice of the European Union. *Stefano Melloni v. Ministerio Fiscal*, Case C-399/11, Judgment of 26 February 2013. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62011CC0399>

7. Key Challenges for Republic of North Macedonia

The Republic of North Macedonia, as a candidate country for membership in the European Union, is obliged to align its legislation and institutional practice with the EU's legal order, including the Charter of Fundamental Rights. For countries in the process of accession, such as North Macedonia, this alignment is not merely a legal obligation but also an indicator of their readiness to operate within the common European area of freedom, security, and justice.

Despite the formal commitment and the adoption of numerous strategies, laws, and action plans, the practical implementation of the standards enshrined in the Charter continues to face serious challenges. The problems occur on multiple levels — from insufficient institutional capacity and weak coordination, to political influence, limited resources, and resistance to the advancement of human rights among certain social groups.

This document explores the key issues in the implementation of fundamental rights in North Macedonia, based on the most recent European Commission Report (2024)¹⁷, with a particular focus on the areas where compliance with the Charter is most at risk. The aim is to identify the causes of these shortcomings and to provide recommendations for strengthening the system of rights protection in the run-up to the next stage of the EU integration process.

I. Institutional capacities and legislative alignment

Although the legal framework for the protection of human rights is formally established, the institutional reality reveals serious weaknesses. The Ombudsman, despite having the mandate to protect citizens' rights, still holds “B” status in accordance with the Paris Principles¹⁸, due to the failure to adopt the necessary amendments to the Law on the Ombudsman. Furthermore, the Parliament has not appointed all Deputy Ombudsmen, which affects

¹⁷ European Commission, *North Macedonia Report 2024*, Brussels, 2024, available at: <https://westernbalkans-infohub.eu/wp-content/uploads/2024/10/North-Macedonia-Report-2024.pdf>

¹⁸ The Paris Principles are a set of international standards adopted by the UN General Assembly in 1993 (Resolution 48/134), which define the status, independence, mandate, and functioning of national human rights institutions, such as the Ombudsman. They encompass independence from government, a broad mandate to protect and promote human rights, adequate resources and staffing, and pluralism. According to these criteria, institutions are granted either “A” or “B” status, where “A” denotes full compliance with the Principles.

institutional efficiency. The Commission for Prevention and Protection against Discrimination, although now finally complete, operates with limited resources, and its functioning and fulfilment of competences often depend on foreign donations. An additional concern arises in the appointment process itself, particularly during the most recent selection, when a member was appointed without meeting the legally prescribed experience requirements¹⁹.

II. Freedom and security: conditions in prisons and police facilities

The conditions in penitentiary institutions, particularly in Idrizovo Prison, remain far below acceptable standards. Despite limited infrastructural improvements, overcrowding, lack of healthcare, and inhumane conditions result in violations of the Charter. The external oversight mechanism for police operations has been established but does not function effectively due to weak coordination with the Ombudsman. The inhumane prison conditions and the ineffective external police oversight mechanism indicate the state's inability to ensure effective protection against torture and degrading treatment, which contravenes the principles of the Charter and hampers the country's progress toward EU membership.

Article 1 – Human dignity

“Human dignity is inviolable. It must be respected and protected.”

Overcrowding, inhumane conditions, and inadequate healthcare directly endanger the human dignity of the convicted. Insufficient treatment and substandard conditions in penitentiary institutions may amount to degrading and inhuman treatment, contrary to Article 1 of the Charter.

Article 3 – Right to the integrity of the person

“Everyone has the right to respect for his or her physical and mental integrity”

¹⁹ The Network for Protection against Discrimination claims that the proposed members are party affiliates.” Available at: <https://mkd.mk/makedonija/mrezhata-za-zashtita-od-diskriminacija-tvrdi-deka-predlog-chlenovi-na-kszd-se-partiski-kadri>

The lack of adequate healthcare particularly for individuals with mental disorders or addictions constitutes a violation of this right. Persons held in prisons and psychiatric institutions are especially vulnerable and entitled to treatment appropriate to their condition.

Article 4 – Prohibition of torture and inhuman or degrading treatment or punishment

“No one shall be subjected to torture or to inhuman or

The Court of Justice has established that poor conditions in prisons - such as overcrowding, lack of hygiene, and insufficient medical care - may constitute a violation of Article 4 of the Charter.

Article 6 – Right to liberty and security

“Everyone has the right to liberty and security of person”

The excessive use of detention and the limited application of alternative sanctions call into question the right to liberty, especially when detention is applied without substantial legal necessity or when alternatives are unavailable or inadequately implemented.

III. Freedom of expression and media independence

Although freedom of expression is constitutionally and legally guaranteed, its practical implementation remains under serious pressure from political and economic factors. In 2024, state advertising in private media outlets was reintroduced, creating potential space for political influence over editorial policies²⁰. Instead of a transparent and objective allocation system, this practice fosters dependency on state institutions, placing media outlets in a subordinate position and encouraging self-censorship, particularly during election periods or politically sensitive times.

At the same time, the Parliament failed to appoint new members to the governing bodies of the public broadcasting service and the media regulator,

²⁰ Institute for Democracy “Societas Civilis” – Skopje. 2023. *Open Questions on State-Funded Electoral Advertising*. Available at: <https://idses.org.mk/wp-content/uploads/2023/10/One-pager-28-09-2023-final-1.pdf>

thereby undermining their independence and increasing the risk of politicization of key media institutions. This institutional deadlock erodes pluralism within the media landscape and diminishes public trust in their role as impartial and independent bodies.

Additional concern arises from the increasing number of attacks and threats against journalists. Although formal mechanisms exist for reporting and investigating such cases, in practice they often remain unresolved. Strategic lawsuits against public participation (so-called SLAPP) also remain present and are used as instruments to silence critical voices and obstruct investigative journalism. The lack of effective institutional and judicial protection in such cases further exacerbates the situation and restricts the space for free and open public debate.

Article 11 - Freedom of expression and information

“Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers”

These circumstances are in direct contradiction with Article 11 of the Charter of Fundamental Rights of the European Union, which explicitly guarantees the right to freedom of expression and information. According to this provision, everyone has the right to impart and receive information and ideas without interference by public authorities and regardless of frontiers. The political and economic mechanisms through which influence is exerted over the media effectively restrict this right, creating an environment in which journalists face constant threats and media outlets are pressured to cooperate with the authorities in order to secure financial stability.

IV. Protection of Personal Data

The protection of personal data in North Macedonia has experienced a serious stagnation. The Personal Data Protection Agency (PDPA) continues to face a chronic lack of institutional capacity, including human resources, organizational autonomy, and budgetary independence. With only sixteen employees, the Agency is objectively unable to perform its statutory

competences at a level that would ensure effective personal data protection in the digital era²¹. Furthermore, the Agency lacks full control over recruitment and budget expenditures, leaving its independence constrained, contrary to European recommendations for regulatory bodies of this kind.

The legislative framework, while showing some progress, remains only partially aligned with the General Data Protection Regulation (GDPR) and the Law Enforcement Directive. The absence of full harmonization means that citizens do not enjoy the same legal certainty and protection as EU citizens, particularly regarding consent, processing of sensitive data, and rights of access and erasure. In practice, institutions rarely consult the Agency when drafting new laws or secondary legislation involving personal data processing, leaving citizens' privacy frequently exposed to risk without adequate legal assessment.

These conditions are fundamentally at odds with Article 8 of the Charter of Fundamental Rights of the European Union, which explicitly guarantees the protection of personal data. According to this Article, everyone has the right to the protection of personal data concerning them, and such data must be processed fairly, for specified purposes, and based on consent or another legitimate legal basis. Each person also has the right of access to data concerning them and the right to request its rectification. The Charter further requires the existence of an independent authority responsible for ensuring compliance with these rights.

In circumstances where the national agency is limited in capacity, autonomy, and influence over the legislative process, not only is the right to privacy undermined, but also the principles of transparency, accountability, and good governance. The lack of institutional culture that recognizes the importance of data protection deepens this democratic deficit. The situation not only erodes citizens' trust in institutions but also complicates the country's prospects for full alignment with EU law — a key precondition for progress in the accession process.

²¹ Delevska, S. K. "Sakam da kazam: Personal data will soon be left without a guardian — the Personal Data Protection Agency will have only 14 employees for the whole of Macedonia" (16 April 2025). Available at: <https://sdk.mk/index.php/makedonija/lichnite-podatotsi-ke-ostanat-bez-chuvar-naskoro-agentsijata-za-zashtita-na-lichni-podatotsi-ke-ima-samo-14-vraboteni-za-tsela-makedonija/>

V. Non-Discrimination and Protection of Vulnerable Groups

Although recent years have seen progress in the institutional and formal framework for protection against discrimination in North Macedonia, the practical implementation of this protection remains limited and incomplete. The Commission for Prevention and Protection against Discrimination, as the key body in this field, reviewed an increased number of cases in 2023 and issued numerous opinions confirming the existence of discrimination indicating greater public awareness and a more active institutional role²². However, this engagement is severely hindered by limited institutional capacity, an insufficient number of staff, and restricted financial resources, resulting in low efficiency in implementing recommendations and conducting oversight.

Furthermore, there is still no comprehensive legal framework for sanctioning hate speech, leaving significant legal gaps, particularly in protecting individuals targeted on the grounds of sexual orientation and gender identity. Although civil society organizations regularly document cases of hate speech and hate crimes, state authorities neither maintain systematic statistics nor conduct effective investigations or prosecutions. This imbalance between civic engagement and institutional response fosters a sense of impunity and continues to marginalize vulnerable communities.

Article 21 – Non-discrimination

“Any discrimination based on any ground such as 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 shall be prohibited”

The absence of a clear legal definition and institutional response to hate speech and discrimination based on sexual orientation, gender identity, and other grounds is contrary to Article 21 of the Charter of Fundamental Rights of the

²² Commission for Prevention and Protection against Discrimination. 2024. *Annual Report on the Work of the Commission for Prevention and Protection against Discrimination for 2023*. Available at: <https://tinyurl.com/mrxwc99h>

European Union, which prohibits any form of discrimination. In addition, Article 1 of the Charter which guarantees human dignity as an inviolable value is directly affected when individuals are exposed to hate speech without adequate protection or sanction by the state. Unpunished hate speech poses not only a threat to individuals but also to democracy itself, as it undermines the principle of equal participation and free expression without fear of repression or degradation.

VI. Rights of the LGBTIQ+ community

Despite the gradual increase in visibility of the LGBTIQ+ community in recent years and a certain progress in public debate, the legal and institutional protection of these individuals in the Republic of North Macedonia remains seriously insufficient and ineffective. The legal framework still does not recognize same-sex partnerships, thereby depriving such couples of fundamental rights such as access to health insurance through a partner, inheritance, tax benefits, and joint parenthood. Moreover, there is no legal mechanism for the recognition of gender identity, meaning that transgender persons cannot align their personal documents with the gender with which they identify—contrary to the principles of human dignity and privacy.

In 2024, the courts delivered the first judgment concerning hate speech directed against members of the LGBTIQ+ community, which represents a precedent and a positive signal. However, the protection system remains ineffective and inconsistent, particularly regarding the prosecution of cases involving physical and verbal assaults, as well as systematic hate speech on social media. In most cases, law enforcement bodies either fail to act in a timely manner or dismiss the complaints, creating a sense of impunity and insecurity among LGBTIQ+ persons.

These circumstances are in direct contradiction with Article 21 of the Charter of Fundamental Rights of the European Union, which explicitly prohibits discrimination on grounds of sexual orientation. The lack of legal recognition of same-sex partnerships and gender identity, as well as the selective handling of hate-motivated crimes, indicate structural discrimination and a failure to ensure equality before the law. Furthermore, Article 7 of the Charter, which guarantees the right to respect for private and family life, is also violated in cases where transgender persons cannot legally recognize their gender

identity, forcing them to face exposure, humiliation, and legal invisibility on a daily basis.

Article 1 of the Charter, which establishes human dignity as a fundamental value, is equally affected whenever members of the LGBTIQ+ community are subjected to violence, hate speech, and institutional neglect. The Charter requires states not only to refrain from discrimination but also to actively protect vulnerable communities a principle that, in the Macedonian context, necessitates substantial reform of the legal framework and the development of an institutional culture of respect and inclusion.

VII. Gender equality and violence against women

Despite the existence of a normative framework and the adoption of the National Strategy on Gender Equality (2022–2027), North Macedonia has not achieved substantial progress in this area, either legislatively or institutionally. The implementation of the Strategy has been slow, and its effectiveness is further hampered by insufficient funding, weak intersectoral coordination, and the absence of clear monitoring and evaluation indicators.

Particularly concerning is the growing influence of anti-gender narratives, which are increasingly used in public discourse to discredit gender equality policies and women's rights protection. These narratives often promoted by segments of the political sphere and certain religious or ideological groups undermine institutional will and capacity to design and implement inclusive gender policies. As a result, gender equality is increasingly treated as a secondary or ideologically controversial issue, rather than as a matter of fundamental human rights and social justice.

Victims of gender-based violence, especially women, face limited access to shelters, healthcare, psychosocial support, and adequate institutional assistance. In many cases, protection measures are either not issued promptly or are poorly enforced, placing victims' safety at serious risk. The number of specialized shelters and trained professionals remains insufficient, particularly outside urban centers, where women encounter additional social and economic barriers. Furthermore, the absence of formal cooperation protocols between the police, healthcare institutions, social services, and the judiciary hinders the timely identification, reporting, and prevention of gender-based violence.

Article 23 – Equality between men and women

“Equality between men and women must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the

Gender-based discrimination also persists within the judiciary. Despite the considerable representation of women in the system, they face challenges in selection and promotion to managerial positions, where gender stereotypes continue to play a significant role. These conditions form part of a broader context of inadequate implementation of the Gender Equality Strategy (2022–2027) and institutional unwillingness to ensure effective protection and promotion of gender equality.²³

Such circumstances directly contravene Article 23 of the Charter of Fundamental Rights of the European Union, which guarantees equality between women and men in all areas, including employment, work, and pay.

VIII. Rights of Children and Persons with Disabilities

Although North Macedonia has made progress in the process of deinstitutionalisation, with all children relocated from large residential institutions to foster families and small group homes significant challenges remain in ensuring the full realisation of their fundamental rights. The most serious difficulties concern access to quality and inclusive education, equitable healthcare, and an effective child protection system against violence and discrimination. Insufficient funding, staff shortages in social work centres, and weak intersectoral coordination undermine the consistent implementation of the Child Protection Strategy and the mechanisms for monitoring its application.

Furthermore, access to justice for children, particularly for those in vulnerable categories (Roma children, children with disabilities, and victims or witnesses of violence), remains limited. There is a lack of adequately trained professionals to handle cases involving minors, and although mechanisms for

²³ Center for Legal Research and Analysis. 2024. *Gender Aspects in the Judiciary*. Skopje. Available at: <https://tinyurl.com/ms7pa68a>

free legal aid exist formally, they are often inaccessible or not child-friendly. Urgent strengthening of institutional capacities is required to ensure the substantive application of child rights standards as established under the UN Convention on the Rights of the Child.

Regarding the rights of persons with disabilities, despite the adoption of the National Strategy for Equal Rights of Persons with Disabilities (2023), these individuals continue to face significant barriers in everyday life. Public institutions and educational facilities often remain physically inaccessible, while information on services, rights, and available support is not provided in inclusive formats (e.g. Braille, sign language, or accessible digital materials). Persons with disabilities continue to experience social marginalisation and discriminatory attitudes, further limiting their active participation in community life. Although the Ombudsman exercises oversight in cooperation with civil society organisations, institutional responses remain slow and insufficiently effective.

These conditions are inconsistent with several key provisions of the Charter of Fundamental Rights of the European Union. Article 24 guarantees the protection of children's rights, recognising children as rights-holders, including the right to care, participation in proceedings affecting them, and access to education. Restricted access to justice, social and healthcare services, and inadequate educational conditions constitute a direct violation of this right.

In relation to persons with disabilities, Article 26 of the Charter establishes the right to integration into society and access to benefits promoting independence. The absence of adapted infrastructure and accessible services stands in direct contradiction to this provision. Moreover, North Macedonia has an obligation to align its legislation and policies with the UN Convention on the Rights of Persons with Disabilities (UNCRPD), which requires proactive measures to eliminate barriers and ensure equal opportunities for all.

IX. Rights of Minorities

Although North Macedonia has formally committed to the principle of a multi-ethnic and inclusive society through a dedicated strategic document, implementation remains fragmented and insufficient. The strategy exists on paper, but a clear institutional framework and political will for its enforcement

are lacking. Insufficient budgets and staff shortages within the Agency for the Realisation of the Rights of Communities and the Agency for the Use of Languages severely limit their ability to promote and monitor the exercise of minority rights.

A major legal gap persists in the fact that the European Charter for Regional or Minority Languages, signed by the state as early as 1996, has still not been ratified. This omission restricts the institutional protection and promotion of linguistic rights and places the country below expectations for an EU candidate state.

Article 22 – Cultural, religious and linguistic diversity

“The Union shall respect cultural, religious and linguistic diversity”

These circumstances stand in direct contradiction to Articles 21 and 22 of the Charter of Fundamental Rights of the European Union, which prohibit discrimination on the grounds of ethnic origin and guarantee respect for cultural, religious, and linguistic diversity. The Charter requires states not only to recognise diversity formally but to play an active role in fostering multiculturalism. The failure to implement the strategic framework, coupled with institutional weaknesses, results in the effective marginalisation of certain communities.

X. Integration of the Roma

Despite the fact that the Republic of North Macedonia reaffirms its commitment to the priorities of the Poznań Declaration on the integration of Roma, the implementation of the national *Strategy for Roma Inclusion (2022–2030)* remains limited. In particular, there is a lack of activities that genuinely enable real empowerment, participation in decision-making, and capacity-building within the Roma community. Programmes are often carried out without adequate involvement of Roma themselves, leading to inappropriate design and execution of measures.

Significant challenges persist regarding regular schooling of Roma children, who face discrimination, poverty, language barriers, and insufficient access to

quality education. The issue of street children who are not covered by the education or social protection system, as well as the existence of segregation in schools, remains unresolved. Moreover, the gender dimension is weakly integrated, and the Action Plan for the Rights of Roma Women and Girls is only partially implemented.

All of this stands in direct contradiction to Article 24 of the Charter of Fundamental Rights of the European Union, which guarantees the protection of children's rights, and Article 34, which guarantees social security and assistance, particularly for those living in conditions of poverty and social exclusion. The failure to ensure access to education, healthcare, and safety for Roma children and their families violates the State's obligation to promote social inclusion and equality.

Given the historical continuity of discrimination and marginalisation of the Roma community in Europe, the European institutions recognise Roma inclusion as a test of societal maturity and democracy. Hence, improvements in this area are a key factor in assessing North Macedonia's progress in the EU accession process.

XI. Citizenship and Economic Interest

The right to citizenship is of essential importance for the enjoyment of a broad array of other rights from the right to vote, access to public services, to legal certainty and freedom of movement. In the Republic of North Macedonia, in addition to the standard paths for acquiring citizenship (by descent, birth or naturalisation), the legislation provides for acquisition on the ground of a "special economic interest for the State", following amendments from 2012.

This regime, also known as "investor citizenship", is particularly controversial, because it raises serious issues of transparency, criteria and potential abuse. In 2023, although only five applications were submitted, the practical use of this option is problematic from the standpoint of rule of law and the European legal framework. The European Commission has repeatedly expressed concerns about such schemes, especially due to risks related to corruption, money-laundering, tax avoidance and security threats, because criteria for past conduct checks, security screening and financial vetting are often insufficiently rigorous.

From the perspective of the Charter of Fundamental Rights of the European Union, specifically Article 41 (Right to good administration), citizenship must not be granted in a way that creates inequality among citizens, discretionary treatment without clear criteria, or allows privileged treatment on the basis of economic power. Furthermore, such an approach is contrary to the principle of equality before the law (Article 20) and may result in *de facto* discrimination, by enabling a privileged group to access rights that other citizens are barred or restricted from by strict criteria.

The European Union for a considerable period has been strongly opposed to so-called “golden passports” as applied in some countries, emphasising that such practices are inconsistent with the Union’s legal order and values, especially in the context of free movement and common visa policy. In its sixth report concerning the visa suspension mechanism, the European Commission made a direct recommendation to North Macedonia to refrain from systematically granting citizenship on the basis of economic interest, considering that this scheme is incompatible with EU law and may impact bilateral and regional relations.

XII. Justice

This section focuses on Chapter VI of the *Charter of Fundamental Rights of the European Union*, which concerns justice. It identifies the main challenges faced by the Republic of North Macedonia in aligning with the Charter’s standards. Through this analysis, the document highlights the most significant weaknesses and outlines the essential steps required for improvement.

Among all elements of Chapter VI of the Charter of Fundamental Rights of the European Union, which deals with justice, the greatest challenge for the Republic of North Macedonia lies in the implementation of Article 47 the right to an effective remedy and to a fair trial. Article 47 guarantees not only access to a court but also the right to a fair and public hearing conducted within a reasonable time.

The *European Commission’s 2024 Report on North Macedonia* highlights serious problems in the functioning of the judiciary, particularly concerning the independence of judges and the integrity of judicial institutions. Despite the adoption of the *Judicial Reform Strategy 2024–2028*, persistent issues such as the lack of public trust in the judiciary, political influence, and irregular

appointments of judges and prosecutors continue to pose serious obstacles to the implementation of Article 47. In this context, political pressure on the Judicial Council and other key bodies remains frequent, undermining the right to an independent and impartial tribunal, a core element of the right to a fair trial. Similar findings are echoed in reports by *Freedom House* and the *Venice Commission*, both of which emphasise concerns regarding judicial independence and political interference.

Additional problems stem from the shortage of qualified personnel in the judiciary and the insufficient financing of courts and prosecutor's offices, which negatively affect both efficiency and the duration of proceedings. Although certain steps have been taken toward the digitalisation of the judiciary, implementation remains limited, and electronic case management systems are not yet fully integrated or efficient. Consequently, the slow pace of judicial proceedings and the inadequate enforcement of court decisions significantly diminish the right to trial within a reasonable time. Combined with limited access to legal remedies and ineffective access to justice, these factors erode the right to a fair trial and undermine the principle of legal certainty as enshrined in Article 47.

While Article 47 represents the core challenge, occasional breaches of Article 48 of the Charter the presumption of innocence must also be noted. In several instances, members of the executive branch in the Republic of North Macedonia have made public statements violating this principle, treating accused or suspected persons as guilty prior to a final judicial decision. Such statements, often made by senior officials including ministers and government representatives, infringe the right of every individual to be presumed innocent until proven guilty in a fair and impartial trial. It is particularly noteworthy that these statements are typically issued in cases of high public interest, where the public legitimately expects quick information and responses. In such circumstances, the executive regardless of the political composition of the current government has repeatedly issued statements that call into question the respect for basic procedural guarantees. This constitutes an ongoing practice, not limited to a single political administration, and has emerged as a systemic problem.

These public statements contribute to creating a public presumption of guilt, seriously undermining the right to a fair trial and the independence of the

judiciary. The presumption of innocence is a fundamental human right requiring that every person be treated as innocent until their guilt is proven before a competent, independent, and impartial court. Public declarations that imply guilt before the conclusion of judicial proceedings directly contravene this fundamental principle established under EU law.

Violations of the presumption of innocence through unmeasured public remarks have the potential to affect not only the rights of the accused but also the integrity and credibility of the entire judicial process, thereby eroding public trust in the justice system.

8. Proposed amendments and recommendations

In order to ensure full alignment with the standards established in the Charter of Fundamental Rights of the European Union, as well as to improve the quality, efficiency, and credibility of the system for the protection of human rights and the rule of law in the Republic of North Macedonia, it is necessary to implement certain reforms. Some of the proposed amendments stem from an internal analysis of the current situation and identified weaknesses, while others result from a comparative analysis of the experiences of the new EU Member States, with the aim of avoiding previously observed challenges and ensuring faster and more systematic alignment with European standards.

1. Strengthening the Independence and Capacity of Human Rights Protection Institutions

- Harmonization of the Law on the Ombudsman with the Paris Principles and provision of adequate human and financial resources for the Ombudsman and the Commission for Prevention and Protection against Discrimination.

2. Improving Conditions in the Penitentiary System and Police Premises

- Investment in improving infrastructure, healthcare within the penitentiary system, and the external oversight mechanism over the police.

3. Guaranteeing Freedom of Expression and Media Independence

- Prohibition of state advertising in private media and strengthening the protection of journalists from political and economic pressures.

4. Enhancing Personal Data Protection

- Full harmonization with the GDPR and strengthening the independence and capacity of the Personal Data Protection Agency.

5. Effective Fight against Discrimination and Protection of the LGBTIQ+ Community

- Adoption of a law sanctioning hate speech and enabling legal recognition of same-sex partnerships and gender identity.

6. Promotion of Gender Equality and Combating Violence against Women

- Provision of adequate financial and institutional resources for the implementation of the Gender Equality Strategy and for the protection of victims of violence.

7. Improving Access to Justice and Protection of Procedural Rights

- Ensuring genuine independence of the judiciary through reforms of the Judicial Council and the processes for appointing judges and prosecutors.
- Reducing political influence over judicial institutions and fully respecting the principle of the presumption of innocence in public communication by the executive branch.
- Increasing financial and human resources for the judiciary to improve efficiency and reduce the duration of court proceedings.
- Accelerating the digitalization of the judiciary and ensuring full functionality of electronic case management systems.

8. Strengthening Knowledge of European Union Law and the Application of the Charter

- Introducing comprehensive training on EU law, its application within the national legal order, and the implementation of the Charter of Fundamental Rights as a mandatory part of the initial training for judges and prosecutors at the Academy for Judges and Public Prosecutors.
- Providing regular, continuous training for judges, public prosecutors, and lawyers on topics related to EU law, the case law of the Court of Justice of the European Union, and the implications of EU law for the domestic legal system.

9. Conclusion

The Charter of Fundamental Rights of the European Union represents one of the fundamental pillars of the European legal order, setting high standards for the protection of human rights, the rule of law, and democracy. For new Member States and those in the process of accession, such as the Republic of North Macedonia, the implementation of the Charter poses a multifaceted challenge that requires not only formal harmonization of legislation but also a profound transformation of institutions, legal culture, and societal awareness.

Despite the significant progress achieved in adopting strategic documents and reform laws, the analysis shows that substantive implementation remains limited due to institutional weaknesses, political pressures, insufficient judicial independence, and the absence of effective mechanisms for the protection of fundamental rights. Particularly concerning are the situations in areas such as freedom of expression, personal data protection, non-discrimination, the rights of vulnerable groups, and conditions in penitentiary institutions.

To successfully address these challenges, it is essential to strengthen institutional capacities, ensure political will for the independence of the judiciary, guarantee full transparency and accountability of institutions, and provide continuous education for judges, lawyers, and the broader public on the significance and application of the Charter. European integration, as a process that requires profound reform and genuine acceptance of European values, cannot be successful without the real and effective implementation of the Charter's standards in the daily functioning of the legal and political system.

Only through such a comprehensive approach can the Republic of North Macedonia and other countries in the region meet the citizens' expectations for a dignified life in a state governed by the rule of law and fully integrate into the community of European nations.

